

BUITENGEWONE



EXTRAORDINARY

Staatskoerant

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[No. 1066.

DEPARTMENT OF THE PRIME MINISTER.

No. 407] [24 March 1965.

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

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DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 407] [24 Maart 1965.

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

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No. 17, 1965.]

ACT

To amend the Perishable Agricultural Produce Sales Act, 1961.

(Afrikaans text signed by the State President.)
(Assented to 10th March, 1965.)

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

Amendment of section 14 of Act 2 of 1961, as amended by section 1 of Act 8 of 1962.

1. Section *fourteen* of the Perishable Agricultural Produce Sales Act, 1961, is hereby amended by the substitution for paragraph (a) of sub-section (2) of the following paragraph:

„(a) fail, within a period of seven business days after he disposes of any produce, to account correctly and in full to his principal for the proceeds of that produce and to pay to his principal the balance of those proceeds after deducting any amount which he is entitled to retain;”.

Short title.

2. This Act shall be called the Perishable Agricultural Produce Sales Amendment Act, 1965.

No. 17, 1965.]

WET

Tot Wysiging van die Wet op die Verkoop van Bederfbare Landboupprodukte, 1961.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 10 Maart 1965.)

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

1. Artikel *veertien* van die Wet op die Verkoop van Bederfbare Landboupprodukte, 1961, word hierby gewysig deur paragraaf (a) van sub-artikel (2) deur die volgende paragraaf te vervang:

Wysiging van
 artikel 14 van
 Wet 2 van 1961,
 soos gewysig
 deur artikel 1 van
 Wet 8 van 1962.

„(a) bly in gebreke om binne 'n tydperk van sewe besigheidsdae nadat hy oor enige produkte beskik, aan sy prinsipaal korrek en ten volle vir die opbrengs van daardie produkte rekenskap te gee en die saldo van daardie opbrengs, na aftrekking van enige bedrag wat hy geregtig is om te behou, aan sy prinsipaal te betaal nie;”.

2. Hierdie Wet heet die Wysigingswet op die Verkoop van Kort titel Bederfbare Landboupprodukte, 1965.

No. 18, 1965.]

ACT

To amend the Companies Act, 1926.

(English text signed by the State President.)
(Assented to 10th March, 1965.)

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

Amendment of
section 3 of
Act 46 of 1926,
as amended by
section 1 of
Act 46 of 1952.

1. (1) Section *three* of the Companies Act, 1926 (hereinafter referred to as the principal Act), is hereby amended by the substitution for sub-section (2) of the following sub-section:

“(2) The Minister shall appoint, subject to the laws governing the public service—

(a) a Registrar of Companies (hereinafter referred to as the Registrar), who shall exercise the powers and perform the duties assigned to the Registrar by this Act, and shall under the direction of the Minister be responsible for the administration of the Companies Registration Office; and

(b) such other officers as may be necessary for carrying out the provisions of this Act.”.

(2) The Registrar of Companies and any other officer who was appointed under sub-section (2) of section *three* of the principal Act before the commencement of this Act and who at such commencement is still occupying his office, shall as from such commencement be deemed to have been appointed under that sub-section as substituted by this section.

Short title.

2. This Act shall be called the Companies Amendment Act, 1965.

No. 18, 1965.]

WET

Tot wysiging van die Maatskappywet, 1926.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 10 Maart 1965.)

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

1. (1) Artikel *drie* van die Maatskappywet, 1926 (hieronder die Hoofwet genoem), word hierby gewysig deur sub-artikel (2) deur die volgende sub-artikel te vervang:
- „(2) Die Minister stel, met inagneming van die wette op die Staatsdiens, aan—
- (a) 'n Registrateur van Maatskappye (hieronder die Registrateur genoem) wat die bevoegdhede uitoefen en pligte uitvoer wat ingevolge hierdie Wet aan die Registrateur toegewys is en, onderworpe aan die voorskrifte van die Minister, vir die bestuur van die Registrasiekantoor vir Maatskappye verantwoordelik is; en
- (b) die ander beamptes wat vir die uitvoering van die bepalings van hierdie Wet nodig mag wees.”.
- (2) Die Registrateur van Maatskappye en enige ander beampte wat voor die inwerkingtreding van hierdie Wet kragtens sub-artikel (2) van artikel *drie* van die Hoofwet aangestel is en wat by sodanige inwerkingtreding nog sy amp bekleed, word vanaf sodanige inwerkingtreding geag kragtens daardie sub-artikel soos deur hierdie artikel vervang, aangestel te gewees het.

Wysiging van
artikel 3 van
Wet 46 van 1926,
soos gewysig deur
artikel 1 van
Wet 46 van 1952.

2. Hierdie Wet heet die Wysigingswet op Maatskappye, 1965. Kort titel.

No. 19, 1965.]

ACT

To amend the Shipping Board Act, 1929.

(Afrikaans text signed by the State President.)
(Assented to 10th March, 1965.)

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

Amendment of
section 1 of
Act 20 of 1929.

1. Section *one* of the Shipping Board Act, 1929 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for sub-section (2) of the following sub-section:

“(2) The Board shall consist of six members to be appointed by the State President. Three of such members shall be nominated by the State President, of whom two shall not be members of the Public Service or of the Railways and Harbours Services, and of the remaining three one shall be nominated by the Association of Chambers of Commerce, one by the Federated Chamber of Industries and one by the South African Agricultural Union: Provided that no person who is in the employ of or holds any office or share or interest in any shipping company shall be nominated by any such body, and that in the event of any such body failing or refusing to make a nomination or nominating a disqualified person, the nomination of the member shall be made by the State President.”; and

(b) by the insertion in sub-section (3) of the following paragraph, the existing sub-section becoming paragraph (a):

“(b) If the chairman is for any reason whatsoever unable to act as such, the Minister may designate another member of the Board to act as chairman during that inability, and the member who is so designated may, while he is acting as chairman, exercise all the powers and perform all the duties of the chairman.”.

Substitution in
Act 20 of 1929 for
“Union” and
“Governor-
General” of
“Republic” and
“State President”,
respectively.

2. The principal Act is hereby amended by the substitution for the word “Union” wherever it occurs of the word “Republic” and for the word “Governor-General” wherever it occurs of the words “State President”.

Short title.

3. This Act shall be called the Shipping Board Amendment Act, 1965.

No. 19, 1965.]

WET

Tot wysiging van die Skeepvaartraadwet, 1929.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 10 Maart 1965.)

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

1. Artikel *een* van die Skeepvaartraadwet, 1929 (hieronder die Hoofwet genoem), word hierby gewysig—

Wysiging van
artikel 1 van
Wet 20 van 1929.

(a) deur sub-artikel (2) deur die volgende sub-artikel te vervang:

„(2) Die Raad bestaan uit ses lede, aangestel deur die Staatspresident. Drie van daardie lede, waarvan twee nie amptnare in die Staats- of Spoorweg- en Hawediens is nie, moet benoem word deur die Staatspresident en van die orige drie word een benoem deur die Vereniging van die Kamers van Koophandel, een deur die Verenigde Kamer van Nywerhede en een deur die Suid-Afrikaanse Landbou-unie: Met dien verstande dat geen persoon wat in diens is van of 'n pos beklee in 'n skeepvaartmaatskappy of enige aandeel in of belang by 'n skeepvaartmaatskappy het deur sodanige liggaam benoem word nie, en dat in geval sodanige liggaam in gebreke bly of weier om iemand te benoem of 'n onbevoegde persoon benoem, die lid deur die Staatspresident benoem word.”; en

(b) deur in sub-artikel (3) die volgende paragraaf in te voeg, terwyl die bestaande sub-artikel paragraaf (a) word:

„(b) Ingeval die voorsitter om watter rede ook al nie in die vermoë is om as sodanig op te tree nie, kan die Minister 'n ander lid van die Raad aanwys om gedurende daardie onvermoë as voorsitter op te tree, en die lid wat aldus aangewys word, kan, terwyl hy as voorsitter optree, al die bevoegdhede en al die pligte van die voorsitter uitoefen en verrig.”.

2. Die Hoofwet word hierby gewysig deur die woord „Unie”, oral waar dit voorkom, deur die woord „Republiek” en die woord „Goewerneur-generaal”, oral waar dit voorkom, deur die woord „Staatspresident” te vervang.

Vervanging in
Wet 20 van 1929
van „Unie” en
„Goewerneur-
generaal” deur
onderskeidelik
„Republiek” en
„Staatspresident”.

3. Hierdie Wet heet die Wysigingswet op die Skeepvaartraad, Kort titel. 1965.

No. 20, 1965.]

ACT

To amend the Explosives Act, 1956.

(English text signed by the State President.)
(Assented to 10th March, 1965.)

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

Amendment of
section 2 of
Act 26 of 1956.

1. (1) Section *two* of the Explosives Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution in sub-section (1) for the words “Governor-General may” of the words “Minister may, subject to the laws governing the Public Service,”;
- (b) by the substitution in sub-section (5) for the word “Minister” of the words “Secretary for Commerce and Industries”.

(2) Any appointment made by the Governor-General or State President under sub-section (1) of section *two* of the principal Act, shall be deemed to have been made by the Minister of Economic Affairs under that sub-section as amended by this Act and any person deputed by the said Minister under sub-section (5) of the said section, shall be deemed to have been deputed by the Secretary for Commerce and Industries under the lastmentioned sub-section as amended by this Act.

Amendment of
section 9 of
Act 26 of 1956.

2. Section *nine* of the principal Act is hereby amended by the addition of the following sub-section:

- “(4) No permit shall be issued under this section unless the issuing authority is satisfied that the applicant may be entrusted with safety with the use of blasting materials and that it is necessary for him to use such materials.”.

Substitution in
Act 26 of 1956
for the words
“Union” and
“Governor-
General” of
the words
“Republic” and
“State-President”.

3. The principal Act is hereby amended by the substitution for the word “Union” wherever it occurs of the word “Republic” and for the word “Governor-General” wherever it occurs of the words “State President”.

Short title.

4. This Act shall be called the Explosives Amendment Act, 1965.

No. 20, 1965.]

WET

Tot wysiging van die Wet op Ontploffbare Stowwe, 1956.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 10 Maart 1965.)

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

1. (1) Artikel *twee* van die Wet op Ontploffbare Stowwe, 1956 (hieronder die Hoofwet genoem), word hierby gewysig—
(a) deur in sub-artikel (1) die woorde „Goewerneur-generaal kan” deur die woorde „Minister kan, met inagneming van die wette op die Staatsdiens,” te vervang;
(b) deur in sub-artikel (5) die woord „Minister” deur die woorde „Sekretaris van Handel en Nywerheid” te vervang.
(2) Enige aanstelling wat deur die Goewerneur-generaal of die Staatspresident kragtens sub-artikel (1) van artikel *twee* van die Hoofwet gedoen is, word geag deur die Minister van Ekonomiese Sake kragtens daardie sub-artikel soos by hierdie Wet gewysig, gedoen te wees en enige magtiging wat deur bedoelde Minister kragtens sub-artikel (5) van bedoelde artikel verleen is, word geag deur die Sekretaris van Handel en Nywerheid kragtens laasbedoelde sub-artikel soos by hierdie Wet gewysig, verleen te wees.
2. Artikel *nege* van die Hoofwet word hierby gewysig deur die volgende sub-artikel by te voeg:
„(4) Geen permit word kragtens hierdie artikel uitgereik nie tensy die uitreikingsowerheid oortuig is dat die gebruik van springstowwe met veiligheid aan die applikant toevertrou kan word en dat dit nodig is dat hy springstowwe moet gebruik.”
3. Die Hoofwet word hierby gewysig deur die woord „Unie” oral waar dit voorkom deur die woord „Republiek” en die woord „Goewerneur-generaal” oral waar dit voorkom deur die woord „Staatspresident” te vervang.
4. Hierdie Wet heet die Wysigingswet op Ontploffbare Stowwe, Kort titel.

Wysiging van
artikel 2 van
Wet 26 van 1956.

Wysiging van
artikel 9 van
Wet 26 van 1956.

Vervanging in
Wet 26 van 1956
van die woorde
„Unie” en
„Goewerneur-
generaal” deur
die woorde
„Republiek” en
„Staatspresident”.

No. 22, 1965.]

ACT

To apply a further sum of money towards the service of the Republic for the financial year ended on the thirty-first day of March, 1964, for the purpose of meeting and covering certain unauthorized expenditure.

(English text signed by the State President.)
(Assented to 12th March, 1965.)

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

Consolidated
Revenue Fund
charged with
R8,315.

1. The Consolidated Revenue Fund of the Republic is hereby charged with the sum of eight thousand three hundred and fifteen rand to meet certain expenditure over and above the amounts appropriated for the service of the Republic for the financial year which ended on the thirty-first day of March, 1964. Such expenditure is set forth in the Schedule to this Act and is more particularly specified on page 8 of the Report (which has been submitted to Parliament) of the Controller and Auditor-General on the accounts for the said financial year and in the First Report of the Select Committee on Public Accounts, 1965.

Short title.

2. This Act shall be known as the Unauthorized Expenditure (1963-'64) Act, 1965.

Schedule.

No. of Vote.	Title of Vote.	Amount.
	(On Revenue Account.)	
28	Agricultural Technical Services (Regional Services and Education)	R 8,315
	Total	R8,315

No. 22, 1965.]

WET

Tot aanwending van 'n verdere som vir die diens van die Republiek vir die boekjaar wat op die een-en-dertigste dag van Maart 1964 geëindig het, tot bestryding en dekking van sekere ongemagtigde uitgawes.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 12 Maart 1965.)

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

1. Die Gekonsolideerde Inkomstefonds van die Republiek word hierby belas met die som van agtduisend driehonderden-vyftien rand tot dekking van sekere uitgawes ho en behalwe die bedrae beskikbaar gestel vir die diens van die Republiek vir die boekjaar wat op die een-en-dertigste dag van Maart 1964 geëindig het. Hierdie uitgawes word uiteengesit in die Bylae by hierdie Wet en word nader omskryf op bladsy 8 van die aan die Parlement voorgelegde Verslag van die Kontroleur en Ouditeur-generaal oor die rekenings vir voormelde boekjaar en in die Eerste Verslag van die Gekose Komitee oor Openbare Rekenings, 1965.

Gekonsolideerde
Inkomstefonds**
belas met R8,315.

2. Hierdie Wet heet die Wet op Ongemagtigde Uitgawes Kort titel. (1963-'64), 1965.

Bylae.

No. van Begrotingspos.	Titel van Begrotingspos.	Bedrag.
	(Op Inkomsterekening.)	
28	Landbou-tegniese Dienste (Streekdienste en Onderwys)	R 8,315
	Totaal	R8,315

No. 23, 1965.]

ACT

To consolidate the laws relating to Banking Institutions.

(Afrikaans text signed by the State President.)
(Assented to 12th March, 1965.)

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

CHAPTER I.

INTRODUCTORY PROVISIONS.

Definitions.

1. (1) In this Act, unless the context otherwise indicates—
 - (i) “banking institution” or “institution” means a commercial bank or a discount house or a general bank or a hire-purchase bank or a merchant bank or a savings bank; (iii)
 - (ii) “commercial bank” means a person who carries on a business of which a substantial part consists of the acceptance of deposits of money withdrawable by cheque; (vi)
 - (iii) “co-operative society” means a co-operative society or co-operative company registered under the laws relating to co-operative societies and co-operative companies; (viii)
 - (iv) “discount house” means a person whose business consists of discounting or buying and selling or investing in the securities referred to in sub-section (1) of section *twenty-two* and also of accepting, predominantly against the pledge of such securities, loans repayable on demand or at short notice from the institutions referred to in sub-section (2) of the said section; (iv)
 - (v) “general bank” means a person who carries on the business of accepting deposits, but does not include a commercial bank or a hire-purchase bank or a merchant bank or a savings bank; (ii)
 - (vi) “hire-purchase bank” means a person who carries on the business of accepting deposits and of whose other business the financing of hire-purchase transactions forms a substantial part; (vii)
 - (vii) “Land Bank” means the Land and Agricultural Bank of South Africa; (x)
 - (viii) “liquid assets” means the aggregate amount of—
 - (a) Reserve Bank notes and subsidiary coin;
 - (b) credit balances with the Reserve Bank;
 - (c) deposits withdrawable on demand with the National Finance Corporation;
 - (d) deposits withdrawable on demand with a banking institution which is required to maintain a reserve balance with the Reserve Bank;
 - (e) loans to discount houses repayable on demand;
 - (f) Treasury bills of the Republic;
 - (g) stocks of the Government with a maturity to the latest redemption date of not more than three years;
 - (h) bills issued by the Land Bank and advances to the said bank which, at the option of the lender, are convertible into bills;
 - (i) debentures of the Land Bank with a maturity of not more than three years;

WET

Tot samevatting van die wetsbepalings met betrekking tot bank instellings.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 12 Maart 1965.)

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

HOOFSTUK I.

INLEIDENDE BEPALINGS.

1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Woordomskrywing.
Wet—

- (i) „aksepbank” ’n persoon wat ’n bedryf uitoefen waarvan die aksepteer van wissels wat deur die Reserwebank verdiskonteer kan word ’n aansienlike deel uitmaak, en wat ook deposito’s neem; (xi)
- (ii) „algemene bank” ’n persoon wat die neem van deposito’s as bedryf uitoefen, maar nie ook ’n handelsbank of ’n huurkoopbank of ’n aksepbank of ’n spaarbank nie; (v)
- (iii) „bankinstelling” of „instelling” ’n handelsbank of ’n diskontohuis of ’n algemene bank of ’n huurkoopbank of ’n aksepbank of ’n spaarbank; (i)
- (iv) „diskontohuis” ’n persoon wie se bedryf bestaan uit die verdiskontering of koop en verkoop van of belegging in die in sub-artikel (1) van artikel twee-en-twintig vermelde sekuriteite, en ook uit die aangaan, oorwegend teen verpanding van sodanige sekuriteite, van onmiddellik of met kort kennisgewing opeisbare lenings by die instellings in sub-artikel (2) van bedoelde artikel vermeld; (iv)
- (v) „gebied” die gebied Suidwes-Afrika; (xxiv)
- (vi) „handelsbank” ’n persoon wat ’n bedryf uitoefen waarvan die neem van geld op deposito, opvraagbaar deur middel van tjeks, ’n aansienlike deel uitmaak; (ii)
- (vii) „huurkoopbank” ’n persoon wat die neem van deposito’s as bedryf uitoefen en van wie se ander besigheid die finansiering van huurkooptransaksies ’n aansienlike deel uitmaak; (vi)
- (viii) „koöperatiewe vereniging” ’n koöperatiewe vereniging of koöperatiewe maatskappy wat ingevolge die wetsbepalings op koöperatiewe verenigings en koöperatiewe maatskappye geregistreer is; (iii)
- (ix) „korttermynverpligting”, met betrekking tot die een of ander datum, ’n verpligting wat binne dertig dae vanaf daardie datum betaalbaar is, of wat op daardie datum aan minder as dertig dae kennis van opsegging onderworpe is voordat dit betaalbaar word; (xxiii)
- (x) „Landbank” die Land- en Landboubank van Suid-Afrika; (vii)
- (xi) „langtermynverpligting”, met betrekking tot die een of ander datum, ’n verpligting wat na verloop van minstens ses maande vanaf daardie datum betaalbaar is, of wat op daardie datum aan minstens ses maande kennis van opsegging onderworpe is voordat dit betaalbaar word; (ix)
- (xii) „likwiede bates” die totaalbedrag aan—
 - (a) Reserwebanknote en pasmunt;
 - (b) kreditsaldo’s by die Reserwebank;
 - (c) onmiddellik opeisbare deposito’s by die Nasionale Finansiële korporasie;

- (j) acceptances of a banking institution which is required to maintain a reserve balance with the Reserve Bank, not being acceptances of the banking institution concerned itself;
- (k) self-liquidating bills or promissory notes arising out of the movement of goods, with a maturity not exceeding one hundred and twenty days, or six months in the case of agricultural bills, and which are eligible for discount by the Reserve Bank; and
- (l) such other assets as the Registrar may by notice in the *Gazette* approve for the purposes of this definition; (xii)
- (ix) "long-term liability", in relation to any date, means a liability which is payable after the expiration of at least six months as from that date or which on that date is subject to at least six months' notice before becoming payable; (xi)
- (x) "medium-term liability", in relation to any date, means a liability which is payable after the expiration of a period of not less than thirty days but less than six months as from that date, or which on that date is subject to not less than thirty days' but less than six months' notice before becoming payable, and includes savings deposits; (xiii)
- (xi) "merchant bank" means a person carrying on a business of which the acceptance of bills which are eligible for discount by the Reserve Bank forms a substantial part, and who also accepts deposits; (i)
- (xii) "Minister" means the Minister of Finance; (xiv)
- (xiii) "National Finance Corporation" means the National Finance Corporation of South Africa established by section two of the National Finance Corporation Act, 1949 (Act No. 33 of 1949); (xv)
- (xiv) "person" includes any partnership; (xvii)
- (xv) "prescribed investments" means the aggregate amount of—
 - (a) liquid assets;
 - (b) deposits with any banking institution which is required to maintain a reserve balance with the Reserve Bank, other than deposits ranking as liquid assets;
 - (c) deposits with a permanent building society whose total assets as at the end of the last preceding quarter amounted to not less than ten million rand;
 - (d) deposits with a local authority within the Republic;
 - (e) deposits with the National Finance Corporation and loans to discount houses, other than deposits or loans ranking as liquid assets;
 - (f) stocks of the Government, other than those ranking as liquid assets;
 - (g) debentures or stock guaranteed by the Government;
 - (h) stocks of and loans to any local authority in the Republic;
 - (i) debentures or stock of the Rand Water Board or the Electricity Supply Commission;
 - (j) debentures of the Land Bank, other than those ranking as liquid assets; and
 - (k) such other investments as the Registrar may by notice in the *Gazette* approve for the purposes of this definition; (xxvi)
- (xvi) "Registrar" means the Registrar of Banks, appointed in terms of section three; (xviii)
- (xvii) "regulation" means a regulation made under section fifty; (xix)
- (xviii) "Republic" includes the territory; (xx)
- (xix) "Reserve Bank" means the South African Reserve Bank; (xxi)
- (xx) "savings account" means an account which a depositor maintains with a banking institution and in which he may not keep a larger credit balance and from which he may not without the consent of the institution make a withdrawal at shorter notice, in relation to the amount to be withdrawn, than is determined by the rules or articles of the institution; (xxiv)
- (xxi) "savings bank" means a person who carries on the business of accepting deposits and of whose other business the granting of loans against the security of fixed property or surety bonds forms a substantial part; (xxii)

- (d) onmiddellik opeisbare deposito's by 'n bankinstelling wat 'n reserwesaldo by die Reserwebank in stand moet hou;
- (e) onmiddellik opeisbare lenings aan diskontohuise;
- (f) skatkisbiljette van die Republiek;
- (g) effekte van die Regering waarvan die laaste aflostdatum binne hoogstens drie jaar val;
- (h) wissels deur die Landbank uitgereik en voorskotte aan daardie bank wat na keuse van die uitlener in wissels omgesit kan word;
- (i) obligasies van die Landbank wat binne hoogstens drie jaar verval;
- (j) aksepte van 'n bankinstelling wat 'n reserwesaldo by die Reserwebank in stand moet hou, maar nie ook aksepte van die betrokke bankinstelling self nie;
- (k) self-likwiderende wissels of promesses wat uit die beweging van goedere ontstaan, wat binne hoogstens honderd-en-twintig dae of, in die geval van landbouwissels, ses maande verval, en wat deur die Reserwebank verdiskonteer kan word; en
- (l) die ander bates wat die Registrateur vir die doeleindes van hierdie omskrywing by kennisgewing in die *Staatskoerant* goedkeur; (viii)
- (xiii) „middeltermynverpligting”, met betrekking tot die een of ander datum, 'n verpligting wat na verloop van 'n tydperk van minstens dertig dae maar minder as ses maande vanaf daardie datum betaalbaar is, of wat op daardie datum aan minstens dertig dae maar minder as ses maande kennis van opsegging onderworpe is voordat dit betaalbaar word, en ook spaardeposito's; (x)
- (xiv) „Minister” die Minister van Finansies; (xii)
- (xv) „Nasionale Finansiële korporasie” die Nasionale Finansiële korporasie van Suid-Afrika ingestel by artikel twee van die Wet op die Nasionale Finansiële korporasie, 1949 (Wet No. 33 van 1949); (xiii)
- (xvi) „onaangetaste reserwefondse” alle fondse (afgesien van 'n fonds in artikel vyf-en-veertig vermeld, en 'n fonds wat volgens ander wetsbepalings in stand gehou moet word) wat uit werklike verdienstes, invorderings, premies op aandele, of winste voortspruitende uit die te gelde maak van kapitaalbates, opgebou is, en as 'n algemene of besondere reserwe afgesonder is, en vir die nakoming van verpligtings teenoor die publiek volgens hierdie Wet beskikbaar is; (xxvi)
- (xvii) „persoon” ook 'n vennootskap; (xiv)
- (xviii) „Registrateur”, die Registrateur van Banke wat ingevolge artikel drie aangestel is; (xvi)
- (xix) „regulasie” 'n regulasie wat ingevolge artikel vyftig uitgevaardig is; (xvii)
- (xx) „Republiek” ook die gebied; (xviii)
- (xxi) „Reserwebank” die Suid-Afrikaanse Reserwebank; (xix)
- (xxii) „spaarbank” 'n persoon wat die neem van deposito's as bedryf uitoefen en van wie se ander besigheid die verstrek van lenings teen sekerheid van vaste eiendom of van borgaktes 'n aansienlike deel uitmaak; (xxi)
- (xxiii) „spaardeposito” 'n kreditsaldo op 'n spaarrekening; (xxii)
- (xxiv) „spaarrekening” 'n rekening wat 'n deposant by 'n bankinstelling hou en waarop hy nie 'n groter kreditsaldo in stand mag hou, en waaruit hy nie sonder toestemming van die instelling 'n opvraging op korter kennis met betrekking tot die opgevraagde bedrag kan doen, as wat die reëls of statute van die instelling bepaal nie; (xx)
- (xxv) „Tesourie” die Minister of 'n amptenaar van die Departement van Finansies wat deur die Minister gemagtig is om 'n werksaamheid deur hierdie Wet aan die Tesourie opgedra, te verrig; (xxv)
- (xxvi) „voorgeskrewe beleggings” die totaalbedrag aan—
 - (a) likwiede bates;
 - (b) deposito's by 'n bankinstelling wat 'n reserwesaldo by die Reserwebank in stand moet hou, behalwe deposito's wat as likwiede bates geld;
 - (c) deposito's by 'n permanente bouvereniging waarvan die totale bates aan die einde van die jongste voorafgaande kwartaal minstens tienmiljoen rand beloop het;
 - (d) deposito's by 'n plaaslike bestuur binne die Republiek;

- (xxii) "savings deposit" means a credit balance in a savings account; (xxiii)
 - (xxiii) "short-term liability", in relation to any date, means a liability which is payable within thirty days as from that date or which on that date is subject to less than thirty days' notice before becoming payable; (ix)
 - (xxiv) "territory" means the territory of South-West Africa; (v)
 - (xxv) "Treasury" means the Minister or any officer in the Department of Finance authorized by the Minister to perform any function assigned to the Treasury by this Act; (xxv)
 - (xxvi) "unimpaired reserve funds" means all funds (other than a fund mentioned in section *forty-five* and any fund required to be maintained in terms of any other law) which have been built up out of actual earnings, recoveries, premiums on shares or profits resulting from the realization of capital assets, and have been set aside as a general or special reserve, and are available for the purpose of meeting liabilities to the public under this Act. (xvi)
- (2) A person shall be deemed to be carrying on the business of accepting deposits for the purposes of this Act—
- (a) if in the opinion of the Registrar he accepts, as a regular feature of his business, deposits from the general public; or
 - (b) if he solicits or advertises for such deposits:
- Provided that for the purposes of this sub-section—
- (i) employees shall also be deemed to constitute the general public in relation to the person by whom they are employed;
 - (ii) deposits shall be deemed to include loans entered into without security or against security which in the opinion of the Registrar is insufficient;
 - (iii) a person (including any co-operative society) shall not be deemed to be carrying on such business if he does not at any time hold deposits from more than twenty persons and does not at any time hold deposits amounting in the aggregate to more than five hundred thousand rand; and
 - (iv) a co-operative society shall not be deemed to be carrying on such business by reason only of the fact that it borrows money from its members in accordance with the provisions of sub-section (3).
- (3) A co-operative society (hereinafter referred to as the society) may borrow money from its members on the following conditions, namely—
- (a) that no loan from any one member shall amount to less than one hundred rand, and for the purposes of this paragraph every successive loan from any particular member shall be regarded as a separate loan;
 - (b) that a loan shall not be repaid within twelve months after receipt;
 - (c) that the society shall in respect of each loan issue an acknowledgment of debt;
 - (d) that every loan shall be negotiated on one or other of the following conditions which shall be recorded in the relevant acknowledgment of debt, namely—
 - (i) that the member shall not have the right to demand repayment, but that the society may, after it has held the loan for not less than twelve months, at any time repay such loan upon giving not less than thirty days' prior notice of its intention to repay such loan; or
 - (ii) that the loan shall be repayable at a fixed date to be mentioned in the acknowledgment of debt, but that the board of directors of the society shall have power to defer the repayment if the circumstances of the society as at that date render such deferment necessary, subject to the condition that if the decision of such board is not confirmed at the first succeeding general meeting of the society, the loan shall be repaid within seven days of the date of such meeting.
- (4) A person shall be deemed to be carrying on the business of accepting deposits of money for the purposes of this Act notwithstanding that such deposits are limited to fixed amounts or that certificates or other instruments are issued in respect of any such amounts providing for the repayment to the holder thereof either conditionally or unconditionally of the amounts of the deposits at specified or unspecified dates or for the pay-

- (e) deposito's by die Nasionale Finansiële korporasie en lenings aan diskontohuise, behalwe deposito's of lenings wat as likwiede bates geld;
 - (f) effekte van die Regering behalwe dié wat as likwiede bates geld;
 - (g) obligasies of effekte deur die Regering gewaarborg;
 - (h) effekte van en lenings aan 'n plaaslike bestuur in die Republiek;
 - (i) obligasies of effekte van die Randwaterraad of die Elektrisiteitsvoorsieningskommissie;
 - (j) obligasies van die Landbank behalwe dié wat as likwiede bates geld; en
 - (k) die ander beleggings wat die Registrateur vir die doeleindes van hierdie omskrywing by kennisgewing in die *Staatskoerant* goedkeur. (xv)
- (2) 'n Persoon word by die toepassing van hierdie Wet geag die neem van deposito's as bedryf uit te oefen—
- (a) indien dit na die Registrateur se oordeel 'n staande kenmerk van sy besigheid is om deposito's van die algemene publiek te neem; of
 - (b) indien hy sodanige deposito's werf of daarvoor adverteer:

Met dien verstande dat by die toepassing van hierdie sub-artikel—

- (i) werknemers, ook met betrekking tot die persoon by wie hulle in diens is, geag word die algemene publiek uit te maak;
 - (ii) deposito's geag word lenings in te sluit wat aangegaan is sonder sekuriteit of teen sekuriteit wat volgens die Registrateur se oordeel onvoldoende is;
 - (iii) 'n persoon (met inbegrip van 'n koöperatiewe vereniging) nie geag word sodanige bedryf uit te oefen nie indien hy nie te eniger tyd deposito's van meer as twintig persone het en nie te eniger tyd altesaam meer as vyfhonderdduisend rand aan deposito's gehou het nie; en
 - (iv) 'n koöperatiewe vereniging nie bloot op grond van die feit dat hy ooreenkomstig die bepalings van sub-artikel (3) van sy lede geld leen, geag word sodanige bedryf uit te oefen nie.
- (3) 'n Koöperatiewe vereniging (hieronder die vereniging genoem) kan op die volgende voorwaardes van sy lede geld leen, te wete—
- (a) dat geen lening van 'n indiwiduele lid minder as honderd rand bedra nie, en by die toepassing van hierdie paragraaf word elke opeenvolgende lening van 'n bepaalde lid as 'n afsonderlike lening beskou;
 - (b) dat 'n lening nie binne twaalf maande na ontvangs terugbetaal word nie;
 - (c) dat die vereniging ten opsigte van elke lening 'n skuldbewys uitreik;
 - (d) dat elke lening aangegaan word op die een of die ander van die volgende voorwaardes wat in die betrokke skuldbewys geboekstaaf moet word, te wete—
 - (i) dat die lid nie die reg het om terugbetaling te eis nie, maar dat die vereniging te eniger tyd nadat hy die lening vir minstens twaalf maande gehad het, die lening kan terugbetaal nadat hy minstens dertig dae vooraf kennis gegee het van sy voorneme om dit terug te betaal; of
 - (ii) dat die lening op 'n bepaalde in die skuldbewys vermelde datum terugbetaalbaar is, maar dat die raad van direkteure van die vereniging gemagtig is om terugbetaling uit te stel, indien die omstandighede van die vereniging op daardie datum sodanige uitstel noodsaak, onderworpe aan die voorwaarde dat indien die besluit van bedoelde raad nie by die eersvolgende algemene vergadering van die vereniging bekrachtig word nie, die lening binne sewe dae na die datum van bedoelde vergadering terugbetaal moet word.
- (4) 'n Persoon word by die toepassing van hierdie Wet geag die neem van deposito's as bedryf uit te oefen al word bedoelde deposito's tot vasgestelde bedrae beperk en al word sertifikate of ander stukke ten opsigte van bedoelde bedrae uitgereik wat voorsiening maak vir die terugbetaling aan die houer daarvan, hetsy voorwaardelik of onvoorwaardelik, van die bedrae van die deposito's op bepaalde of onbepaalde datums of vir die betaling van rente op die gedeponeerde bedrae met bepaalde tussenpose of andersins en al is bedoelde sertifikate oordraagbaar: Met dien verstande dat die aanname van geld teen

ment of interest on the amounts deposited at specified intervals or otherwise, or that such certificates are transferable: Provided that the acceptance of moneys against debentures issued in compliance with the provisions of sub-section (3) of section *seventy-seven* of the Companies Act 1926 (Act No. 46 of 1926), shall not be deemed to be the business of accepting deposits of money for the purposes of this Act.

(5) In calculating for the purposes of this Act, the aggregate amount of the paid-up capital and unimpaired reserve funds of any banking institution, provision shall be made to the satisfaction of the Registrar and of the auditor of such institution for the following items, and the said aggregate amount reduced accordingly, namely—

- (a) depreciation of assets and bad or doubtful debts (to be calculated at least once in each financial year);
- (b) operating and accumulated losses, including accumulated depreciation and bad debts not yet written off;
- (c) preliminary expenses, representing expenses relating to organization or extension or the purchase of business or goodwill, and including underwriting commission;
- (d) the value of any assets lodged or pledged to secure liabilities incurred under any other law where all the liabilities (including contingent liabilities) so secured are not included in the calculation and where the effect of such lodging or pledging is that such assets are not available for the purpose of meeting the liabilities of the institution to the public under this Act;
- (e) the amount of its investment in the shares of another banking institution.

(6) Without prejudice to the generality of the terms "undesirable methods of conducting business" and "irregular or undesirable practices" contained in this Act, a banking institution shall for the purposes of this Act be deemed to be adopting such methods or practices, as the case may be, if—

- (a) shares are held by the institution in a parent company;
- (b) any banking accounts of the institution with other banking institutions are not held in the name of that institution, or the other assets of that institution in the Republic (not being assets hypothecated to secure actual or potential liabilities, and such other assets as the Registrar may approve) are not, in so far as is practicable, held in the name of that institution;
- (c) the accounts and statements of the institution include as an asset any sum representing expenses of organization or extension or the purchase of business or losses or bad debts;
- (d) any extension of its field of operations, through the opening of branches or agencies, is not suspended until the items mentioned in paragraph (c) have been provided for out of profits;
- (e) dividends are paid before the items mentioned in paragraph (c) have been provided for as aforesaid.

Exemptions.

2. (1) This Act shall not apply to the Post Office Savings Bank or the Land Bank or the Reserve Bank or the Industrial Development Corporation of South Africa, Limited or the National Finance Corporation or the Public Debt Commissioners, or to any local authority or building society or any Bantu co-operative credit society registered under any proclamation issued under Act No. 29 of 1897 of the Cape of Good Hope or under the Bantu Administration Act, 1927 (Act No. 38 of 1927): 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.

(2) The provisions of sub-section (2) of section *twelve*, and sections *fourteen*, *sixteen*, *seventeen*, *eighteen*, *twenty*, *twenty-one*, *twenty-four*, *twenty-seven*, *thirty-one*, *thirty-two*, *forty-three* and *forty-five* shall not apply in respect of a general bank which is a board of executors or trust company (not being a private company within the meaning of section *one hundred and four* of the Companies Act, 1926), licensed as such under the Licences Act, 1962 (Act No. 44 of 1962) on or before the thirty-first day of December, 1938, if its deposit liabilities on the first day of July, 1943, did not in the aggregate exceed the sum of its paid-up capital and its unimpaired reserve funds,

obligasies ter voldoening aan die bepalinge van sub-artikel (3) van artikel *sewe-en-sewentig* van die Maatskappywet, 1926 (Wet No. 46 van 1926), uitgereik, nie by die toepassing van hierdie Wet geag word die neem van deposito's as bedryf te wees nie.

(5) By die toepassing van hierdie Wet moet daar by die berekening van die totaalbedrag van die gestorte kapitaal en onaangetaste reserwefondse van 'n bankinstelling, tot bevrediging van die Registrateur en van die ouditeur van bedoelde instelling vir die volgende items voorsiening gemaak en bedoelde totaalbedrag dienoreenkomstig verminder word, te wete—

- (a) waardevermindering van bates en oninbare of twyfelagtige skulde (wat minstens een maal gedurende elke boekjaar bereken moet word);
- (b) bedryfs- en opgehoopte verliese, met inbegrip van opgehoopte waardevermindering en oninbare skulde wat nog nie afgeskryf is nie;
- (c) oprigtingskoste, wat koste ten opsigte van organisasie of uitbreiding of die aankoop van 'n saak of klandisiewaarde verteenwoordig asook garansiekommissie;
- (d) die waarde van bates wat gedeponeer of verpand is om verpligtings wat ingevolge ander wetsbepalinge aangegaan is, te verseker, waar al die aldus versekerde verpligtings (met inbegrip van voorwaardelike verpligtings) nie by die berekening ingesluit is nie en waar die uitwerking van so 'n deponering of verpanding is dat daardie bates nie vir die nakoming van die instelling se verpligtings teenoor die publiek volgens hierdie Wet, beskikbaar is nie;
- (e) die bedrag van sy belegging in die aandele van 'n ander bankinstelling.

(6) Sonder om aan die algemeenheid van die uitdrukkings „ongewenste metodes van besigheid doen” en „onreëlmatige of ongewenste praktyke” in hierdie Wet vervat, af te doen, word 'n bankinstelling by die toepassing van hierdie Wet geag sodanige metodes of praktyke, na gelang van die geval, toe te pas, indien—

- (a) die instelling aandele in 'n moedermaatskappy besit;
- (b) enige bankrekenings van die instelling by ander bankinstellings nie in die naam van bedoelde instelling gehou word nie, of die ander bates van daardie instelling in die Republiek (uitgesonderd bates wat verhipotekeer is om werklike of potensiele verpligtings te verseker, en die ander bates wat die Registrateur goedkeur) nie sover doenlik in die naam van daardie instelling gehou word nie;
- (c) die rekenings en state van die instelling enige bedrag wat koste van organisasie of uitbreiding of die aankoop van 'n saak of verliese of oninbare skulde verteenwoordig, as 'n bate insluit;
- (d) enige uitbreiding van die omvang van sy werksaamhede deur die opening van takke of agentskappe, nie gestaak word tot tyd en wyl uit winste vir die in paragraaf (c) vermelde items voorsiening gemaak is nie;
- (e) diwidende uitbetaal word voordat, soos voormeld, ten opsigte van die in paragraaf (c) gemelde items voorsiening gemaak is.

2. (1) Hierdie Wet is nie van toepassing nie op die Pos-**Vrystellings.** spaarbank of die Landbank of die Reserwebank of die Nywerheid-ontwikkelingskorporasie van Suid-Afrika, Beperk, of die Nasionale Finansiële korporasie of die Staatskuldkommissaris, of op enige plaaslike bestuur of bouvereniging of 'n koöperatiewe Bantoe-kredietvereniging wat ingevolge 'n proklamasie uitgevaardig kragtens Wet No. 29 van 1897 van die Kaap die Goeie Hoop of kragtens die Bantoe-administrasie Wet, 1927 (Wet No. 38 van 1927), geregistreer is: Met dien verstande dat sodanige vrystelling nie van toepassing is nie op 'n spaardepartement of spaarbank of dergelike deposito-nemende instelling wat opgerig is deur of in verband met 'n plaaslike bestuur.

(2) Die bepalinge van sub-artikel (2) van artikel *twaalf*, en artikels *veertien*, *sestien*, *sewentien*, *agtien*, *twintig*, *een-en-twintig*, *vier-en-twintig*, *sewe-en-twintig*, *een-en-dertig*, *twee-en-dertig*, *drie-en-veertig* en *vyf-en-veertig* is nie van toepassing nie, ten opsigte van 'n algemene bank wat 'n eksekuteurskamer of trustmaatskappy (behalwe 'n private maatskappy binne die bedoeling van artikel *honderd-en-vier* van die Maatskappywet, 1926) is en as sodanig ingevolge die Wet op Lisensies, 1962 (Wet No. 44 van 1962), op of voor die een-en-dertigste dag van Desember 1938 gelisensieer is, indien sy deposito-verpligtings op die eerste dag van Julie 1943 altesaam nie die som van sy gestorte kapitaal en sy onaangetaste reserwefondse oorskry het

so long as those deposit liabilities do not at any time thereafter exceed the sum of its paid-up capital and its unimpaired reserve funds.

Registrar of
Banks.

3. (1) There shall be an office in Pretoria for the registration of banking institutions and for the administration of this Act, and the State President shall, subject to the laws governing the public service, appoint an officer to be styled the Registrar of Banks, who shall perform, under the control of and subject to appeal to the Minister, the functions assigned to him by this Act.

(2) The Minister may, subject to the laws governing the public service, appoint a Deputy-Registrar of Banks who may, subject to the control and directions of the Registrar, do anything which may lawfully be done by the Registrar.

(3) Every appeal to the Minister in terms of this section shall be noted and prosecuted in the manner and within the time prescribed by regulation.

CHAPTER II.

REGISTRATION.

Registration and
provisional
registration of
banking institu-
tions.

4. (1) Any person who intends to carry on the business of any class of banking institution in the Republic, may apply to the Registrar for permission to establish such a banking institution, 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.

(2) An applicant to whom the Registrar has granted permission in terms of sub-section (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, 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;
- (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.

(3) The application and every document mentioned in sub-section (2) shall be signed by the chairman or the chief executive officer of the applicant.

(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 sub-sections (6) and (7), and after payment by the applicant of a registration fee of ten rand, register the applicant provisionally as a banking institution of the said class.

(5) A banking institution registered provisionally for the first time shall not accept a deposit, or grant an advance, until it has furnished proof to the Registrar that its paid-up capital and unimpaired reserve funds together amount to not less than the amount prescribed by section *fourteen* or *fifteen*, whichever is applicable.

(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).

(7) Without prejudice to the generality of the powers conferred upon the Registrar by this section, he may in his discretion refuse to register an applicant provisionally if—

- (a) the direct or indirect control over its affairs by virtue of shareholding, voting powers, power to appoint

nie, solank as wat daardie deposito-verpligtings nie te eniger tyd daarna die som van sy gestorte kapitaal en sy onaangetaste reserwefondse oorskry nie.

3. (1) Daar is in Pretoria 'n kantoor wat handel met die registrasie van bankinstellings en met die toepassing van hierdie Wet, en die Staatspresident moet, met inagneming van die wetsbepalings op die staatsdiens, 'n amptenaar aanstel, bekend as die Registrateur van Banke, wat onder die beheer van die Minister en onderworpe aan 'n appèl na die Minister, die werksaamhede moet verrig wat hierdie Wet aan hom opdra.

Registrateur
van Banke.

(2) Die Minister kan, met inagneming van die wetsbepalings op die staatsdiens, 'n Adjunk-registrateur van Banke aanstel wat, onderworpe aan die beheer en voorskrifte van die Registrateur, enigiets kan doen wat die Registrateur wettiglik kan doen.

(3) 'n Appèl na die Minister kragtens hierdie artikel word aangeteken en voortgesit op die wyse en binne die tydperk by regulasie voorgeskryf.

HOOFSTUK II.

REGISTRASIE.

4. (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 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.

Registrasie en
voorlopige re-
gistrasie van
bankinstellings.

(2) 'n Applikant aan wie die Registrateur kragtens sub-artikel (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 voorlopig geregistreer te word, en moet saam met sy aansoek die volgende in tweevoud voorlê, te wete—

- (a) sy akte van oprigting en statute;
- (b) 'n aangifte van die adres van sy hoofkantoor;
- (c) 'n aangifte van die naam en adres van sy voorsitter en van iedere direkteur en van sy hoof- uitvoerende beampte; 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.

(3) Die aansoek en iedere in sub-artikel (2) vermelde dokument moet deur die voorsitter of die hoof-uitvoerende beampte van die applikant onderteken wees.

(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 oprigting en statute van die applikant nie met hierdie Wet onbestaanbaar is nie en nie om die een of ander rede ongewens is nie; en
- (c) dat die applikant nie voornemens is om by die uitoefening van die bedryf ongewenste metodes toe te pas nie,

moet hy, behoudens die bepalinge van sub-artikels (6) en (7), en teen betaling deur die applikant van 'n registrasiegeld van tien rand, die applikant as 'n bankinstelling van bedoelde klas voorlopig registreer.

(5) 'n Bankinstelling wat vir die eerste keer voorlopig geregistreer word, mag nie 'n deposito neem of 'n lening verstrek nie voordat hy aan die Registrateur bewys voorgelê het dat sy gestorte kapitaal en onaangetaste reserwefondse tesame minstens die by artikel *veertien* of *vyftien* (watter ook al van toepassing is) voorgeskrewe bedrag beloop.

(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), met regs-persoonlikheid bekleed en geregistreer is of geag word met regs-persoonlikheid bekleed en geregistreer te wees.

(7) Sonder om afbreuk te doen aan die algemeenheid van die bevoegdheid by hierdie artikel aan die Registrateur verleen, kan hy na goedgekeurde weier om 'n applikant voorlopig te registreer indien—

- (a) die direkte of indirekte beheer oor sy sake uit hoofde van aandeelbesit, stemkrag, bevoegdheid om direk-

directors, or otherwise, may in the opinion of the Registrar react to the detriment of its depositors or other creditors; or

- (b) adequate provision does not exist for the conduct of its affairs by a board of directors with a reasonable number of members, or satisfactory provision is not made for a quorum of such board; or
- (c) the directors or proposed chief officers, in the opinion of the Registrar, have not had sufficient experience of the management of a banking institution; or
- (d) the applicant proposes to carry on business in a location as defined in the Bantu (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), and the Department of Bantu Administration and Development has recommended that it be not provisionally registered.

(8) The provisional registration of an applicant shall be for a period of twelve months and shall be subject to such conditions and limitations not inconsistent with this Act as the Registrar may consider necessary, but such registration may, in the discretion of the Registrar, from time to time be renewed, subject to the same or any other or further conditions and limitations, for periods not exceeding twelve months at a time: Provided no banking institution shall remain provisionally registered for an aggregate period exceeding five years.

(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 sub-section (8), the Registrar shall, upon payment of a registration fee of ten rand, register such institution as a banking institution of the class to which it belongs.

(10) If the provisional registration of an institution expires and is not renewed or converted into registration, it shall—

- (a) within a period determined by the Registrar repay all the deposits which it holds; and
- (b) change its name and its memorandum and articles of association within the period and in the manner required by the Registrar.

(11) The Registrar shall issue in respect of every registration or provisional registration a certificate in a form prescribed by regulation.

(12) Any discount house which was in existence on the first day of January, 1965, shall be deemed to have been registered in terms of this section and shall be entitled on application to receive a certificate of registration from the Registrar accordingly.

Continuation of registration of existing institutions.

5. A banking institution which at the commencement of this Act is registered or provisionally registered as a banking institution or is deemed to be registered or provisionally registered as a banking institution, shall be deemed to have been registered or provisionally registered in terms of section four as a banking institution of the class, defined in section one, which is appropriate to the business carried on by it.

Name of banking institution and change of name.

6. (1) A banking institution shall not be registered provisionally under a name—

- (a) under which a banking institution has already been registered or provisionally registered; or
- (b) which so closely resembles the name of an institution already registered or provisionally registered that the one is likely to be mistaken for the other; or
- (c) which in the opinion of the Registrar is likely to mislead the public.

(2) A banking institution shall not use or refer to itself by a name other than the name under which it is registered or provisionally registered or a literal translation thereof which has been approved by the Registrar, or use or refer to itself by an abbreviation of that name unless the Registrar has approved it: Provided that with the consent of the Registrar a banking institution may, in conjunction with its registered name, use or refer to itself by the name of a banking institution with which it has amalgamated or which it has absorbed or, in the case of a change of name, the name by which it was previously known.

(3) (a) A banking institution shall not change its name without the written consent of the Registrar, and the provisions of sub-section (1) shall apply *mutatis mutandis* with reference to a change of the name of a banking institution.

teure aan te stel, of andersins, volgens die Registrateur se oordeel tot nadeel van sy deposante of ander krediteure kan strek; of

- (b) geen voldoende voorsiening bestaan vir die bestuur van sy sake deur 'n raad van direkteure met 'n redelike aantal lede of geen bevredigende voorsiening vir 'n kworum van bedoelde raad gemaak word nie; of
- (c) die direkteure of voorgestelde hoofamptenare volgens die Registrateur se oordeel nie voldoende ervaring van die bestuur van 'n bankinstelling gehad het nie; of
- (d) die applikant voornemens is om sake te doen in 'n lokasie soos in die Bantoe (Stadsgebiede) Konsolidasiewet, 1945 (Wet No. 25 van 1945), omskryf, en die Departement van Bantoe-administrasie en -ontwikkeling aanbeveel het dat dit nie voorlopig geregistreer moet word nie.

(8) Die voorlopige registrasie van 'n applikant is vir 'n tydperk van twaalf maande en is onderworpe aan die voorwaardes en beperkings, wat nie met hierdie Wet onbestaanbaar is nie, wat die Registrateur nodig ag, maar so 'n registrasie kan na goeddunke van die Registrateur van tyd tot tyd onderworpe aan dieselfde of enige ander of verdere voorwaardes en beperkings hernieu word vir tydperke van hoogstens twaalf maande op 'n keer: Met dien verstande dat geen bankinstelling vir 'n totale tydperk van langer as vyf jaar voorlopig geregistreer mag bly nie.

(9) Indien 'n voorlopig geregistreerde instelling te eniger tyd terwyl hy voorlopig geregistreer is ten volle vir registrasie bevoeg word op grond daarvan dat hy aan enige ingevolge sub-artikel (8) opgelegde vereistes voldoen het, moet die Registrateur, teen betaling van 'n registrasiegeld van tien rand, daardie instelling registreer as 'n bankinstelling van die klas waaronder hy ressorteer.

(10) Indien 'n instelling se voorlopige registrasie verstryk en nie hernieu of in registrasie omgesit word nie, moet hy—

- (a) binne 'n deur die Registrateur bepaalde tydperk al die deposito's terugbetaal wat hy ontvang het; en
- (b) binne die tydperk en op die wyse wat die Registrateur vereis, sy naam en sy akte van oprigting en statute verander.

(11) Die Registrateur reik ten opsigte van elke registrasie of voorlopige registrasie 'n sertifikaat in die by regulasie voorgeskrewe vorm uit.

(12) 'n Diskontohuis wat op die eerste dag van Januarie, 1965, bestaan het, word geag ingevolge hierdie artikel geregistreer te wees en is geregtig om op aansoek 'n registrasiesertifikaat te dien effekte van die Registrateur te verkry.

5. 'n Bankinstelling wat by die inwerkingtreding van hierdie Wet as 'n bankinstelling geregistreer of voorlopig geregistreer is of geag word as 'n bankinstelling geregistreer of voorlopig geregistreer te wees, word geag ingevolge artikel vier geregistreer of voorlopig geregistreer te wees as 'n bankinstelling van die klas in artikel een omskryf wat pas by die bedryf deur hom uitgeoefen.

Voortsetting van
registrasie van
bestaande
instellings.

6. (1) 'n Bankinstelling word nie voorlopig geregistreer met 'n naam—

- (a) waaronder 'n ander bankinstelling reeds geregistreer of voorlopig geregistreer is nie; of
- (b) wat soseer met dié van 'n reeds geregistreerde of voorlopig geregistreerde instelling ooreenkom dat die een moontlik met die ander verwar kan word nie; of
- (c) wat na die oordeel van die Registrateur die publiek moontlik sal kan mislei nie.

Naam van
bankinstelling en
verandering van
naam.

(2) 'n Bankinstelling mag nie 'n ander naam besig of op homself toepas nie as die naam waaronder hy geregistreer of voorlopig geregistreer is of 'n letterlike vertaling daarvan wat die Registrateur goedgekeur het, en mag ook nie 'n verkorting van daardie naam besig of op homself toepas tensy die Registrateur dit goedgekeur het nie: Met dien verstande dat 'n bankinstelling met die toestemming van die Registrateur tesame met sy geregistreerde naam ook die naam van 'n bankinstelling wat met hom saamgesmelt is of wat deur hom geabsorbeer is of, in die geval van 'n verandering van naam, die naam waaronder hy voorheen bekend gestaan het, kan besig of op homself kan toepas.

- (3) (a) 'n Bankinstelling verander nie sy naam sonder die skriftelike toestemming van die Registrateur nie, en die bepalinge van sub-artikel (1) is *mutatis mutandis* van toepassing met betrekking tot 'n verandering van 'n bankinstelling se naam.

- (b) The provisions of this sub-section shall not be construed as authorizing the change of any name without compliance with the requirements of any other law relating to such a change of name.

(4) When a banking institution has changed its name, the Registrar shall, at the request of the institution and on payment by it of the amount of five rand, change the name of the institution in his register of banking institutions and issue to the institution a certificate of such change.

Only registered banking institutions may carry on banking business.

7. (1) No person shall carry on business as a banking institution of a particular class unless that person has been registered or provisionally registered as a banking institution of that class.

(2) No person shall give out or pretend in any way that he or any business or undertaking is a banking institution registered or provisionally registered under this Act, unless he or that business or undertaking is in fact so registered or provisionally registered, and no person shall give out or pretend in any way that he or any business or undertaking is registered or provisionally registered under this Act as a banking institution of a particular class, unless he or that business or undertaking is in fact so registered or provisionally registered as a banking institution of that class.

Registrar may require unregistered persons to furnish information.

8. If the Registrar has reason to suspect that any person who is not registered or provisionally registered under this Act as a banking institution of a particular class is carrying on business as such a banking institution, he may direct that person, by notice in writing, to submit to him within a period stated in such notice, or within such further period as the Registrar may allow, any document or information concerning his affairs, which is available to him.

Repayment of illegal deposits.

9. (1) A person holding deposits which he has obtained by carrying on the business of accepting deposits without being registered or provisionally registered as required by this Act or any law repealed by this Act, shall repay such deposits in accordance with the Registrar's directions.

(2) Nothing in sub-section (1) shall relieve any person from liability to criminal proceedings arising out of any contravention of the provisions of this Act or any law repealed by this Act.

Compulsory cancellation of registration.

10. (1) If any person makes a statement which is false and which he knows to be false, in connection with an application for permission to establish a banking institution or in connection with an application for registration or provisional registration or in connection with the renewal of a provisional registration or in reply to a direction in terms of section *eight*, he shall be deemed to be guilty of fraud or *falsitas*.

(2) (a) If the Registrar has registered a banking institution on the strength of any false or incorrect statement or if a banking institution or any person carrying on the business of a banking institution has been convicted of any offence under this Act or any law repealed by this Act, or if any banking institution does not carry on satisfactorily the business of a banking institution of the class in which the institution in question is registered, or if any banking institution misrepresents the facilities which it offers to its members or to the public, the Registrar may apply to the competent division of the Supreme Court of South Africa for an order cancelling or suspending the registration of the said institution and the said division may thereupon entertain the application and make such order thereon as it deems desirable to make: Provided that if any person has been convicted of fraud or *falsitas* under sub-section (1) because he made a false statement on the strength whereof the banking institution was registered as aforesaid, the Registrar may himself, with the consent of the Minister, cancel the registration or suspend it on such conditions as he may deem fit to impose.

(b) The Registrar may, with the approval of the Minister, cancel the registration of a discount house or suspend such registration on such conditions as he may deem fit to impose, if the Reserve Bank has refused to continue to grant rediscount facilities to such discount house.

(3) (a) When a banking institution, in the opinion of the Registrar, has ceased to carry on the business of a

- (b) Die bepalings van hierdie sub-artikel word nie uitgelê asof dit die verandering van 'n naam sonder voldoening aan die vereistes van enige ander wetsbepaling met betrekking tot so 'n naamsverandering veroorloof nie.
- (4) Wanneer 'n bankinstelling sy naam verander het, verander die Registrateur op versoek van die instelling en teen betaling deur die instelling van die bedrag van vyf rand, die naam van die instelling in sy register van bankinstellings en reik hy 'n sertifikaat van die verandering aan die instelling uit.

7. (1) Niemand mag die bedryf van 'n bankinstelling van 'n bepaalde klas uitoefen nie, tensy hy as 'n bankinstelling van daardie klas geregistreer of voorlopig geregistreer is. Slegs geregi-
streerde
bankinstellings
mag die bank-
bedryf uitoefen.
- (2) Niemand mag op enige wyse bekend maak of voorgee dat hy of enige besigheid of onderneming 'n bankinstelling is wat ingevolge hierdie Wet geregistreer of voorlopig geregistreer is nie, tensy hy of daardie besigheid of onderneming inderdaad aldus geregistreer of voorlopig geregistreer is, en niemand mag op enige wyse bekend maak of voorgee dat hy of enige besigheid of onderneming as 'n bankinstelling van 'n bepaalde klas ingevolge hierdie Wet geregistreer of voorlopig geregistreer is nie, tensy hy of die besigheid of onderneming inderdaad aldus as 'n bankinstelling van daardie klas geregistreer of voorlopig geregistreer is.

8. As die Registrateur rede het om te vermoed dat iemand wat nie ingevolge hierdie Wet as 'n bankinstelling van 'n bepaalde klas geregistreer of voorlopig geregistreer is nie, die bedryf van so 'n bankinstelling uitoefen, kan hy daardie persoon skriftelik aansê om binne 'n in die aansegging vermelde tydperk of binne die verdere tydperk wat die Registrateur toestaan, enige dokument of inligting aangaande sy sake, waaroor hy beskik, aan hom voor te lê. Registrateur kan
inligting van
ongeregistreeerde
persone verlang.

9. (1) 'n Persoon wat deposito's hou wat hy verkry het deur die neem van deposito's as bedryf uit te oefen sonder dat hy volgens voorskrif van hierdie Wet of 'n wetsbepaling wat deur hierdie Wet herroep is, geregistreer of voorlopig geregistreer is, moet dié deposito's ooreenkomstig die Registrateur se voorskrifte terugbetaal. Terugbetaling
van onwettige
deposito's.
- (2) Die bepalings van sub-artikel (1) vrywaar geen persoon teen strafregtelike aanspreeklikheid wat ontstaan uit die oortreding van die bepalings van hierdie Wet of 'n wet wat deur hierdie Wet herroep is nie.

10. (1) As iemand wetens 'n valse verklaring doen in verband met 'n aansoek om verlof om 'n bankinstelling te stig of in verband met 'n aansoek om registrasie of voorlopige registrasie of in verband met die hernuwing van 'n voorlopige registrasie of in antwoord op 'n aansegging kragtens artikel *agt*, word hy geag skuldig te wees aan bedrog of falsiteit. Verpligte
intrekking van
registrasie.

- (2) (a) As die Registrateur 'n bankinstelling op grond van enige valse of onjuiste verklaring geregistreer het, of as 'n bankinstelling of iemand wat die bedryf van 'n bankinstelling uitoefen, aan 'n misdaad ingevolge hierdie Wet of 'n wetsbepaling wat deur hierdie Wet herroep is, skuldig bevind is, of as 'n bankinstelling nie behoorlik die bedryf van 'n bankinstelling van die klas waarin die betrokke instelling geregistreer is, uitoefen nie, of as 'n bankinstelling 'n wanvoorstelling maak insake die fasiliteite wat hy aan sy lede of aan die publiek aanbied, kan die Registrateur by die bevoegde afdeling van die Hooggeregshof van Suid-Afrika aansoek doen om 'n bevel tot intrekking of opskorting van die registrasie van die betrokke instelling, en die gemelde afdeling kan daarna die aansoek oorweeg en die bevel daaromtrent uitvaardig wat hy wenslik ag: Met dien verstande dat as iemand aan bedrog of falsiteit ingevolge sub-artikel (1) skuldig bevind is omdat hy 'n valse verklaring gedoen het op grond waarvan die bankinstelling soos voormeld geregistreer is, die Registrateur self, met die goedkeuring van die Minister, die registrasie kan intrek of dit kan opskort op die voorwaardes wat hy na goeddunke opleë.
- (b) Die Registrateur kan met die goedkeuring van die Minister die registrasie van 'n diskontohuis intrek of dit opkort op die voorwaardes wat hy na goeddunke opleë, indien die Reserwebank geweier het om voort te gaan met die verlening van herdiskonteringsfasiliteite aan dié diskontohuis.
- (3) (a) Wanneer 'n bankinstelling volgens die oordeel van die Registrateur nie meer die bedryf van 'n bank-

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 sub-section, the Registrar shall issue to the institution a certificate of such conversion.

(4) Whenever it appears from any statement prescribed under this Act which has been furnished to the Registrar by an institution mentioned in sub-section (2) of section *two*, that the deposit liabilities of that institution exceed in the aggregate the sum of its paid-up capital and unimpaired reserve funds, the exemptions which the institution enjoyed in terms of that sub-section shall be deemed to have lapsed with effect from the date of certification of the said statement and the institution shall be deemed to have been registered provisionally in terms of section *four* for a period of twelve months as from that date.

Voluntary cancellation or conversion 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.

Publication of fact of registration and of name and class of banking institution.

12. (i) Upon the registration or provisional registration of any banking institution or upon the cancellation, 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*.

(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.

instelling 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.

- (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 die gepaste klas.
- (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 appèleer teen die Registrateur se besluit, en in so 'n geval is die intrekking of verandering nietig tensy en totdat dit deur die Minister bekrachtig word.
- (d) Die Minister kan na oorweging van 'n appèl ingevolge paragraaf (c) die Registrateur se besluit bekrachtig 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.
- (e) Wanneer die registrasie of voorlopige registrasie van 'n instelling ingevolge hierdie sub-artikel na registrasie of voorlopige registrasie in 'n ander klas verander is, reik die Registrateur 'n sertifikaat van die verandering aan die instelling uit.

(4) Wanneer dit uit 'n kragtens hierdie Wet voorgeskrewe staat wat deur 'n in sub-artikel (2) van artikel *twee* bedoelde instelling aan die Registrateur voorgelê is, blyk dat die deposito-verplichtings van daardie instelling altesaam die som van sy gestorte kapitaal en sy onaangetaste reserwefondse oorskry, word die vrystellings wat die instelling kragtens daardie sub-artikel geniet het, geag met ingang van die datum van sertifisering van bedoelde staat te verval het en word die instelling geag voorlopig geregistreer te wees ingevolge artikel *vier* vir 'n tydperk van twaalf maande vanaf dié datum.

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.

Vrywillige intrekking of verandering van registrasie.

12. (1) Na die registrasie of voorlopige registrasie van 'n bankinstelling of na die intrekking, 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.

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

(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 uitoefen;
- (b) in maklik leesbare letters op elke staat, kennisgewing, advertensie of brief, wat uitgegee of aan enige lid van die publiek in 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.

CHAPTER III.

RETURNS.

Returns which
banking
institutions must
render to
Registrar.

13. (1) A banking institution shall furnish to the Registrar in duplicate—

- (a) within a period of twenty-one days as from the end of each month of the year, a return in a form prescribed by regulation and certified as correct by its chief executive officer and its chief accounting officer in the Republic containing the information required by the Registrar in order to be able to determine whether the institution maintains the liquid assets, the prescribed investments and the reserve balance with the Reserve Bank required by this Act: Provided that such return shall not be required in the case of a discount house;
- (b) within a period of forty days as from the end of every calendar quarter, a statement in a form prescribed by regulation and certified as aforesaid, of its assets and liabilities as at the close of the last business day of that quarter;
- (c) together with the statement mentioned in paragraph (b), a return in a form prescribed by regulation and certified as aforesaid, containing the information required by the Registrar in order to be able to determine whether the institution maintains the paid-up capital and unimpaired reserve funds and the assets prescribed in section *twenty* required by this Act;
- (d) simultaneously with the sending or submission of any statement of its affairs or any notice, report or other document to its shareholders or members, a copy of every such statement, notice, report or other document and of any auditor's report sent or submitted with any such statement, certified in each case as a true copy by the said chief executive officer;
- (e) within a period of thirty days as from the date of any meeting of its shareholders or members, a copy of the minutes of such meeting, certified as correct by the said chief executive officer; and
- (f) within such period as the Registrar may determine, any additional returns or information which the Registrar may in writing request the institution to furnish.

(2) The regulations referred to in paragraphs (a), (b) and (c) may prescribe different forms for the statements and returns to be furnished by various classes of institutions.

(3) Of the statements furnished to the Registrar by any banking institution in terms of paragraph (b) of sub-section (1) in respect of the four quarters in any calendar year, at least one shall also be certified as true and fair by the auditor of the institution, and, if the Registrar so requires, any other such statement submitted by a particular institution in respect of any calendar year shall likewise be so certified.

(4) A banking institution shall at all times display in a conspicuous place in every building in the Republic in which it carries on business, a copy of its last statement of assets and liabilities compiled in terms of paragraph (b) of sub-section (1).

(5) The Registrar shall compile from the statements furnished to him in terms of paragraph (b) of sub-section (1), quarterly composite statements for the various classes of banking institutions, in such form and containing such particulars as he may deem fit, and publish such composite statements in the *Gazette*.

CHAPTER IV.

FINANCIAL REQUIREMENTS.

Minimum capital
and reserves.

14. (1) A banking institution (other than a discount house) shall, subject to the provisions of sub-sections (3) and (4), maintain in the Republic a paid-up capital and unimpaired reserve funds together amounting to not less than—

- (a) two hundred thousand rand; or
- (b) six per cent of the amount of its liabilities to the public in the Republic, other than liabilities under acceptances, plus ten per cent of the latter liabilities as shown in the last preceding quarterly statement furnished to the Registrar in terms of paragraph (b) of sub-section (1) of section *thirteen*,

HOOFSTUK III.

OPGAWES.

13. (1) 'n Bankinstelling moet die volgende in tweevoud aan die Registrateur verstrek, te wete—
- (a) binne 'n tydperk van een-en-twintig dae vanaf die einde van elke maand van die jaar, 'n opgawe wat in 'n by regulasie voorgeskrewe vorm is en deur sy hoof-uitvoerende beamppte en sy hoofrekenmeester in die Republiek as juis gesertifiseer is en wat die inligting bevat wat die Registrateur nodig het om hom in staat te stel om te bepaal of die instelling die likwiede bates, die voorgeskrewe beleggings en die reserwesaldo by die Reserwebank, soos deur hierdie Wet vereis, in stand hou: Met dien verstande dat so 'n opgawe nie in die geval van 'n diskontohuis vereis word nie;
- (b) binne 'n tydperk van veertig dae vanaf die einde van elke kalenderkwartaal, 'n staat wat in 'n by regulasie voorgeskrewe bates, soos deur hierdie Wet vereis, in is, van sy bates en laste aan die einde van die laaste besigheidsdag in daardie kwartaal;
- (c) tesame met die in paragraaf (b) vermelde staat, 'n opgawe in 'n by regulasie voorgeskrewe vorm en op voormelde wyse gesertifiseer wat die inligting bevat wat die Registrateur nodig het om hom in staat te stel om te bepaal of die instelling die gestorte kapitaal en on-aangetaste reserwefondse en die in artikel *twintig* voorgeskrewe bates, soos deur hierdie Wet vereis, in stand hou;
- (d) gelyktydig met die stuur of voorlegging van 'n staat van sy sake of 'n kennisgewing, verslag of ander dokument aan sy aandeelhouders of lede, 'n afskrif van elke sodanige staat, kennisgewing, verslag of ander dokument en van enige ouditeursverslag wat saam met so 'n staat gestuur of voorgelê word, in elke geval deur bedoelde hoof-uitvoerende beamppte as 'n ware afskrif gesertifiseer;
- (e) binne 'n tydperk van dertig dae vanaf die datum van 'n vergadering van sy aandeelhouders of lede, 'n afskrif van die notule van dié vergadering, deur bedoelde hoof-uitvoerende beamppte as juis gesertifiseer; en
- (f) binne 'n tydperk wat die Registrateur bepaal, enige verdere opgawes of inligting wat die Registrateur die instelling skriftelik versoek om te verstrek.
- (2) Die in paragrafe (a), (b) en (c) bedoelde regulasies kan verskillende vorms voorskryf vir die state en opgawes wat deur verskillende klasse instellings verstrek moet word.
- (3) Van die state wat 'n bankinstelling ingevolge paragraaf (b) van sub-artikel (1) ten opsigte van die vier kwartale in 'n kalenderjaar aan die Registrateur verstrek, moet minstens een ook deur die instelling se ouditeur as waar en billik gesertifiseer word, en, indien die Registrateur dit vereis, moet enige ander sodanige staat deur 'n bepaalde instelling ten opsigte van 'n kalenderjaar verstrek, insgelyks aldus gesertifiseer word.
- (4) 'n Bankinstelling moet te alle tye op 'n ooglopende plek in elke gebou in die Republiek waar hy sy bedryf uitoefen 'n afskrif van sy jongste ingevolge paragraaf (b) van sub-artikel (1) opgestelde staat van bates en laste vertoon.
- (5) Die Registrateur moet uit die state ingevolge paragraaf (b) van sub-artikel (1) aan hom verstrek, vir elke kwartaal samegestelde state vir die onderskeie klasse bankinstellings opstel wat in die vorm is en die besonderhede bevat wat hy goedgevind, en bedoelde samegestelde state in die *Staatskoerant* publiseer.

Opgawes wat bankinstellings aan Registrateur moet voorlê.

HOOFSTUK IV.

FINANSIËLE VOORSKRIFTE.

14. (1) 'n Bankinstelling wat nie 'n diskontohuis is nie, moet, behoudens die bepalings van sub-artikels (3) en (4), 'n gestorte kapitaal en onaangetaste reserwefondse in die Republiek in stand hou wat tesame nie minder bedra nie as—
- (a) tweehonderdduisend rand; of
- (b) ses persent van die bedrag van sy verpligtings teenoor die publiek in die Republiek, behalwe verpligtings uit hoofde van aksepte, plus tien persent van die bedrag van laasbedoelde verpligtings, soos aangegee in die jongste kwartaalstaat wat hy ingevolge paragraaf (b) van sub-artikel (1) van artikel *dertien* aan die Registrateur verstrek het,

Minimum kapitaal en reserwes.

whichever is the greater: Provided that for the purposes of the application of this sub-section—

- (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.

(2) For the purposes of the application of this section to a commercial bank, a remittance in transit shall mean the amount of a cheque or other order to pay drawn on one of its branches in the Republic or on another banking institution in the Republic or on the Reserve Bank, with which another branch in the Republic of the commercial bank concerned has credited a client or which it has paid out but with which the first-mentioned branch or such other banking institution or the Reserve Bank has not yet debited a client, and includes the amount of a warrant voucher which the commercial bank has paid out but for which it has not yet received repayment from the Secretary to the Treasury.

(3) Any such banking institution which on the first day of January, 1965, was not complying with the requirements of sub-section (1), shall, subject to the provisions of sub-section (4), maintain in the Republic, in relation to its liabilities to the public in the Republic (less the deductions allowed under provisos (i) and (ii) to sub-section (1) and liabilities under acceptances), as shown in the last preceding quarterly statement furnished to the Registrar in terms of paragraph (b) of sub-section (1) of section *thirteen*, a paid-up capital and unimpaired reserve funds together amounting to not less than the amount determined as provided in the table set out hereunder, according to the amount of such liabilities, namely—

- (a) the appropriate amount set out in the second column of that table; or
- (b) the appropriate percentage of the amount of the liabilities aforesaid, set out in the third column of that table,

whichever is the greater, together with an additional amount equal to ten per cent of its liabilities under acceptances.

TABLE.

<i>Liabilities to the public as shown in last preceding quarterly statement.</i>	<i>Minimum amount.</i>	<i>Minimum percentage.</i>
R	R	
Not exceeding 1,000,000	—	10
Not exceeding 2,000,000	100,000	8
Exceeding 2,000,000	160,000	6

(4) Any such banking institution which on the first day of January, 1965, was not complying with the requirements of sub-section (1) or (3), shall comply with the latter sub-section within one year thereafter: Provided that as soon as the paid-up capital and unimpaired reserve funds of an institution referred to in sub-section (3) reach the amount of two hundred thousand rand, the said sub-section shall cease to apply in respect of such institution and thereafter sub-section (1) shall apply in respect thereof.

Capital require-
ment for
discount houses.

15. A discount house shall maintain in the Republic a paid-up capital and unimpaired reserve funds together amounting to not less than—

- (a) two hundred thousand rand; or
- (b) two per cent of the amount of its liabilities to the public in the Republic as shown in the last preceding quarterly statement furnished by it to the Registrar in terms of paragraph (b) of sub-section (1) of section *thirteen*,

whichever is the greater.

Minimum reserve
balance.

16. A banking institution (other than a discount house) whose short-term liabilities to the public in the Republic, other than liabilities under acceptances and loans from other banking

na gelang van watter bedrag die grootste is: Met dien verstande dat by die toepassing van hierdie sub-artikel—

- (i) 'n bankinstelling van sy voormelde verpligtings, behalwe 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 voormelde verpligtings, behalwe verpligtings uit hoofde van aksepte, 'n bedrag wat gelyk is aan vyftig persent van die remises in transito, kan aftrek.

(2) By die toepassing van hierdie artikel op 'n handelsbank, beteken 'n remise in transito die bedrag van 'n tjek of ander betaalopdrag op een van sy takke in die Republiek of op 'n ander bankinstelling in die Republiek of op die Reserwebank getrek, waarmee 'n ander tak in die Republiek van die betrokke handelsbank reeds 'n kliënt gekrediteer het of wat hy reeds uitbetaal het, maar waarmee eersbedoelde tak of bedoelde ander bankinstelling of die Reserwebank nog nie 'n kliënt gedebiteer het nie, en ook die bedrag van 'n skatkisorder wat die handelsbank uitbetaal het, maar waarvoor hy nog nie terugbetaling van die Sekretaris van die Tesourie ontvang het nie.

(3) So 'n bankinstelling wat op die eerste dag van Januarie 1965 nie aan die bepalings van sub-artikel (1) voldoen het nie, moet, behoudens die bepalings van sub-artikel (4), met betrekking tot sy verpligtings teenoor die publiek in die Republiek (min die aftrekkings ingevolge voorbehoudsbepalings (i) en (ii) by sub-artikel (1) toegelaat en verpligtings uit hoofde van aksepte), soos aangegee in die jongste kwartaalstaat wat hy ingevolge paragraaf (b) van sub-artikel (1) van artikel *dertien* aan die Registrateur verstrek het, 'n gestorte kapitaal en onaangetaste reserwefondse in die Republiek in stand hou wat tesame nie minder bedra nie as die bedrag volgens voorskrif van onderstaande tabel bepaal ooreenkomstig die bedrag van bedoelde verpligtings, te wete—

- (a) die gepaste bedrag in die tweede kolom van daardie tabel uiteengesit; of
- (b) die gepaste persentasie van die bedrag van vermelde verpligtings soos in die derde kolom van daardie tabel uiteengesit,

na gelang van watter bedrag die grootste is, tesame met 'n addisionele bedrag gelyk aan tien persent van sy verpligtings uit hoofde van aksepte.

TABEL.

<i>Verpligtings teenoor publiek volgens jongste kwartaalstaat.</i>	<i>Minimum bedrag.</i>	<i>Minimum persentasie.</i>
R	R	
1,000,000 nie te bowe gaande nie ..	—	10
2,000,000 nie te bowe gaande nie ..	100,000	8
2,000,000 te bowe gaande ..	160,000	6

(4) So 'n bankinstelling wat op die eerste dag van Januarie, 1965 nie aan die bepalings van sub-artikel (1) of (3) voldoen het nie, moet binne een jaar daarna aan laasgenoemde sub-artikel voldoen: Met dien verstande dat sodra 'n in sub-artikel (3) bedoelde instelling se gestorte kapitaal en onaangetaste reserwefondse die bedrag van tweehonderdduisend rand bereik, vermelde sub-artikel ten opsigte van hom verval, waarna sub-artikel (1) vir hom geld.

15. 'n Diskontohuis moet in die Republiek 'n gestorte kapitaal en onaangetaste reserwefondse in stand hou wat tesame nie minder bedra nie as — Kapitaalvoor-skrif vir diskontohuise.

- (a) tweehonderdduisend rand; of
- (b) twee persent van die bedrag van sy verpligtings teenoor die publiek in die Republiek soos aangegee in die jongste kwartaalstaat wat hy ingevolge paragraaf (b) van sub-artikel (1) van artikel *dertien* aan die Registrateur verstrek het,

na gelang van watter bedrag die grootste is.

16. 'n Bankinstelling (behalwe 'n diskontohuis) waarvan die korttermynverpligtings teenoor die publiek in die Republiek, behalwe verpligtings uit hoofde van aksepte en lenings van Minimum reserwesaldo.

institutions, as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of sub-section (1) of section *thirteen*, exceed the amount of five hundred thousand rand, shall maintain a reserve balance with the Reserve Bank amounting to not less than eight per cent of the said liabilities.

Minimum liquid assets.

17. (1) A banking institution (other than a discount house) shall maintain in the Republic liquid assets amounting to not less than the aggregate of—

- (a) thirty per cent of its short-term liabilities to the public in the Republic, other than liabilities under acceptances;
- (b) twenty per cent of its medium-term liabilities to the public in the Republic, other than liabilities under acceptances;
- (c) five per cent of its long-term liabilities to the public in the Republic; and
- (d) ten per cent of its liabilities under acceptances,

as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of sub-section (1) of section *thirteen*: Provided that for the purposes of this sub-section—

- (i) a commercial bank may effect the deduction referred to in proviso (ii) to sub-section (1) of section *fourteen* from the liabilities referred to in paragraph (a) hereof; and
- (ii) a banking institution 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 the security of fixed deposits included under the said paragraphs.

(2) The provisions of sub-section (1) shall in respect of a banking institution (other than a commercial bank) which existed on the first day of January, 1965, come into operation one year after the said date: Provided that—

- (a) an institution which for reasons acceptable to the Registrar does not yet have, at the end of the said period of one year, the full amount of liquid assets required by the said sub-section, may apply to the Registrar for an extension of that period, and the Registrar may extend it in respect of such institution by not more than twelve months; and
 - (b) during the said period of one year or any extension thereof, the institution shall at all times comply with the requirements relating to liquid assets which were applicable to it before the said date.
- (3) (a) Whenever the Reserve Bank deems it desirable in the national economic interest, it may with the consent of the Treasury from time to time determine—
- (i) that in respect of the institutions of a particular class the percentages mentioned in paragraphs (a) and (b) of sub-section (1) shall be increased to not more than forty and thirty respectively or decreased to not less than twenty and ten respectively; or
 - (ii) that every institution of a particular class shall maintain, in addition to the liquid assets required by sub-section (1), supplementary liquid assets in the Republic at least equal to percentages prescribed by the Reserve Bank, but not exceeding seventy per cent of the amount by which the short-term liabilities to the public or eighty per cent of the amount by which the medium-term liabilities to the public payable by the institution in the Republic (as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of sub-section (1) of section *thirteen*) exceed the amount of such liabilities as at a date determined by the Reserve Bank and stated by the Registrar in a notice in the *Gazette*.
- (b) Whenever the Reserve Bank has made a determination in terms of paragraph (a), it shall inform the Registrar thereof in writing, and the Registrar shall as soon as practicable give written notice of the determination to every institution of the class to which the determination applies, and cause the determination to be published in the *Gazette*.

ander bankinstellings, soos aangegee in die jongste maand-opgawe wat hy ingevolge paragraaf (a) van sub-artikel (1) van artikel *dertien* aan die Registrateur verstrek het, die bedrag van vyfhonderdduisend rand te bowe gaan, moet 'n reserwesaldo gelyk aan minstens agt persent van vermelde verpligtings by die Reserwebank in stand hou.

17. (1) 'n Bankinstelling (behalwe 'n diskontohuis) moet in die Republiek likwiede bates in stand hou tot 'n bedrag minstens gelyk aan die som van— Minimum
likwiede bates.

- (a) dertig persent van sy korttermynverpligtings teenoor die publiek in die Republiek, behalwe verpligtings uit hoofde van aksepte;
- (b) twintig persent van sy middeltermynverpligtings teenoor die publiek in die Republiek, behalwe verpligtings uit hoofde van aksepte;
- (c) vyf persent van sy langtermynverpligtings teenoor die publiek in die Republiek; en
- (d) tien persent van sy verpligtings uit hoofde van aksepte, soos aangegee in die jongste maandopgawe wat hy ingevolge paragraaf (a) van sub-artikel (1) van artikel *dertien* aan die Registrateur verstrek het: Met dien verstande dat by die toepassing van hierdie sub-artikel—

- (i) 'n handelsbank die bedrag in voorbehoudsbepaling (ii) by sub-artikel (1) van artikel *veertien* bedoel, van die in paragraaf (a) hiervan vermelde verpligtings kan aftrek; en
- (ii) 'n bankinstelling van die in paragraaf (a), (b) en (c) bedoelde verpligtings, die bedrae kan aftrek wat aan hom verskuldig is ten opsigte van lenings deur hom toegestaan teen sekerheid van vaste deposito's wat onder daardie paragraaf val.

(2) Die bepalinge van sub-artikel (1) tree, ten opsigte van 'n bankinstelling (behalwe 'n handelsbank), wat op die eerste dag van Januarie 1965 bestaan het, in werking een jaar na vermelde datum: Met dien verstande dat—

- (a) 'n instelling wat om redes wat die Registrateur aanneemlik vind, aan die einde van bedoelde tydperk van een jaar nog nie die volle by daardie sub-artikel vereiste bedrag aan likwiede bates besit nie, by die Registrateur om verlenging van daardie tydperk aansoek kan doen, en die Registrateur dit ten opsigte van bedoelde instelling met hoogstens twaalf maande kan verleng; en
 - (b) die instelling gedurende bedoelde tydperk van een jaar of 'n verlenging daarvan te alle tye aan die vereistes insake likwiede bates moet voldoen wat voor vermelde datum vir hom gegeld het.
- (3) (a) Wanneer die Reserwebank dit in die nasionale ekonomiese belang wenslik ag, kan hy met die toestemming van die Tesourie van tyd tot tyd bepaal—
- (i) dat ten opsigte van die instellings van 'n bepaalde klas die in paragraaf (a) en (b) van sub-artikel (1) vermelde persentasies onderskeidelik tot hoogstens veertig en dertig verhoog of onderskeidelik tot minstens twintig en tien verminder word; of
 - (ii) dat elke instelling van 'n besondere klas, benewens die likwiede bates deur sub-artikel (1) vereis, aanvullende likwiede bates in die Republiek in stand moet hou wat minstens gelyk is aan persentasies deur die Reserwebank voorgeskryf, maar nie meer nie as sewentig persent van die bedrag waarmee die korttermynverpligtings teenoor die publiek of tagtig persent van die bedrag waarmee die middeltermynverpligtings teenoor die publiek wat deur die instelling in die Republiek betaalbaar is (soos aangegee in die jongste maandopgawe wat hy ingevolge paragraaf (a) van sub-artikel (1) van artikel *dertien* aan die Registrateur verstrek het) die bedrag van sodanige verpligtings oorskry op 'n datum deur die Reserwebank bepaal en deur die Registrateur in 'n kennisgewing in die *Staatskoerant* vermeld.
- (b) Wanneer 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 instelling van die klas waarop die bepaling betrekking het, skriftelik van die bepaling in kennis stel en die bepaling in die *Staatskoerant* laat afkondig.

- (c) Any such determination shall take effect—
 - (i) if it provides for a decrease, immediately; or
 - (ii) if it provides for an increase, on the first date, in the case of any particular institution, after the expiration of thirty days as from the date of publication of the determination in the *Gazette*, on which its chief executive officer and its chief accounting officer certify a monthly return in respect of the institution in terms of paragraph (a) of sub-section (1) of section *thirteen*.
- (d) With the consent of the Treasury, the Reserve Bank may at any time vary an existing determination by increasing or decreasing any percentage determined by it in terms of paragraph (a).
- (e) The provisions of paragraphs (b) and (c) shall apply *mutatis mutandis* to any such variation.
- (f) Notwithstanding anything contained in paragraph (a), no banking institution shall be required to augment its liquid assets during any month of the year by an amount in excess of four per cent of the aggregate of its short-term and its medium-term liabilities as at the close of the last working day of the preceding month.

Minimum prescribed investments.

18. A banking institution (other than a discount house) shall maintain in the Republic prescribed investments of an amount not less than fifteen per cent of its liabilities to the public, as shown in the last preceding monthly return furnished by it to the Registrar in terms of paragraph (a) of sub-section (1) of section *thirteen*.

Period for maintenance of prescribed minima.

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

Banking institutions must maintain a covered domestic position.

20. (1) A banking institution shall maintain assets (other than claims) situate in the Republic and assets consisting of claims payable in the currency of the Republic, of an aggregate value not less than the sum of—

- (a) the amount of its liabilities payable in the currency of the Republic; and
- (b) the paid-up capital and unimpaired reserve funds which it is required to maintain in terms of section *fourteen* or (in the case of a discount house) *fifteen*, as shown in the last preceding quarterly statements furnished by it to the Registrar in terms of paragraphs (b) and (c) of sub-section (1) of section *thirteen*:

Provided that the Minister may exempt any banking institution, at its request, from the preceding provisions of this section to the extent and for the period and on the conditions determined by him: Provided further that a commercial bank shall be exempt from the requirements of the said provisions—

- (i) for the purpose of meeting seasonal demands which may arise out of the export trade of the Republic, up to an amount not exceeding the amount set out in paragraph (b);
- (ii) for the purpose of participating in loans issued or guaranteed by the International Bank for Reconstruction and Development, up to an amount not exceeding five per cent of the amount set out in paragraph (a).

(2) The liabilities of a banking institution which are payable in the currency of the Republic shall be a prior charge (as against all other liabilities) on the assets which it is required to maintain in terms of sub-section (1).

Restrictions on deposits.

21. (1) A banking institution shall repay a fixed deposit on due date and not earlier, but shall not be required to repay it on due date where the depositor concerned has previously instructed it in writing as to the manner in which such deposit or any portion thereof is to be reinvested with the institution.

(2) Where any institution accepts a deposit other than a savings deposit on the condition that the deposit or any portion thereof will be repayable only after notice of an agreed period,

- (c) So 'n bepaling word van krag—
- (i) indien dit vir 'n vermindering voorsiening maak, onmiddellik; of
 - (ii) indien dit vir 'n vermeerdering voorsiening maak, vir elke besondere instelling op die eerste datum waarop sy hoof- uitvoerende beampte en sy hoofrekenmeester na die verstryking van dertig dae vanaf die datum van publikasie van die bepaling in die *Staatskoerant* 'n maandopgawe ten opsigte van die instelling ingevolge paragraaf (a) van sub-artikel (1) van artikel *dertien* sertifiseer.
- (d) Die Reserwebank kan te eniger tyd met die toestemming van die Tesourie 'n bestaande bepaling wysig deur 'n persentasie wat hy ingevolge paragraaf (a) bepaal het, te vermeerder of te verminder.
- (e) Die bepaling van paragraaf (b) en (c) is *mutatis mutandis* op so 'n wysiging van toepassing.
- (f) Ondanks enigiets in paragraaf (a) vervat, is geen bankinstelling verplig om gedurende enige maand van die jaar sy likwiede bates met 'n bedrag van meer as vier persent van die som van sy korttermyn- en sy middeltermynverplichings aan die einde van die laaste werkdag van die vorige maand aan te vul nie.

18. 'n Bankinstelling (behalwe 'n diskontohuis) moet voorgeskrewe beleggings in die Republiek in stand hou van 'n bedrag gelyk aan minstens vyftien persent van sy verplichings teenoor die publiek soos aangegee in die jongste maandopgawe wat hy ingevolge paragraaf (a) van sub-artikel (1) van artikel *dertien* aan die Registrateur verstrek het.

Minimum voorgeskrewe beleggings.¶¶

19. 'n Bankinstelling moet enige deur of kragtens artikel *veertien*, *vyftien*, *sestien*, *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 sub-artikel (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.

Tydperk vir instandhouding van voorgeskrewe minima.

20. (1) 'n Bankinstelling moet bates (afgesien van vorderings) wat in die Republiek geleë is en bates bestaande uit vorderings wat in die betaalmiddel van die Republiek betaalbaar is, in stand hou waarvan die totale waarde nie minder is nie as die som van—

Bankinstellings moet 'n gedekte binnelandse posisie handhaaf.

- (a) die bedrag van sy verplichings wat in die betaalmiddel van die Republiek betaalbaar is; en
- (b) die gestorte kapitaal en onaangetaste reserwefondse wat hy ingevolge artikel *veertien* of (in die geval van 'n diskontohuis) *vyftien* in stand moet hou, soos aangegee in die jongste kwartaalstate wat hy ingevolge paragraaf (b) en (c) van sub-artikel (1) van artikel *dertien* aan die Registrateur verstrek het:

Met dien verstande dat die Minister 'n bankinstelling op laasgenoemde se versoek van die voorgaande bepaling van hierdie artikel kan vrystel in die mate en vir die tydperk en op die voorwaardes wat hy bepaal: Met dien verstande voorts dat 'n handelsbank van die vereistes van voormelde bepaling vrygestel is—

- (i) ten einde in die seisoensbehoefte wat uit die uitvoerhandel van die Republiek ontstaan, te kan voorsien, tot 'n bedrag gelyk aan hoogstens die bedrag in paragraaf (b) vermeld;
- (ii) ten einde aan lenings wat deur die Internasionale Bank vir Rekonstruksie en Ontwikkeling uitgereik of gewaarborg word, te kan deelneem, tot 'n bedrag gelyk aan hoogstens vyf persent van die bedrag in paragraaf (a) vermeld.

(2) Die verplichings van 'n bankinstelling wat in die betaalmiddel van die Republiek betaalbaar is, geniet voorrang bo alle ander verplichings teen die bates wat hy ingevolge sub-artikel (1) in stand moet hou.

21. (1) 'n Bankinstelling moet 'n vaste deposito op die vervaldag terugbetaal en nie vroeër nie, maar is nie verplig om dit op die vervaldag terug te betaal nie waar die betrokke deposant hom vooraf skriftelik opdrag gegee het betreffende die wyse waarop die deposito of enige gedeelte daarvan by die instelling herbelê moet word.

Beperkings op deposito's.

(2) Waar 'n instelling 'n deposito, behalwe 'n spaardeposito, neem op die voorwaarde dat die deposito of 'n deel daarvan slegs na kennisgewing van 'n ooreengekome termyn terug-

the institution shall not repay the deposit or any portion thereof at shorter notice.

- (3) (a) A banking institution shall not accept savings deposits from any company with limited liability, except in the case of an association licensed in terms of section *twenty-one* of the Companies Act, 1926 (Act No. 46 of 1926).
- (b) The provisions of paragraph (a) shall not apply to savings accounts which existed on the first day of January, 1965: Provided that no further amount other than interest shall be credited to such an account.
- (4) (a) A banking institution shall not allow any one person to maintain with it a credit balance on savings account in excess of six thousand rand: Provided that nothing in this sub-section contained shall preclude an institution from crediting interest to a savings account.
- (b) Where on the first day of January, 1965, a savings account showed a credit balance of more than six thousand rand, such balance shall not by reason of the provisions of paragraph (a) be required to be reduced to the said amount: Provided that—
 - (i) no further amount other than interest shall be credited to such account so long as it shows a credit balance exceeding the said amount; and
 - (ii) if the balance in such account is at any time reduced to six thousand rand or less, the limit prescribed by paragraph (a) shall also apply to it.
- (5) A banking institution shall not grant a loan against the security of a deposit which it or any other banking institution or any building society holds to the credit of the borrower or any other person, at a rate of interest which is not at least one per cent on the amount of such loan higher than the rate payable in respect of such deposit.
- (6) Notwithstanding the provisions of sub-sections (1) and (2), an institution may in its discretion repay before due date a fixed deposit or a deposit subject to notice—
 - (a) where such deposit forms part of the assets in an insolvent or deceased estate;
 - (b) where the depositor has been placed under curatorship;
 - (c) where the depositor has been placed under judicial management or in liquidation;
 - (d) where the deposit is required by a pension fund to effect deferred pension payments;
 - (e) in any case after the expiration of a period of twelve months from the date on which the deposit was made with it or was last reinvested, if the depositor has given it at least thirty days' notice of withdrawal; or
 - (f) in such other cases as the Registrar may approve either generally or in any particular case.

(7) Where the limit prescribed by paragraph (a) of sub-section (4) is exceeded as a result of the amalgamation of two or more institutions or the transfer of the assets and liabilities of any institution to another, the provisions of paragraph (b) of sub-section (4) shall *mutatis mutandis* apply as if the savings account in question had been in existence on the first day of January, 1965.

Limitation of transactions of discount houses.

22. (1) A discount house shall not discount, buy or invest in any securities other than bank acceptances, bank-endorsed bills, Treasury bills of the Republic, stocks of the Government with a maturity of three years or less, debentures of the Land Bank with a maturity of three years or less, bills issued by the said bank or other short-term securities or investments approved by the Registrar by notice in the *Gazette*: Provided that—

- (a) a discount house may discount, buy or invest in securities of a nature similar to the aforesaid securities or to the securities so approved, but its holding of securities of the said nature shall at no time constitute more than five per cent of its total assets; and
- (b) the Registrar may at any time instruct a discount house to cease discounting, buying or investing in any particular security acquired by it in terms of paragraph (a), or to dispose of its holdings of such security within a reasonable period.

betalbaar is, mag die instelling die deposito of 'n deel daarvan nie op korter kennisgewing terugbetaal nie.

- (3) (a) 'n Bankinstelling neem nie spaardeposito's van 'n maatskappy met beperkte aanspreeklikheid aan nie, behalwe in die geval van 'n vereniging wat kragtens artikel *een-en-twintig* van die Maatskappywet, 1926 (Wet No. 46 van 1926), gelisensieer is.
- (b) Die bepaling van paragraaf (a) is nie ten opsigte van spaarrekenings wat op die eerste dag van Januarie 1965 bestaan het, van toepassing nie: Met dien verstande dat geen verdere bedrag, behalwe rente, op so 'n rekening gekrediteer mag word nie.
- (4) (a) 'n Bankinstelling laat nie 'n enkele persoon toe om 'n kreditsaldo van meer as sesduisend rand op spaarrekening by hom te hou nie: Met dien verstande dat die bepaling van hierdie sub-artikel 'n instelling nie belet om 'n spaarrekening met rente te krediteer nie.
- (b) Waar 'n spaarrekening op die eerste dag van Januarie 1965 'n kreditsaldo van meer as sesduisend rand getoon het, hoef dié saldo nie op grond van die bepaling van paragraaf (a) tot genoemde bedrag verminder te word nie: Met dien verstande dat—
 - (i) geen verdere bedrag, behalwe rente, op so 'n rekening gekrediteer mag word solank sy kreditsaldo genoemde bedrag oorskry nie; en
 - (ii) indien die saldo op so 'n rekening te eniger tyd tot sesduisend rand of minder daal, die perk by paragraaf (a) voorgeskryf ook daarop van toepassing is.
- (5) 'n Instelling mag geen lening teen die sekerheid van 'n deposito wat die lener of 'n ander persoon by hom of by 'n ander bankinstelling of 'n bouvereniging gestort het, verstrek nie teen 'n rentekoers wat nie minstens een persent op die bedrag van die lening hoër is as die rentekoers wat op die betrokke deposito betaalbaar is nie.
- (6) Ondanks die bepaling van sub-artikels (1) en (2), kan 'n instelling na goeddunke 'n vaste deposito of 'n deposito wat aan kennisgewing van terugbetaling onderworpe is voor vervaldag terugbetaal—
 - (a) waar die deposito deel uitmaak van die bates in 'n insolvente of bestorwe boedel;
 - (b) waar die deposant onder kuratele geplaas is;
 - (c) waar die deposant onder geregtelike bestuur of in likwidasië geplaas is;
 - (d) waar die deposito deur 'n pensioenfonds benodig is om uitgestelde pensioenbetalings te maak;
 - (e) in enige geval na die verstryking van 'n tydperk van twaalf maande vanaf die datum waarop die deposito by hom gemaak of laas herbelê is, indien die deposant hom minstens dertig dae kennis van opvraging gegee het; of
 - (f) in die ander gevalle wat die Registrateur goedkeur, hetsy in die algemeen of in 'n bepaalde geval.
- (7) Waar die perk by paragraaf (a) van sub-artikel (4) voorgeskryf, oorskry word as gevolg van die samesmelting van twee of meer instellings, of die oordrag van die bates en laste van een instelling aan 'n ander, is die bepaling van paragraaf (b) van sub-artikel (4) *mutatis mutandis* van toepassing asof die betrokke spaarrekening op die eerste dag van Januarie 1965 bestaan het.

22. (1) 'n Diskontohuis mag nie ander sekuriteite as bank-aksepte, bank-geëndosseerde wissels, skatkisbiljette van die Republiek, effekte van die Regering wat binne drie jaar verval, obligasies van die Landbank wat binne drie jaar verval, wissels deur bedoelde bank uitgereik of ander korttermynsekuriteite of -beleggings wat die Registrateur by kennisgewing in die *Staatskoerant* goedkeur, verdiskonteer of dit koop of daarin belê nie: Met dien verstande dat—

- (a) 'n diskontohuis sekuriteite van 'n soortgelyke aard as die voormelde sekuriteite of as die sekuriteite aldus goedgekeur, mag verdiskonteer of koop of daarin mag belê, maar sy besit aan sekuriteite van sodanige aard mag nie te eniger tyd meer as vyf persent van sy totale bates uitmaak nie; en
- (b) die Registrateur 'n diskontohuis te eniger tyd kan gelas om op te hou om 'n bepaalde sekuriteit wat hy kragtens paragraaf (a) verkry het, te verdiskonteer, te koop of daarin te belê, of om binne 'n redelike tyd sy besit aan so 'n sekuriteit van die hand te sit.

Beperking op transaksies van diskontohuise.

(2) A discount house shall not effect a loan otherwise than against the pledge of securities referred to in sub-section (1), or from any person other than a banking institution, a building society, a mining house, the Reserve Bank, the Land Bank, the Department of Finance or an institution approved by the Registrar by notice in the *Gazette*: Provided that not more than five per cent of its total loans may at any time consist of loans effected without the aforesaid pledge.

(3) A discount house may make demand deposits with the National Finance Corporation, another discount house or any other institution approved by the Registrar by notice in the *Gazette*: Provided that the said deposits shall not at any time exceed in the aggregate the sum of its paid-up share capital and unimpaired reserve funds as shown in its last preceding quarterly statement.

Banking institutions exempted from certain provisions of Usury Act.

23. (1) In sub-section (1) of section *five* of the Usury Act, 1926 (Act No. 37 of 1926), the words "instrument of debt" shall not include a bill of exchange when such bill is executed or discounted by the Reserve Bank, the Land Bank, the National Finance Corporation or a banking institution.

(2) The provisions of sub-section (1) of section *seven* and sections *eight* and *ten* of the said Act shall not apply to the Reserve Bank, the Land Bank, the National Finance Corporation or a banking institution.

Liquid assets and prescribed investments 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.

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 Commissioners.

CHAPTER V.

GENERAL PROVISIONS.

Particulars to be given with a statement of banking institution's capital.

26. A banking institution shall not publish any statement or issue any document on which is printed any statement—

- (a) of its authorized capital, unless the statement also sets forth the amount of the institution's subscribed capital; or
- (b) of its subscribed capital, unless the statement also sets forth the amount of the institution's paid-up capital.

Prohibition of purchase of and loans on shares of banking institutions.

27. A banking institution shall not purchase its own shares or lend money on the security of its own shares, or, for the purpose of furthering the sale of its own shares, grant unsecured loans or loans against security which in the opinion of the Registrar is inadequate.

Banking institutions may not issue bearer shares.

28. A banking institution shall not issue bearer shares.

Commercial banks not to operate through agents.

29. A commercial bank shall not carry on any business in the Republic through a person who is not its full-time servant.

Amalgamation and transfer of banking institutions.

30. (1) Two or more banking institutions shall not amalgamate, nor shall all the assets and liabilities of any banking institution be transferred to or taken over by any other such institution, except with the consent of the Minister conveyed in writing through the Registrar, and no such consent shall be given by the Minister unless he is satisfied that the transaction in question will not be detrimental to the public interest.

(2) Upon the coming into effect of a transaction such as is referred to in sub-section (1)—

- (a) all the assets and liabilities of the amalgamating institutions or (in the case of a transfer of assets and liabilities) of the institution by which the transfer is effected, shall vest in and become binding upon the amalgamated institution or, as the case may be, the institution taking over such assets and liabilities;

(2) 'n Diskontohuis mag geen lening aangaan nie, behalwe teen verpanding van sekuriteite in sub-artikel (1) vermeld, en ook nie by 'n ander persoon as 'n bankinstelling, 'n bouvereniging, 'n beherende mynmaatskappy, die Reserwebank, die Landbank of die Departement van Finansies of 'n instelling wat die Registrateur by kennisgewing in die *Staatsskoerant* goedgekeur het nie: Met dien verstande dat hoogstens vyf persent van sy totale lenings te eniger tyd kan bestaan uit lenings wat hy sonder voormelde verpanding aangegaan het.

(3) 'n Diskontohuis kan onmiddellik opeisbare deposito's stort by die Nasionale Finansiële korporasie, 'n ander diskontohuis of 'n ander instelling wat die Registrateur by kennisgewing in die *Staatsskoerant* goedgekeur het: Met dien verstande dat bedoelde deposito's nie te eniger tyd in die geheel die som van sy gestorte aandeelkapitaal en onaangetaste reserwefondse, soos in sy jongste voorafgaande kwartaalstaat aangegee, mag oorskry nie.

23. (1) In sub-artikel (1) van artikel vyf van die Woekerwet, 1926 (Wet No. 37 van 1926), sluit die woord „skuldakte” nie ook 'n wissel in nie waar dié wissel deur die Reserwebank, die Landbank, die Nasionale Finansiële korporasie of 'n bankinstelling verly of verdiskonteer word. Bankinstellings
vrygestel van
sekere bepalinge
van Woekerwet.

(2) Die bepalinge van sub-artikel (1) van artikel sewe en artikels agt en tien van genoemde Wet is nie op die Reserwebank, die Landbank, die Nasionale Finansiële korporasie of 'n bankinstelling van toepassing nie.

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 bepalinge van hierdie artikel kan vrystel, en wel op die voorwaardes en in die mate en vir die tydperk wat hy bepaal. Likwiede bates
en voorgeskrewe
beleggings mag
nie verpand of
belas word nie.

25. Vir die doeleindes van artikels sewentien en agtien word effekte teen hul markwaarde gewaardeer, soos deur die sekretaris van die raad van Staatskuldkommissaris gesertifiseer. Waardering van
effekte.

HOOFTUK V.

ALGEMENE BEPALINGS.

26. 'n Bankinstelling mag nie 'n verklaring publiseer of 'n dokument uitreik nie waarin vermeld word— Besonderhede
wat aangegee
moet word by
vermelding van
'n bankinstelling
se kapitaal.

(a) sy gemagtigde kapitaal, tensy die verklaring ook die bedrag van die instelling se geplaaste kapitaal vermeld; of

(b) sy geplaaste kapitaal, tensy die verklaring ook die bedrag van die instelling se gestorte kapitaal vermeld.

27. 'n Bankinstelling mag nie sy eie aandeel koop of geld teen sekerheid van sy eie aandeel uitleen of, met die doel om die verkoop van sy eie aandeel te bevorder, lenings sonder onderpand of lenings teen onderpand wat na die oordeel van die Registrateur onvoldoende is, verstrek nie. Verbod op koop
van en lenings
teen aandeel van
'n bankinstelling.

28. 'n Bankinstelling reik nie toonderaandeel uit nie.

Bankinstellings
reik nie toonderaandeel uit
nie.

29. 'n Handelsbank dryf nie besigheid in die Republiek deur iemand wat nie voltyds in sy diens staan nie.

Handelsbanke
doen nie deur
middel van
agente sake nie.

30. (1) Twee of meer bankinstellings mag nie saamsmelt nie, en al die bates en laste van 'n bankinstelling mag nie aan 'n ander sodanige instelling oorgedra of daardeur oorgeneem word nie, behalwe met skriftelike toestemming van die Minister, deur bemiddeling van die Registrateur verleen, en die Minister verleen nie sodanige toestemming nie, tensy hy oortuig is dat die betrokke transaksie nie met die openbare belang strydig sal wees nie. Samesmelting en
oordrag van
bankinstellings.

(2) Wanneer 'n in sub-artikel (1) bedoelde transaksie van krag word—

(a) gaan al die bates en laste van die samesmeltende instellings of (in die geval van 'n oordrag van bates en laste) van die instelling wat die oordrag gee, oor op en word dit bindend vir die samegesmelte instelling of, na gelang van die geval, die instelling wat bedoelde bates en laste oorneem;

- (b) the amalgamated institution or (in the case of a transfer of assets and liabilities) the institution taking over such assets and liabilities, shall have the same rights and be subject to the same obligations as were immediately before the amalgamation or transfer possessed by or binding upon the amalgamating institutions or, as the case may be, the institution by which the transfer has been effected;
- (c) all agreements, appointments, transactions and documents made, entered into, drawn or executed by, with or in favour of any of the amalgamating institutions or, as the case may be, the institution by which the transfer has been effected, and in force immediately prior to the amalgamation or transfer, shall remain of full force and effect and shall be construed for all purposes as if they had been made, entered into, drawn or executed by, with or in favour of the amalgamated institution or, as the case may be, the institution taking over the assets and liabilities in question; and
- (d) any bond, pledge, guarantee or other instrument to secure future advances, facilities or services by any of the amalgamating institutions or, as the case may be, by the institution transferring such assets and liabilities, which was in force immediately prior to the amalgamation or transfer, shall remain of full force and effect and shall be construed as a bond, pledge, guarantee or instrument given to or in favour of the amalgamated institution or, as the case may be, the institution taking over such assets and liabilities, as security for future advances, facilities or services by that institution.

(3) The Registrar of Companies, every Registrar of Deeds or Master of the Supreme Court and every officer in charge of an office in which is registered any title to property belonging to, or any bond or other right in favour of, or any appointment of or by, or in which has been issued any licence, other than a licence in terms of section *two hundred and twenty-eight* of the Companies Act, 1926 (Act No. 46 of 1926), to or in favour of, any banking institution which has amalgamated with any other such institution or any banking institution which has transferred all its assets and liabilities to any other such institution, shall, upon being satisfied that the Minister has under subsection (1) consented to the amalgamation or transfer, and that such amalgamation or transfer has been duly effected, and upon the production to him of any relevant deed, bond, certificate, letter of appointment, licence or other document, make such endorsements thereon and effect such alterations in his registers as may be necessary to record the transfer thereof and of any rights thereunder to the amalgamated institution or, as the case may be, the institution which has so taken over the said assets and liabilities, and no transfer duty, stamp duty, registration fees, licence duty or other charges shall be payable in respect of the transfer or any endorsement or alteration so made to give effect thereto.

(4) The provisions of this section shall not affect the rights of any creditor of a banking institution which has amalgamated with or transferred all its assets and liabilities to any other such institution or taken over all the assets and liabilities of any other such institution, except to the extent provided herein.

Employees not to be directors or auditors.

31. No employee of any banking institution shall hold office as a director, managing director or auditor of such institution.

Alteration of constitution or rules of banking institution.

32. (1) A banking institution shall not alter its memorandum of association or other constitution or its articles of association or other rules for the conduct of its business, unless it has submitted to the Registrar a statement in duplicate, signed by its chief executive officer in the Republic, wherein are set forth full particulars of the proposed alteration, and the Registrar has consented thereto: Provided that the Registrar shall not consent to any such alteration unless he has satisfied himself that the alteration is not in conflict with this Act or any other law and is not undesirable for any other reason: Provided further that the provisions of this section shall not authorize any such alteration without compliance with the requirements of any other law relating to any such alteration.

- (b) het die samegesmelte instelling of (in die geval van 'n oordrag van bates en laste) die instelling wat bedoelde bates en laste oorneem, dieselfde regte en is hy onderworpe aan dieselfde verpligtings as wat onmiddellik voor die samesmelting of oordrag by die samesmeltende instellings of, na gelang van die geval, die instelling wat die oordrag gegee het, berus het of daarvoor bindend was;
- (c) bly alle ooreenkomste, aanstellings, transaksies en stukke gemaak, aangegaan, opgestel of verly deur, met of ten gunste van enigeen van die samesmeltende instellings of, na gelang van die geval, die instelling wat die oordrag gegee het, en van krag onmiddellik voor die samesmelting of oordrag, ten volle van krag, en word dit vir alle doeleindes uitgelê asof dit deur, met of ten gunste van die samegesmelte instelling of, na gelang van die geval, die instelling wat die betrokke bates en laste oorneem, gemaak, aangegaan, opgestel of verly was; en
- (d) bly enige verbandakte, verpanding, waarborg of ander dokument vir die dekking van toekomstige voorskotte, fasiliteite of dienste deur enigeen van die samesmeltende instellings of, na gelang van die geval, die instelling wat bedoelde bates en laste oordra, wat onmiddellik voor die samesmelting of oordrag van krag was, ten volle van krag, en word dit uitgelê as 'n verbandakte, verpanding, waarborg of dokument gegee aan of ten gunste van die samegesmelte instelling of, na gelang van die geval, die instelling wat bedoelde bates en laste oorneem, tot dekking van toekomstige voorskotte, fasiliteite of dienste deur daardie instelling.
- (3) Die Registrateur van Maatskappye, elke Registrateur van Aktes of Meester van die Hooggeregshof en elke amptenaar aan die hoof van 'n kantoor waarin geregistreer is 'n titelbewys van eiendom behorende aan, of 'n verbandakte of ander reg ten gunste van, of 'n aanstelling van of deur of waarin 'n lisensie, behalwe 'n lisensie kragtens artikel *tweehonderd agt-en-twintig* van die Maatskappyywet, 1926 (Wet No. 46 van 1926), uitgereik is aan of ten gunste van, 'n bankinstelling wat met 'n ander sodanige instelling saamgesmelt het of 'n bankinstelling wat al sy bates en laste aan 'n ander sodanige instelling oorgedra het, moet, nadat hy oortuig is dat die Minister sy toestemming ingevolge sub-artikel (1) tot die samesmelting of oordrag verleen het, en dat bedoelde samesmelting of oordrag behoorlik geskied het, en by voorlegging aan hom van 'n tersaaklike akte, verbandakte, sertifikaat, aanstellingsbrief, lisensie of ander dokument, sodanige endossemente daarop maak en sodanige veranderings in sy registers aanbring as wat nodig is om die oordrag daarvan en van enige regte daarkragtens aan die samegesmelte instelling of, na gelang van die geval, die instelling wat bedoelde bates en laste aldus oorgeneem het, te boekstaaf, en geen hereregte, seëlregte, registrasie-, lisensie- of ander gelde is ten opsigte van die oordrag of 'n endossement of verandering aldus gemaak ten einde daaraan gevolg te gee, betaalbaar nie.
- (4) Die bepalings van hierdie artikel raak nie die regte van 'n skuldeiser van 'n bankinstelling wat met 'n ander sodanige instelling saamgesmelt het of al sy bates en laste aan 'n ander sodanige instelling oorgedra het of al die bates en laste van 'n ander sodanige instelling oorgeneem het nie, behalwe vir sover hierin vermeld.
31. Geen werknemer van 'n bankinstelling mag die amp van direkteur, besturende direkteur of ouditeur van daardie instelling beklee nie. Werknemers mag nie direkteure of ouditeure wees nie.
32. (1) 'n Bankinstelling mag nie sy akte van oprigting of ander konstitusie of sy statute of ander reglement vir die uitoefening van sy bedryf verander nie, tensy hy 'n verklaring in tweevoud, wat deur sy hoof- uitvoerende beampte in die Republiek onderteken is en waarin volledige besonderhede betreffende die voorgestelde wysiging uiteengesit is, by die Registrateur ingedien het, en tensy die Registrateur sy toestemming daartoe verleen het: Met dien verstande dat die Registrateur nie sy toestemming tot so 'n wysiging mag verleen nie tensy hy hom daarvan oortuig dat die wysiging nie in stryd met hierdie Wet of enige ander wet is nie en nie om enige ander rede onwenslik is nie: Met dien verstande voorts dat die bepalings van hierdie artikel nie so 'n verandering sonder nakoming van die voorskrifte van enige ander wet ten opsigte van so 'n verandering veroorloof nie. Wysiging van konstitusie of reglemente van 'n bankinstelling.

(2) When a banking institution has lawfully effected an alteration mentioned in sub-section (1) it shall furnish the Registrar with a statement in duplicate, signed by its chief executive officer in the Republic, wherein are set forth full particulars of the alteration, and shall pay to the Registrar the fee of one rand, and the Registrar shall thereupon register the said statement and endorse one copy thereof with a declaration that the statement has been registered and with the date of the registration, and he shall return that copy to the institution concerned. The alteration in question shall not take effect until the said statement has been registered as aforesaid.

Application of sections 25 and 30 of Act 46 of 1926 to certain banking institutions.

33. (1) The provisions of sections *twenty-five* and *thirty* of the Companies Act, 1926 (Act No. 46 of 1926), shall apply *mutatis mutandis* in respect of every banking institution (other than a banking institution which has no share capital), which is registered or provisionally registered under this Act.

(2) In applying the said sections *twenty-five* and *thirty* in respect of a banking institution which is not registered or deemed to be registered under the said Act, the principal office in the Republic of the institution in question shall be deemed to be its registered office.

Lists of directors and shareholders of banking institutions to be furnished to Registrar.

34. (1) (a) A banking institution which is registered or deemed to be registered under the Companies Act, 1926 (Act No. 46 of 1926), shall, within a period of ninety days as from the date of its registration or provisional registration under this Act, furnish the Registrar with two copies (certified as correct by the institution's chief executive officer in the Republic), of that part of its register mentioned in sub-section (2) of section *seventy* of the said Act, which relates to any person who is a director or manager or secretary of the institution on the date when the said copies are forwarded to the Registrar, and thereafter whenever the institution furnishes particulars to the Registrar of Companies in terms of paragraph (a) of sub-section (7) of the said section, or lodges with him a statement in terms of paragraph (b) of the said sub-section (7), it shall simultaneously furnish the Registrar with two copies of the document containing such particulars or with two copies of such statement.

(b) Any such banking institution to which the provisions of sub-section (3) of section *twenty-one* of the Companies Act, 1926, apply, shall send to the Registrar such lists (in duplicate and certified as correct by the banking institution's chief executive officer in the Republic) of its directors, secretaries and managers, in such form and at such times as it would but for the provisions of that sub-section have been required to send to the Registrar of Companies in terms of that Act.

(2) A banking institution (other than a banking institution registered or deemed to be registered under the Companies Act, 1926), shall, as soon as may be after its registration or provisional registration under this Act, enter in a register kept for the purposes of this sub-section all the particulars mentioned in sub-section (2) of section *seventy* of the Companies Act, 1926, in regard to every person who is a director, manager or secretary of the institution: Provided that for the purposes of this sub-section the word "director" shall, in the case of a banking institution whose head office is situate outside the Republic, refer only to a member of the principal board of directors and of any board of directors functioning within the Republic.

(3) A banking institution to which sub-section (2) applies shall, within a period of ninety days as from the date of its registration or provisional registration under this Act, furnish the Registrar with two copies, certified as correct by the institution's chief executive officer in the Republic, of the said register as on the date on which the copies are so furnished, and thereafter whenever a person whose name appears in the said register has ceased to hold the position by reason whereof his name was entered in the register, the institution shall, as soon as may be, delete his name from the register, or whenever a director or manager or secretary of the institution has been elected or appointed, the institution shall, as soon as may be, enter in the

(2) Wanneer 'n bankinstelling 'n in sub-artikel (1) vermelde verandering wettig teweeggebring het, moet hy 'n verklaring in tweevoud, wat deur sy hoof- uitvoerende beampte in die Republiek onderteken is en waarin volledige besonderhede betreffende die verandering uiteengesit is, aan die Registrateur verskaf en moet hy die bedrag van een rand aan die Registrateur betaal, en die Registrateur moet daarop bedoelde verklaring registreer en op een afskrif daarvan 'n aantekening maak dat die voormelde verklaring geregistreer is en van die datum van registrasie, en daardie afskrif moet hy aan die instelling terugbesorg. Die betrokke verandering is nie van krag nie voordat bedoelde verklaring op bogenoemde wyse geregistreer is.

33. (1) Die bepalings van artikels *vyf-en-twintig* en *dertig* Toepassing van artikels 25 en 30 van Wet 46 van 1926 op sekere bankinstellings.
van die Maatskappywet, 1926 (Wet No. 46 van 1926), is *mutatis mutandis* van toepassing ten opsigte van iedere bankinstelling (uitgesonderd 'n bankinstelling wat geen aandeelkapitaal het nie) wat ingevolge hierdie Wet geregistreer of voorlopig geregistreer is.

(2) By die toepassing van bedoelde artikels *vyf-en-twintig* en *dertig* ten opsigte van 'n bankinstelling wat nie ingevolge bedoelde Wet geregistreer is of as geregistreer beskou word nie, word die vernaamste kantoor in die Republiek van die betrokke instelling as sy geregistreerde kantoor beskou.

34. (1) (a) 'n Bankinstelling wat ingevolge die Maatskappywet, 1926 (Wet No. 46 van 1926), geregistreer is of as geregistreer beskou word, moet binne 'n tydperk van negentig dae vanaf die datum van sy registrasie of voorlopige registrasie ingevolge hierdie Wet, die Registrateur voorsien van twee afskrifte (wat deur die instelling se hoof- uitvoerende beampte in die Republiek as juis gesertifiseer moet wees), van dié gedeelte van sy in sub-artikel (2) van artikel *sewentig* van daardie Wet vermelde register wat betrekking het op enigteen wat 'n direkteur of bestuurder of sekretaris van die instelling is op die dag waarop daardie afskrifte aan die Registrateur gestuur word, en daarna moet die instelling wanneer hy ook al ingevolge paragraaf (a) van sub-artikel (7) van bedoelde artikel aan die Registrateur van Maatskappye besonderhede verstrek, of ingevolge paragraaf (b) van bedoelde sub-artikel (7) 'n staat by. hom indien, tegelykertyd twee afskrifte van die dokument wat daardie besonderhede bevat of twee afskrifte van daardie staat aan die Registrateur verstrek.

Lyste van direkteure en aandeelhouders van bankinstellings moet aan Registrateur verskaf word.

(b) So 'n bankinstelling waarop die bepalings van sub-artikel (3) van artikel *een-en-twintig* van die Maatskappywet, 1926, van toepassing is, moet sodanige lysste (in tweevoud en deur die bankinstelling se hoof- uitvoerende beampte in die Republiek as juis gesertifiseer) van sy direkteure, sekretarisse en bestuurders, in die vorm en op die tye aan die Registrateur stuur, waarin en waarop hy dit ingevolge daardie Wet aan die Registrateur van Maatskappye sou moes stuur as dit nie vir die bepalings van daardie sub-artikel was nie.

(2) 'n Bankinstelling (uitgesonderd 'n bankinstelling wat ingevolge die Maatskappywet, 1926 geregistreer is of as geregistreer beskou word), moet so spoedig doenlik na sy registrasie of voorlopige registrasie ingevolge hierdie Wet in 'n register wat vir die doeleindes van hierdie sub-artikel aangehou word, ten opsigte van iemand wat 'n direkteur, bestuurder of sekretaris van die instelling is, al die besonderhede opteken wat vermeld word in sub-artikel (2) van artikel *sewentig* van die Maatskappywet, 1926: Met dien verstande dat by die toepassing van hierdie sub-artikel die woord „direkteur”, in die geval van 'n bankinstelling wie se hoofkantoor buite die Republiek geleë is, slegs verwys na 'n lid van die hoofraad van direkteure en van enige raad van direkteure wat binne die Republiek fungeer.

(3) 'n Bankinstelling waarop sub-artikel (2) van toepassing is, moet binne 'n tydperk van negentig dae vanaf die datum van sy registrasie of voorlopige registrasie ingevolge hierdie Wet, die Registrateur voorsien van twee afskrifte, wat as juis gesertifiseer is deur die instelling se hoof- uitvoerende beampte in die Republiek van die vermelde register soos dit bestaan op die dag waarop die afskrifte aldus gelever word, en daarna telkens wanneer iemand wie se naam in die vermelde register voorkom, opgehou het om die amp te beklee wat aanleiding gegee het tot die opname van sy naam in die register, moet die instelling so spoedig doenlik sy naam van die register verwyder, of wanneer 'n direkteur of bestuurder of sekretaris van die instelling gekies of aangestel is, moet die instelling so spoedig

register all the particulars mentioned in sub-section (2) of section *seventy* of the Companies Act, 1926, in regard to the person so elected or appointed, and in either case the institution shall, within a period of ninety days as from the date of the occurrence which necessitated the aforesaid deletion or entry, give notice thereof in writing in duplicate to the Registrar, and if the notice relates to such an entry as aforesaid, it shall contain full particulars of the entry.

(4) A banking institution to which sub-section (2) applies shall keep the register mentioned in the said sub-section at its principal office in the Republic and shall permit any member of the public during the period from ten o'clock in the forenoon until noon on any business day to inspect and make a copy of the said register, free of any charge.

(5) A banking institution (other than a banking institution which has no share capital), shall, within a period of ninety days as from the date of its registration or provisional registration under this Act, and thereafter within a period of ninety days as from the first day of every financial year of the institution or as from such other date as the Registrar may in terms of paragraph (a) determine, furnish the Registrar with a list, certified as correct by the institution's chief executive officer in the Republic, wherein are set forth—

- (a) the names, in alphabetical order, and the addresses of the shareholders or members of the institution, as at the end of the institution's last preceding financial year or as on such other date as the Registrar may at the request of the banking institution determine, or as on the date of the institution's registration or provisional registration under this Act if on the day when the list is furnished as aforesaid the institution has not completed its first financial year; and
- (b) the number of shares or any other interest in the institution held by every such shareholder or member and the amount which he has paid up thereon on the date to which the list relates:

Provided that an institution shall be deemed to have complied with the provisions of this sub-section in respect of any shareholder or member holding less than one per cent of the institution's subscribed capital if the number of such shareholders or members is set forth in the list in question.

Appointment of auditors.

35. (1) (a) The governing body of a banking institution shall, within three months of the date of the registration or provisional registration of that banking institution under this Act, appoint an auditor for the period until the conclusion of the first succeeding annual general meeting of that banking institution.
- (b) A banking institution shall at each annual general meeting appoint, for the period from the conclusion of that meeting until the conclusion of the next succeeding annual general meeting, not less than one auditor, and if the total assets of the banking institution as at the close of its last preceding financial year exceeded two million rand, not less than two auditors who are independent of each other.
- (c) Whenever for any reason, other than that referred to in paragraph (e), an auditor of a banking institution vacates his office prior to the expiration of the period for which he has been appointed, the banking institution or the governing body thereof shall as soon as may be appoint an auditor for the unexpired portion of that period.
- (d) No director or servant of a banking institution and no firm of which any such director or servant is a member, shall be appointed as an auditor of that banking institution.
- (e) A banking institution may at a general meeting, of which notice in the same manner as to members of the banking institution has been given to any auditor appointed under this sub-section, remove from office such auditor and shall, if any auditor is so removed, appoint in his place, for the unexpired portion of the period for which the auditor so removed has been appointed, an auditor nominated by a member of the banking institution, of whose nomination notice has been given to the members of that banking institution at least fourteen days before the date of that general meeting.

doenlik ten opsigte van die aldus gekose of aangestelde persoon, al die besonderhede wat in sub-artikel (2) van artikel *sewentig* van die Maatskappywet, 1926, vermeld word, in die register aanteken, en in albei gevalle moet die instelling binne 'n tydperk van negentig dae vanaf die datum van die gebeurtenis wat die voormelde verwydering of aantekening genoodsaak het, die Registrateur skriftelik en in tweevoud daarvan in kennis stel, en as die kennisgewing op so 'n aantekening soos voormeld betrekking het, moet dit volledige besonderhede van die aantekening bevat.

(4) 'n Bankinstelling waarop sub-artikel (2) van toepassing is, moet die in daardie sub-artikel vermeldde register in sy hoofkantoor in die Republiek aanhou en moet enigeen van die publiek kosteloos toelaat om op enige werkdag gedurende die ure van tien tot twaalf voormiddag bedoelde register in te sien en 'n afskrif daarvan te maak.

(5) 'n Bankinstelling (uitgesonderd 'n bankinstelling wat geen aandeelkapitaal het nie) moet binne 'n tydperk van negentig dae na die datum van sy registrasie of voorlopige registrasie ingevolge hierdie Wet, en daarna binne 'n tydperk van negentig dae vanaf die eerste dag van iedere boekjaar van die instelling of vanaf 'n ander datum wat die Registrateur ingevolge paragraaf (a) vasstel, die Registrateur van 'n lys voorsien, wat deur die instelling se hoof- uitvoerende beampte in die Republiek as juis gesertifiseer is, waarin vermeld word—

(a) die name, in alfabetiese volgorde, en die adresse van die aandeelhouders of lede van die instelling aan die einde van die instelling se jongste voorafgaande boekjaar of op 'n ander datum wat die Registrateur op versoek van die bankinstelling bepaal, of as die instelling nog nie sy eerste boekjaar voltooi het op die datum waarop die lys soos voormeld voorsien word nie, op die dag van die instelling se registrasie of voorlopige registrasie ingevolge hierdie Wet;

(b) die getal aandele wat elke sodanige aandeelhouer of lid in die instelling besit of enige ander belang wat hy daarby het, en die bedrag wat hy daarop betaal het op die datum waarop die lys betrekking het:

Met dien verstande dat 'n instelling geag word die bepalings van hierdie sub-artikel na te gekom het ten opsigte van 'n aandeelhouer of lid wat minder as een persent van die instelling se geplaaste kapitaal besit, indien die getal sodanige aandeelhouders of lede in die betrokke lys vermeld word.

35. (1) (a) Die besturende liggaam van 'n bankinstelling stel binne drie maande vanaf die datum van die registrasie of voorlopige registrasie van daardie bankinstelling ingevolge hierdie Wet, 'n ouditeur aan vir die tydperk tot die einde van die eersvolgende jaarlikse algemene vergadering van daardie bankinstelling. Aanstelling van ouditeure.
- (b) 'n Bankinstelling stel by elke jaarlikse algemene vergadering, vir die tydperk vanaf die einde van daardie vergadering tot die einde van die volgende jaarlikse algemene vergadering, minstens een ouditeur, en as die totale bates van die bankinstelling aan die einde van sy jongste voorafgaande boekjaar tweemiljoen rand oorskry het, minstens twee ouditeure wat onafhanklik van mekaar is, aan.
- (c) Wanneer om die een of ander rede, behalwe dié in subparagraaf (e) bedoel, 'n ouditeur van 'n bankinstelling sy amp ontruim voor die verstryking van die tydperk waarvoor hy aangestel is, stel die bankinstelling of die besturende liggaam daarvan so spoedig doenlik 'n ouditeur aan vir die onverstreke gedeelte van daardie tydperk.
- (d) Geen direkteur of werknemer van 'n bankinstelling, en geen firma waarvan so 'n direkteur of werknemer 'n lid is, word as ouditeur van daardie bankinstelling aangestel nie.
- (e) 'n Bankinstelling kan by 'n algemene vergadering waarvan aan 'n ouditeur ingevolge hierdie sub-artikel aangestel, op dieselfde wyse as aan lede van die bankinstelling kennis gegee is, so 'n ouditeur uit sy amp verwyder en moet, as enige sodanige ouditeur aldus verwyder word, in sy plek, vir die onverstreke gedeelte van die tydperk waarvoor die aldus verwyderde ouditeur aangestel is, 'n deur 'n lid van die bankinstelling genomineerde ouditeur aanstel, van wie se nominasie aan die lede van daardie bankinstelling minstens veertien dae voor die datum van daardie algemene vergadering kennis gegee is.

- (f) Any banking institution shall, within thirty days of the date of appointment of any auditor under this sub-section, apply to the Registrar in the form prescribed by regulation, for his approval of the appointment.
- (g) The Registrar may, without assigning any reason therefor, refuse to approve of such appointment or withdraw his prior approval of the appointment of any auditor and thereupon the auditor concerned shall vacate his office.

(2) If any banking institution or the governing body thereof fails to appoint any auditor required to be appointed in terms of sub-section (1), the Registrar shall appoint, at the remuneration fixed by him, any such auditor who shall then be deemed to have been appointed by that banking institution or governing body, as the case may be.

(3) If the banking institution concerned fails to pay the remuneration of any auditor appointed under sub-section (2), the Minister shall pay such remuneration out of public funds and the Registrar shall recover from that banking institution an amount equal to that remuneration.

(4) At the request of an auditor of a banking institution every director or servant of the institution shall submit to the auditor any book or document or furnish him with any information relating to the institution or its affairs which is in his possession or at his disposal and which the auditor deems necessary to perform his duties as auditor of the institution.

(5) The auditor of a banking institution shall report to the institution any irregularity or undesirable practice in the conduct of the business of the institution which has come to the auditor's notice and if that irregularity or undesirable practice is not rectified or discontinued within a period of one month as from the date upon which it was reported to the institution, the auditor shall report it to the Registrar.

(6) The auditor of a banking institution shall be entitled to attend any meeting of shareholders or members of such institution, at which any accounts which have been examined or reported on by him are to be laid before such shareholders or members or at which the election or appointment of an auditor is to be considered, and to make thereat any statement that he desires to make in relation to such account or such appointment.

(7) Where the auditor of a banking institution is a partnership, the appointment of such auditor shall not lapse by reason of a change in the composition of the partnership, as long as not less than half the persons who were partners as at the date when the partnership was last appointed continue to be partners therein.

Keeping of records.

36. A banking institution shall keep such records in one of the official languages of the Republic as are necessary to exhibit clearly and correctly the state of its affairs and to explain its transactions and financial position and to enable the Registrar to determine whether the institution has complied with the provisions of this Act, and it shall preserve every such record in a safe place for a period of at least three years as from the date of the last entry therein.

Application of certain provisions of Act 46 of 1926 to all banking institutions.

37. (1) The provisions of sub-sections (1) and (2) of section *ninety bis*, sub-sections (1), (2) and (4) of section *ninety ter* and sub-sections (1) and (2) of section *ninety-nine* of the Companies Act, 1926, shall, in so far as they can be applied, apply *mutatis mutandis* to every director, manager, secretary or other officer or auditor of a banking institution: Provided that the balance sheet, profit and loss account and reports referred to in the said sub-sections shall be furnished to the Registrar in duplicate within three months after the end of the financial year to which they relate.

(2) In the application of the said section *ninety-nine* sub-section (1) thereof shall be construed as if the following paragraphs had been inserted after paragraph (f):

- “(g) Whether the securities and all records of the company are being properly and safely preserved;
- (h) Whether the control of the company over its branches and agencies is adequate and whether its instructions to its employees in its branches and agencies have been properly carried out.”:

Provided that paragraphs (c) and (h) of the said sub-section as so construed shall not be construed so as to require an auditor

- (f) 'n Bankinstelling doen binne dertig dae vanaf die datum van aanstelling ingevolge hierdie sub-artikel van 'n ouditeur, by die Registrateur aansoek in die by regulasie voorgeskrewe vorm om sy goedkeuring van die aanstelling.
- (g) Die Registrateur kan, sonder om enige rede daarvoor aan te gee, weier om so 'n aanstelling goed te keur of sy vorige goedkeuring van die aanstelling van 'n ouditeur intrek en daarop ontruim die betrokke ouditeur sy amp.
- (2) As 'n bankinstelling of die besturende liggaam daarvan in gebreke bly om enige ouditeur aan te stel wat ingevolge sub-artikel (1) aangestel moet word, stel die Registrateur, teen die besoldiging deur hom vasgestel, so 'n ouditeur aan wat dan geag word deur daardie bankinstelling of besturende liggaam, na gelang van die geval, aangestel te gewees het.
- (3) As die betrokke bankinstelling in gebreke bly om die besoldiging van enige ingevolge sub-artikel (2) aangestelde ouditeur te betaal, betaal die Minister daardie besoldiging uit staatsgeld en die Registrateur verhaal op daardie bankinstelling 'n bedrag gelykstaande aan daardie besoldiging.
- (4) Op versoek van 'n ouditeur van 'n bankinstelling moet iedere direkteur of werknemer van die instelling enige boek of dokument of enige inligting betreffende die instelling of sy sake wat in sy besit is of tot sy beskikking staan en wat die ouditeur nodig ag om sy werksaamhede as ouditeur van die instelling te kan verrig, aan die ouditeur verstrek.
- (5) Die ouditeur van 'n bankinstelling moet aan die instelling enige onreëlmatigheid of ongewenste praktyk by die uitoefening van die instelling se bedryf, wat onder sy aandag gekom het, rapporteer, en as daardie onreëlmatigheid of ongewenste praktyk nie binne 'n tydperk van een maand vanaf die datum waarop dit aan die instelling gerapporteer is, reggemaak of gestaak word nie, moet die ouditeur dit aan die Registrateur rapporteer.
- (6) Die ouditeur van 'n bankinstelling is geregtig om elke algemene vergadering van aandeelhouders of lede van die instelling by te woon, waarop aan daardie aandeelhouders of lede rekenings voorgelê word wat hy ondersoek het of waaroor hy verslag gedoen het of waarop die verkiesing of aanstelling van 'n ouditeur oorweeg moet word en om aldaar enige verklaring betreffende daardie rekenings of aanstelling te doen wat hy verlang om te doen.
- (7) Waar die ouditeur van 'n bankinstelling 'n vennootskap is, vervel die aanstelling van die ouditeur nie op grond van 'n verandering in die samestelling van die vennootskap nie solank minstens die helfte van die persone wat op die datum van die vennootskap se jongste aanstelling vennote daarin was, nog vennote daarin is.

36. 'n Bankinstelling moet in een van die offisiële tale van die Republiek die aantekeninge hou wat nodig is om duidelik en juis die stand van sy sake te toon en om sy transaksies en finansiële posisie te verduidelik en om die Registrateur in staat te stel om te bepaal of die instelling aan die bepalings van hierdie Wet voldoen het, en die instelling moet elke sodanige aantekening in 'n veilige plek bewaar vir 'n tydperk van minstens drie jaar vanaf die datum van die laaste inskrywing daarin.

Hou van aantekeninge.

37. (1) Die bepalings van sub-artikels (1) en (2) van artikel *negentig bis*, sub-artikels (1), (2) en (4) van artikel *negentig ter* en sub-artikels (1) en (2) van artikel *nege-en-negentig* van die Maatskappywet, 1926, is, vir sover hulle toegepas kan word, *mutatis mutandis* van toepassing op elke direkteur, bestuurder, sekretaris of ander amptenaar, of ouditeur van 'n bankinstelling: Met dien verstande dat die in vermelde sub-artikels bedoelde balansstaat, wins-en-verliesrekening en verslae binne drie maande na die einde van die boekjaar waarop hulle betrekking het in tweevoud aan die Registrateur voorgelê moet word.

Toepassing van sekere bepalings van Wet 46 van 1926 op alle bankinstellings.

(2) By die toepassing van bedoelde artikel *nege-en-negentig* word sub-artikel (1) daarvan vertolk asof die volgende paragrawe na paragraaf (f) ingevoeg was:

„(g) Of die sekuriteite en al die stukke van die maatskappy behoorlik en veilig bewaar word;

(h) Of die beheer van die maatskappy oor sy takke en agentskappe voldoende is en of sy opdragte aan sy amptenare in sy takke en agentskappe behoorlik uitgevoer is.”:

Met dien verstande dat paragrawe (c) en (h) van bedoelde sub-artikel soos aldus vertolk, nie so vertolk word dat 'n oudi-

of a banking institution to carry out an audit in respect of every branch and agency of such banking institution unless circumstances demand such action.

Reading of
auditor's report
at meeting of
shareholders.

38. If a banking institution which holds an ordinary general meeting of its shareholders or members, has not sent to all of them copies of its last profit and loss account and balance sheet and of every auditor's report relating thereto, on such a date that the said copies reached the shareholders or members (or the majority of them in the Republic) on a date prior to the date on which the meeting is held, the person presiding at the meeting shall read out or cause to be read out clearly and audibly every such report to the meeting.

Power of
inspection of
Registrar.

39. (1) In addition to the powers and duties conferred or imposed upon him by this Act, the Registrar shall have all the powers and duties conferred or imposed upon him by the Inspection of Financial Institutions Act, 1962 (Act No. 68 of 1962).

(2) Any reference in this Act to an inspection or investigation made under this section shall be construed as a reference to an inspection made under the Inspection of Financial Institutions Act, 1962.

Appointment of
curator to
banking institu-
tion.

40. If any banking institution is in financial difficulties, the Minister may, if he deems it desirable in the public interest, after consultation with the institution and with the written consent of such institution, appoint a curator to the institution and thereupon the provisions of sections *one hundred and ninety-six to one hundred and ninety-eight*, inclusive, of the Companies Act, 1926 (Act No. 46 of 1926), shall apply *mutatis mutandis* in relation to the institution and to the curator as if the curator had been appointed as judicial manager under section *one hundred and ninety-five* of the said Act: Provided that for the purposes of this section the powers conferred and the duties imposed by the said provisions upon the court and the Master, respectively, shall devolve upon the Minister and the Registrar, respectively: Provided further that the Minister shall not have the power to stay any legal proceedings or the execution of any writ, summons or other process against the institution concerned, or to prevent the commencement of such proceedings or the issue of such a writ, summons or other process.

Application of
winding-up pro-
visions of Act
46 of 1926.

41. (1) Subject to the provisions of sub-sections (2), (3) and (4), the provisions of the Companies Act, 1926, which relate to the winding-up or judicial management of companies shall apply *mutatis mutandis* and in so far as they are applicable, in connection with any banking institution, even though any such provision may be inconsistent with any provision in any other law.

(2) When the provisions of sub-section (1)*bis* of section *one hundred and thirteen* of the said Act are applied in connection with any banking institution, they shall be construed as if there had been inserted the words "with the Registrar of Banks and" before the words "with the Master", the words "Registrar of Banks or the" after the words "and the", and the words "Registrar of Banks or the" before the word "Master" where it occurs for the last time.

(3) When the provisions of sub-section (2) of section *one hundred and sixty-three* of the said Act are applied in connection with any banking institution, they shall be construed as if the words "to the Registrar of Banks" had been inserted after the word "Registrar".

(4) When the provisions of section *one hundred and ninety-five* of the said Act are applied in connection with any banking institution—

(a) sub-section (4) thereof shall be construed as if the words "Registrar of Banks and the" had been inserted after the words "with the", and the words "Registrar of Banks or the" had been inserted after the words "and the"; and

(b) sub-section (5) thereof shall be construed as if the words "Registrar of Banks and the" had been inserted after the words "to the", and the word "them" had been substituted for the word "him".

(5) In the liquidation of a banking institution a contributory shall not have a right of set-off in respect of a debt due to him by the institution.

(6) Notwithstanding the provisions of the Companies Act, 1926, no person other than a person recommended by the Regis-

teur van 'n bankinstelling 'n oudit ten opsigte van elke tak of agentskap van daardie bankinstelling moet uitvoer nie, tensy omstandighede sodanige optrede vereis.

38. As 'n bankinstelling wat 'n gewone algemene vergadering van sy aandeelhouders of lede hou, nie aan hulle almal afskrifte van sy jongste wins-en-verliesrekening en balansstaat en van iedere ouditeursverslag wat daarop betrekking het, op so 'n dag gestuur het dat daardie afskrifte die aandeelhouders of lede (of die meerderheid van hulle in die Republiek), bereik het op 'n dag vóór die dag waarop die vergadering gehou word nie, moet die voorsitter van die vergadering iedere sodanige verslag aan die vergadering duidelik en hoorbaar voorlees of laat voorlees.

Voorlees van
ouditeursverslag
op vergadering
van aandeelhouders.

39. (1) Benewens die bevoegdhede en pligte aan hom verleen of hom opgelê deur hierdie Wet, het die Registrateur al die bevoegdhede en pligte aan hom verleen of hom opgelê deur die Wet op Inspeksie van Finansiële Instellings, 1962 (Wet No. 68 van 1962).

Inspeksiebevoegd-
hede van
Registrateur.

(2) Enige verwysing in hierdie Wet na 'n inspeksie of ondersoek kragtens hierdie artikel gedoen, word uitgelê as 'n verwysing na 'n inspeksie gedoen kragtens die Wet op Inspeksie van Finansiële Instellings, 1962.

40. Wanneer 'n bankinstelling in finansiële moeilikhede verkeer, kan die Minister, as hy dit in die openbare belang wenslik ag, na raadpleging met die instelling en met die skriftelike toestemming van daardie instelling 'n kurator oor die instelling aanstel, en daarna is die bepalings van artikel *honderd ses-en-negentig* tot en met *honderd agt-en-negentig* van die Maatskappywet, 1926 (Wet No. 46 van 1926), *mutatis mutandis* ten opsigte van die instelling en die kurator van toepassing asof die kurator as geregtelike bestuurder ingevolge artikel *honderd vyf-en-negentig* van daardie Wet aangestel was: Met dien verstande dat by die toepassing van hierdie artikel die bevoegdhede en verpligtings wat voormelde bepalings onderskeidelik aan die hof en aan die Meester verleen en hulle oplê, oorgaan op onderskeidelik die Minister en die Registrateur: Met dien verstande voorts dat die Minister nie bevoeg is om enige regs-geding, of die tenuitvoerlegging van enige bevelskrif, dagvaarding of ander prosesstuk teen die betrokke instelling te staak nie, of om die begin van so 'n geding, of die uitreiking van so 'n bevelskrif, dagvaarding of ander prosesstuk te verhinder nie.

Aanstelling van
kurator oor
bankinstelling.

41. (1) Behoudens die bepalings van sub-artikels (2), (3) en (4) is die bepalings van die Maatskappywet, 1926, met betrekking tot die likwidasie of geregtelike bestuur van maatskappye *mutatis mutandis* en vir sover hulle toegepas kan word, van toepassing in verband met enige bankinstelling, al sou so 'n bepaling in stryd wees met enige ander wetsbepaling.

Toepassing van
likwidasiebepa-
lings van
Wet 46 van
1926.

(2) By die toepassing van die bepalings van sub-artikel (1)*bis* van artikel *honderd-en-dertien* van bedoelde Wet ten opsigte van 'n bankinstelling word hulle uitgelê asof voor die woorde „by die Meester” die woorde „by die Registrateur van Banke en”, na die woorde „en die” die woorde „Registrateur van Banke of die” en voor die woord „Meester”, waar dit die laaste keer voorkom, die woorde „Registrateur van Banke of die” ingevoeg was.

(3) By die toepassing van die bepalings van sub-artikel (2) van artikel *honderd drie-en-sestig* van bedoelde Wet ten opsigte van 'n bankinstelling, word hulle uitgelê asof die woorde „aan die Registrateur van Banke” na die woord „Registrateur” ingevoeg was.

(4) By die toepassing van die bepalings van artikel *honderd vyf-en-negentig* van bedoelde Wet ten opsigte van 'n bankinstelling—

(a) word sub-artikel (4) daarvan uitgelê asof na die woorde „genoem word by die” die woorde „Registrateur van Banke en die” en na die woorde „en die” die woorde „Registrateur van Banke of die” ingevoeg was; en

(b) word sub-artikel (5) daarvan uitgelê asof na die woorde „na die” die woorde „Registrateur van Banke en die” ingevoeg was en die woord „hom” deur die woord „hulle” vervang was.

(5) By die likwidasie van 'n bankinstelling is 'n kontribuant nie op skuldvergelyking geregtig ten opsigte van skuld deur die instelling aan hom verskuldig nie.

(6) Ondanks die bepalings van die Maatskappywet, 1926, word niemand anders as 'n persoon wat die Registrateur aan-

trar shall be appointed by a Master of the Supreme Court as liquidator, provisional liquidator, judicial manager or provisional judicial manager of a banking institution.

(7) During the voluntary winding-up of any banking institution the liquidator shall furnish the Registrar with every return or statement which the institution would have been obliged to furnish to the Registrar under this Act, if the institution were not being wound-up.

(8) The Registrar shall have the right to apply to the competent court of law for the winding-up of any banking institution or for an order placing any banking institution under judicial management under the Companies Act, 1926, and he shall have the right to oppose any such application made by any other person.

(9) An order of court made in the Republic and relating to the judicial management or winding-up of a banking institution shall have the same effect in the territory as it has in the Republic, and any such order made in the territory shall have the same effect in the Republic as it has in the territory.

Dissolution of
banking institu-
tion.

42. Immediately after the confirmation of the final account in the winding-up of a banking institution, the Master of the Supreme Court concerned shall give notice thereof to the Registrar, who shall thereupon cancel the registration or provisional registration of the banking institution in question.

Display of names
of directors.

43. The provisions of sub-sections (1), (2) and (4) of section *seventy bis* of the Companies Act, 1926 (Act No. 46 of 1926), shall apply *mutatis mutandis* to every banking institution: Provided that, for the purposes of such application, the word "director" (wherever it occurs in the said sub-sections) shall refer only to a member of the principal board of directors: Provided further that the words "business letter" contained in the said sub-section (1) shall not be taken to include "printed forms of advice".

Registrar may
demand infor-
mation from
banking institu-
tion.

44. The Registrar may from time to time demand from any banking institution any information relating to its business or any of its transactions and if the institution fails to furnish the Registrar within a reasonable period with any such information which the Registrar has demanded from it and which is at its disposal, it shall be guilty of an offence.

Banking institu-
tions to provide
against loss
through dishonesty
of employees.

45. A banking institution shall either maintain a fund which is, in the opinion of the Registrar, adequate and which is reserved exclusively for the purpose of making good any loss resulting from the negligence or dishonesty of any of its employees, or it shall insure itself against such loss, to an amount which the Registrar deems adequate, with a person approved of by the Registrar carrying on insurance business or the business of guaranteeing employers against such loss as aforesaid.

Registrar may
extend certain
periods.

46. At the request of a banking institution the Registrar may, in his discretion, extend from time to time any period within which the institution is, in terms of this Act, obliged to furnish any document or information.

Annual report by
Registrar.

47. The Registrar shall annually submit to the Minister a report on all banking institutions which have been registered or provisionally registered under this Act and on all matters relating to such institutions which have been dealt with by him during the year under review, and the Minister shall lay the report upon the Tables of both Houses of Parliament.

Fees for in-
spection and
copies of cer-
tain documents.

48. (1) On payment of a fee of fifty cents, any person may inspect and make a copy of any document furnished to the Registrar by any one banking institution in terms of sub-section (2) of section *four* or sub-section (1) of section *thirteen* or section *thirty-two* or *thirty-four*.

(2) The Registrar shall furnish any applicant therefor with a photostatic or double-spaced typewritten copy of, or extract from, any such document as aforesaid, on payment of a fee of fifty cents for every single foolscap page or portion thereof of which the copy or extract consists.

(3) The Registrar shall furnish any applicant therefor, on payment of a fee of twenty-five cents, with a certified copy of any certificate of registration or provisional registration or any certificate of change of name issued by him.

beveel het deur 'n Meester van die Hooggeregshof as likwidateur, voorlopige likwidateur, geregtelike bestuurder of voorlopige geregtelike bestuurder van 'n bankinstelling aangestel nie.

(7) Gedurende die vrywillige likwidasië van 'n bankinstelling moet die likwidateur iedere opgawe of staat aan die Registrateur verskaf wat die instelling verplig sou gewees het om aan die Registrateur ingevolge hierdie Wet te verskaf indien die instelling nie in likwidasië was nie.

(8) Die Registrateur is bevoeg om by die bevoegde geregshof aansoek te doen om die likwidasië van enige bankinstelling of om 'n bevel om enige bankinstelling onder geregtelike bestuur ingevolge die Maatskappywet, 1926, te plaas, en hy is bevoeg om so 'n aansoek wat deur iemand anders gedoen word, te bestry.

(9) 'n Hofbevel in die Republiek uitgereik wat op die geregtelike bestuur of likwidasië van 'n bankinstelling betrekking het, het in die gebied dieselfde uitwerking as in die Republiek, en so 'n bevel in die gebied uitgereik, het dieselfde uitwerking in die Republiek as in die gebied.

42. Onmiddellik na die bekragtiging van die finale rekening by die likwidasië van 'n bankinstelling moet die betrokke Meester van die Hooggeregshof daarvan kennis gee aan die Registrateur wat daarop die registrasie of voorlopige registrasie van die betrokke bankinstelling moet intrek. **Ontbinding van 'n bankinstelling.**

43. Die bepalinge van sub-artikels (1), (2) en (4) van artikel *sewentig bis* van die Maatskappywet, 1926 (Wet No. 46 van 1926), is *mutatis mutandis* op iedere bankinstelling van toepassing: Met dien verstande dat, vir die doeleindes van sodanige toepassing, die woord „direkteur” (waar dit oral in bedoelde sub-artikels voorkom) slegs verwys na 'n lid van die hoofraad van direkteure: Met dien verstande voorts dat die woord „besigheidsbrief” wat vervat is in bedoelde sub-artikel (1) nie geag word „gedrukte adviesvorme” in te sluit nie. **Bekendmaking van direkteure se name.**

44. Die Registrateur kan van tyd tot tyd van enige bankinstelling enige inligting omtrent sy bedryf of enige van sy transaksies eis, en as die instelling versuim om binne 'n redelike tydperk aan die Registrateur enige deur hom verlangde inligting waaroor die instelling beskik, te verskaf, is die instelling aan 'n misdryf skuldig. **Registrateur kan inligting van 'n bankinstelling eis.**

45. 'n Bankinstelling moet of 'n fonds aanhou wat volgens die oordeel van die Registrateur voldoende is en uitsluitlik gereserveer is vir die vergoeding van enige moontlike verlies wat uit die nalatigheid of oneerlikheid van sy amptenare voortspuit, of homself vir 'n bedrag wat volgens die oordeel van die Registrateur voldoende is, teen sodanige verlies verseker by 'n persoon deur die Registrateur goedgekeur wat die assuransië-bedryf of die bedryf van vrywaring van werkgewers teen sodanige voormelde verliese uitoefen. **Bankinstelling moet voorsiening maak teen verliese as gevolg van oneerlikheid van amptenare.**

46. Op versoek van 'n bankinstelling kan die Registrateur na goeddunke van tyd tot tyd enige tydperk waarbinne die instelling ingevolge hierdie Wet verplig is om enige dokument of inligting te verskaf, verleng. **Registrateur kan sekere tydperke verleng.**

47. Die Registrateur moet jaarliks aan die Minister 'n verslag voorlê oor al die bankinstellings wat ingevolge hierdie Wet geregistreer of voorlopig geregistreer is en oor alle sake rakende sulke instellings, wat hy gedurende die onderhawige jaar behandel het, en die Minister moet die verslag in albei Huise van die Parlement ter Tafel lê. **Jaarverslag van die Registrateur.**

48. (1) Teen betaling van die bedrag van vyftig sent kan enigiemand enige dokument wat ingevolge sub-artikel (2) van artikel *vier* of sub-artikel (1) van artikel *dertien* of artikel *twee-en-dertig* of *vier-en-dertig* deur 'n bepaalde bankinstelling aan die Registrateur verstrek is, insien en 'n afskrif daarvan maak. **Gelde vir insae en afskrifte van sekere dokumente.**

(2) Die Registrateur verstrek aan iemand wat daarom aansoek doen 'n fotostatiese of met dubbelspasiëring getikte afskrif van of uittreksel uit so 'n voormelde dokument teen betaling van die bedrag van vyftig sent vir elke enkelfoliobladsy of deel daarvan wat die afskrif of uittreksel beslaan.

(3) Die Registrateur verstrek aan iemand wat daarom aansoek doen, teen betaling van 'n bedrag van vyf-en-twintig sent, 'n gesertifiseerde afskrif van enige registrasiesertifikaat of voorlopige registrasiesertifikaat of sertifikaat van naamsverandering deur hom uitgereik.

(4) The Registrar may exempt any person from the obligation to pay any fee under this section if he is satisfied that the inspection, copy or extract in question is desired for the purpose of furthering some public interest.

Offences and penalties.

49. (1) Any person who contravenes any provision of this Act or fails to comply with any provision of this Act which imposes any duty upon him, shall be guilty of an offence.

(2) If any person signs any statement, return or report or makes any statement or gives any information, whether oral or in writing, for which provision is made in this Act, with the knowledge that the statement, return, report or information in question is false or incorrect, he shall be deemed to be guilty of fraud or *falsitas*.

(3) If any person prevents the Registrar or an auditor appointed under section *thirty-five* or an inspector appointed under section *thirty-nine* from performing his functions as Registrar or as such an auditor or inspector, or hinders the Registrar or such an auditor or inspector in the performance of those functions, he shall be guilty of an offence.

(4) If any person applies to any company, society, firm, business or undertaking which is not registered or provisionally registered as a banking institution under this Act, any name, style or description in which the word "bank" or any derivative thereof occurs, he shall be guilty of an offence, unless it is proved—

- (a) that the said name, style or description was, on the first day of May, 1930, the lawful designation of that company, society, firm, business or undertaking; or
- (b) that the Minister has given written permission to apply the said name, style or description to the company, society, firm, business or undertaking in question.

(5) If any person has failed to comply with the provisions of section *fourteen*, *fifteen*, *sixteen*, *seventeen*, *eighteen* or *twenty* he shall incur a penalty at the rate of twelve per cent per annum on the amount of the deficiency in question for each day that a deficiency exists, which the Registrar may in his discretion recover by civil action in any competent court of law: Provided that the Registrar may sue the person in default for an amount less than the full penalty which he has incurred.

(6) If any person liable under sub-section (5) pays dividends during the period of any deficiency mentioned in that sub-section, he shall be guilty of an offence.

(7) Any person convicted of any offence under this Act (other than fraud or falsity) shall be liable to a fine not exceeding two hundred rand.

(8) Any person who fails to submit, transmit or furnish to the Registrar within any period fixed by or under this Act, any statement, report, return or other document, or information required by or under this Act to be so submitted, transmitted or furnished, shall, irrespective of any criminal action that may have been taken or may be taken against such person under the provisions of this Act, be liable to pay a penalty of twenty rand for every day after the expiration of any such period that he continues so to fail, and the Registrar may by civil action in any competent court of law recover from such person such penalty, or such portion thereof as he is in his discretion considers the circumstances justify him in claiming.

Regulations.

50. (1) The Minister may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed by regulation.

(2) A person who is obliged in terms of any provision of this Act to render a return or statement in a form prescribed by regulation, shall be deemed not to have rendered that return or statement unless he has set forth therein all the particulars for which provision is made on the prescribed form.

This Act overrides special Acts.

51. In respect of a banking institution which is governed by a special Act, the provisions of this Act shall prevail where such special Act is in conflict with the provisions of this Act.

(4) Die Registrateur kan iemand vrystel van die verpligting om 'n bedrag ingevolge hierdie artikel te betaal, indien hy oortuig is dat die betrokke insae, afskrif of uittreksel verlang word ter bevordering van die een of ander openbare belang.

49. (1) Iemand wat 'n bepaling van hierdie Wet oortree **Misdrywe en strawwe.** of versuim om te voldoen aan 'n bepaling van hierdie Wet wat hom 'n verpligting oplê, is aan 'n misdryf skuldig.

(2) Indien iemand 'n staat, opgawe of verslag onderteken, of 'n verklaring doen of enige inligting verstrek, hetsy mondeling of skriftelik, waarvoor in hierdie Wet voorsiening gemaak word, met die wete dat die betrokke staat, opgawe, verslag of inligting vals of onjuis is, word hy geag bedrog of falsiteit te pleeg.

(3) Indien iemand die Registrateur of 'n ingevolge artikel vyf-en-dertig aangestelde ouditeur of 'n ingevolge artikel nege-en-dertig aangestelde inspekteur belet om sy werksaamhede as Registrateur of as sodanige ouditeur of inspekteur te verrig of die Registrateur of so 'n ouditeur of inspekteur by die verrigting van daardie werksaamhede hinder, is hy aan 'n misdryf skuldig.

(4) Indien iemand ten opsigte van 'n maatskappy, vereniging, firma, besigheid of onderneming wat nie ingevolge hierdie Wet as 'n bankinstelling geregistreer of voorlopig geregistreer is nie, enige naam, betiteling of beskrywing besig waarin die woord „bank” of enige afleiding daarvan voorkom, is hy aan 'n misdryf skuldig, tensy bewys word—

(a) dat bedoelde naam, betiteling of beskrywing op die eerste dag van Mei 1930 die wettige naam van daardie maatskappy, vereniging, firma, besigheid of onderneming was; of

(b) dat die Minister skriftelik toegestem het dat bedoelde naam, betiteling of beskrywing ten opsigte van die betrokke maatskappy, vereniging, firma, besigheid of onderneming gebesig word.

(5) Indien iemand versuim het om aan die bepalinge van artikel veertien, vyftien, sestien, sewentien, agtien of twintig te voldoen, loop hy 'n boete op bereken teen twaalf persent per jaar van die bedrag van die betrokke tekort, vir iedere dag wat die tekort bestaan, en die Registrateur kan na goeddunke die boete deur middel van 'n siviele regsgeding in enige bevoegde geregshof invorder: Met dien verstande dat die Registrateur die skuldige persoon kan dagvaar vir 'n bedrag wat minder is as die volle boete wat hy opgeloopt het.

(6) Indien iemand wat ingevolge sub-artikel (5) aanspreeklik is, gedurende die tydperk van 'n in daardie sub-artikel vermelde tekort diwidende uitkeer, is hy aan 'n misdryf skuldig.

(7) Iemand wat aan 'n oortreding ingevolge hierdie Wet (uitgesonderd bedrog of falsiteit) skuldig bevind word, is strafbaar met 'n boete van hoogstens tweehonderd rand.

(8) Iemand wat in gebreke bly om binne enige tydperk deur of kragtens hierdie Wet vasgestel, aan die Registrateur enige staat, verslag, opgawe of ander dokument, of inligting voor te lê, te stuur of te verstrek, wat volgens of kragtens hierdie Wet aldus voorgelê, gestuur of verstrek moet word, is, afgesien van enige strafregtelike stappe wat kragtens die bepalinge van hierdie Wet teen so iemand gedoen is of gedoen kan word, onderhewig aan 'n boete van twintig rand vir elke dag na die verstryking van so 'n tydperk wat hy aanhou om aldus in gebreke te bly, en die Registrateur kan deur middel van 'n siviele regsgeding in enige bevoegde geregshof so 'n boete, of so 'n gedeelte daarvan as wat hy na goeddunke meen dat die omstandighede hom regverdig om te vorder, op so iemand verhaal.

50. (1) Die Minister kan regulasies uitvaardig wat nie met **Regulasies.** hierdie Wet strydig is nie en daarby alle sake voorskryf wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word.

(2) Iemand wat ingevolge 'n bepaling van hierdie Wet verplig is om 'n opgawe of staat in 'n by regulasie voorgeskrewe vorm te verstrek, word geag nie daardie opgawe of staat te verstrek het nie, tensy hy alle besonderhede, waarvoor in die voorgeskrewe vorm voorsiening gemaak word, daarin uiteengesit het.

51. Ten opsigte van 'n bankinstelling wat deur 'n spesiale **Spesiale Wette ondergeskik aan hierdie Wet.** Wet beheer word, geld die bepalinge van hierdie Wet waar sodanige spesiale Wet strydig is met die bepalinge van hierdie Wet.

**Application of
Act in South-West
Africa.**

52. (1) The provisions of this Act and any amendment thereof shall apply also in the territory, including the Eastern Caprivi Zipfel referred to in sub-section (3) of section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951).

(2) For the purpose of the application of the said provisions in the territory—

- (a) any reference to the Companies Act, 1926 (Act No. 46 of 1926), or any provision thereof, shall be construed as a reference to the Companies Ordinance, 1928 (Ordinance No. 19 of 1928), of the territory, or the corresponding provision thereof;
- (b) any reference to the Insolvency Act, 1936 (Act No. 24 of 1936), shall be construed as a reference to that Act as applied to the territory by section *one hundred and fifty-eight ter* of the said Act;
- (c) references to the Registrar of Companies or a Registrar of Deeds or a Master of the Supreme Court shall be construed as references to the Registrar of Companies, the Registrar of Deeds and the Master of the Supreme Court, respectively, of the territory;
- (d) any reference to the Land and Agricultural Bank of South Africa shall be construed to include a reference to the Land and Agricultural Bank of South-West Africa; and
- (e) any reference to the commencement of this Act shall be construed as a reference to the commencement of the Banking Amendment Act, 1961 (Act No. 6 of 1961).

(3) Whenever in consequence of the application of the provisions of sub-section (4) of section *forty-nine* to the territory, any person has changed his name, the Registrar shall upon application issue to him a certificate to that effect.

(4) If any such certificate, or a copy thereof which has been certified by the Registrar to be a true copy, is submitted by such person to the officer in charge of any deeds registry in which there is registered any deed on which such person's former name appears, the said officer shall free of charge substitute such person's new name for that former name in the deed and in all the appropriate registers in his deeds registry.

**Periodic review
of Act.**

53. Before 1st January, 1971, and from time to time thereafter, at intervals of not more than ten years, the Minister shall appoint a committee to enquire into and report to him on amendments to this Act which, in the opinion of the committee, have become desirable by virtue of changed circumstances or which the administration of the Act has shown to be desirable.

**Repeal of laws
and savings.**

54. (1) Subject to the provisions of sub-sections (2) and (3), the laws specified in the Schedule are hereby repealed to the extent set out in the third column of that Schedule.

(2) In so far as the class of each of the banking institutions to which section *five* of the Banking Amendment Act, 1964 (Act No. 61 of 1964), related, has at the commencement of this Act not been determined in terms of sub-sections (2) to (5), inclusive, of the said section, the said sub-sections shall continue to have effect until in terms of the said sub-sections the class to which each of the said banking institutions belongs has been finally determined and the prescribed certificate of registration or certificate of provisional registration has been issued to each of the banking institutions concerned.

(3) Any regulation made or action taken or thing done or deemed to have been made, taken or done under any provision of any law repealed by sub-section (1), shall be deemed to have been made, taken or done under the corresponding provision of this Act.

(4) The provisions of sub-section (2) of section *twelve* shall not during the period of twelve months beginning on the first day of January, 1965, apply in respect of a banking institution which on the said date was registered or provisionally registered as a deposit-receiving institution, a people's bank or a loan bank.

Short title.

55. This Act shall be called the Banks Act, 1965, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

52. (1) Die bepalings van hierdie Wet en enige wysiging daarvan is ook van toepassing in die gebied, met ingebrip van die Oostelike Caprivi Zipfel in sub-artikel (3) van artikel *drie* van die Wysigingswet op Aangeleenthede van Suidwes-Afrika, 1951 (Wet No. 55 van 1951), bedoel.

Toepassing van
Wet in Suidwes-
Afrika.

(2) By die toepassing van bedoelde bepalings in die gebied—

- (a) word 'n verwysing na die Maatskappywet, 1926 (Wet No. 46 van 1926), of 'n bepaling daarvan, uitgelê as 'n verwysing na die Maatskappy-Ordonnansie, 1928 (Ordonnansie No. 19 van 1928), van die gebied, of die ooreenstemmende bepaling daarvan;
- (b) word 'n verwysing na die Insolvensiewet, 1936 (Wet No. 24 van 1936), uitgelê as 'n verwysing na bedoelde Wet soos by artikel *honderd agt-en-vyftig ter* van bedoelde Wet op die gebied toegepas;
- (c) word verwysings na die Registrateur van Maatskappye of 'n Registrateur van Aktes of 'n Meester van die Hooggeregshof, onderskeidelik uitgelê as verwysings na die Registrateur van Maatskappye, die Registrateur van Aktes en die Meester van die Hooggeregshof van die gebied;
- (d) word 'n verwysing na die Land- en Landboubank van Suid-Afrika beskou ook as 'n verwysing na die Land- en Landboubank van Suidwes-Afrika; en
- (e) word 'n verwysing na die inwerkingtreding van hierdie Wet uitgelê as 'n verwysing na die inwerkingtreding van die Bankwysigingswet, 1961 (Wet No. 6 van 1961).

(3) Wanneer iemand weens die toepassing in die gebied van die bepalings van sub-artikel (4) van artikel *nege-en-veertig* sy naam verander het, moet die Registrateur op aansoek 'n sertifikaat te dien effekte aan hom uitreik.

(4) Indien so 'n sertifikaat, of 'n afskrif daarvan wat deur die registrateur as 'n juiste afskrif gesertifiseer is, deur so iemand voorgelê word aan die amptenaar aan die hoof van 'n registrasiekantoor van aktes waar 'n akte waarin so iemand se vorige naam voorkom, geregistreer is, moet bedoelde amptenaar daardie vorige naam in die akte en in al die gepaste registers in sy registrasiekantoor gratis deur so iemand se nuwe naam vervang.

53. Die Minister benoem voor 1 Januarie 1971 en daarna van tyd tot tyd met tussenpose van hoogstens tien jaar 'n komitee om ondersoek in te stel na en aan hom verslag te doen oor wysigings aan hierdie Wet wat, na die komitee se mening, op grond van veranderde omstandighede wenslik geword het, of wat uit die administrasie van die Wet geblyk het wenslik te wees.

Periodieke
hersiening van
Wet.

54. (1) Behoudens die bepalings van sub-artikels (2) en (3), word die in die Bylae vermelde Wette hierby herroep in die mate in die derde kolom van daardie Bylae uiteengesit.

Herroeping van
Wette en
voorbehoude.

(2) Vir sover die klas van elk van die bankinstellings waarop artikel *vyf* van die Bankwysigingswet, 1964 (Wet No. 61 van 1964), betrekking gehad het, nie by die inwerkingtreding van hierdie Wet ingevolge sub-artikels (2) tot en met (5) van genoemde artikel bepaal is nie, bly genoemde sub-artikels van krag totdat ingevolge genoemde sub-artikels die klas waaronder elk van bedoelde bankinstellings val, finaal bepaal is en die voorgekrewe sertifikaat van registrasie of sertifikaat van voorlopige registrasie aan elk van die betrokke bankinstellings uitgereik is.

(3) Enige regulasie wat uitgevaardig is of handeling wat verrig is of enigiets wat gedoen is of wat geag word uitgevaardig, verrig of gedoen te gewees het kragtens 'n by sub-artikel (1) herroepde wetsbepaling, word geag kragtens die ooreenstemmende bepaling van hierdie Wet uitgevaardig, verrig of gedoen te gewees het.

(4) Die bepalings van sub-artikel (2) van artikel *twaalf* is gedurende die tydperk van twaalf maande met ingang van die eerste dag van Januarie 1965 nie ten opsigte van 'n bankinstelling van toepassing wat op genoemde datum as 'n deposito-nemende instelling, 'n volksbank of 'n leningsbank geregistreer of voorlopig geregistreer was nie.

55. Hierdie Wet heet die Bankwet, 1965, en tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Kort titel.

Schedule.

LAWS REPEALED.

No. and Year.	Short title.	Extent of repeal.
Act No. 38 of 1942.	Banking Act, 1942	The whole.
Act No. 34 of 1944.	Banking Amendment Act, 1944	The whole.
Act No. 25 of 1947.	Banking Amendment Act, 1947	The whole.
Act No. 33 of 1949.	National Finance Corporation Act, 1949 ..	Section <i>twenty-two</i> .
Act No. 41 of 1951.	Banking Amendment Act, 1951	The whole.
Act No. 45 of 1953.	Finance Act, 1953	Section <i>eighteen</i> .
Act No. 40 of 1955.	Banking Amendment Act, 1955	The whole.
Act No. 40 of 1959.	Banking Amendment Act, 1959	The whole.
Act No. 6 of 1961.	Banking Amendment Act, 1961	The whole.
Act No. 68 of 1962.	Inspection of Financial Institutions Act, 1962.	In sub-section (1) of section <i>eleven</i> , the words " <i>section forty-two</i> of the Banking Act, 1942".
Act No. 77 of 1962.	Finance Act, 1962	Section <i>ten</i> .
Act No. 61 of 1964.	Banking Amendment Act, 1964	The whole.

Bylae.

WETTE HERROEP.

No. en Jaar.	Kort titel.	Omvang van herroeping.
Wet No. 38 van 1942.	Bankwet, 1942	Die geheel.
Wet No. 34 van 1944.	Bank-wysigingswet, 1944	Die geheel.
Wet No. 25 van 1947.	Bank-wysigingswet, 1947	Die geheel.
Wet No. 33 van 1949.	Wet op die Nasionale Finansiële Korporasie, 1949.	Artikel <i>twee-en-twintig</i>
Wet No. 41 van 1951.	Bank-wysigingswet, 1951	Die geheel.
Wet No. 45 van 1953.	Finansiewet, 1953	Artikel <i>agtien</i> .
Wet No. 40 van 1955.	Bank-wysigingswet, 1955	Die geheel.
Wet No. 40 van 1959.	Bankwysigingswet, 1959	Die geheel.
Wet No. 6 van 1961.	Bank-wysigingswet, 1961	Die geheel.
Wet No. 68 van 1962.	Wet op Inspeksie van Finansiële Instellings, 1962.	In sub-artikel (1) van artikel <i>elf</i> die woorde „artikel <i>twee-en-veertig</i> van die Bankwet, 1942”.
Wet No. 77 van 1962.	Finansiewet, 1962	Artikel <i>tien</i> .
Wet No. 61 van 1964.	Bankwysigingswet, 1964	Die geheel.

No. 24, 1965.]

ACT

To consolidate the laws relating to the registration, incorporation, regulation, management and dissolution of building societies.

*(English text signed by the State President.)
(Assented to 12th March, 1965.)*

ARRANGEMENT OF SECTIONS.

CHAPTER I.

INTRODUCTORY.

Section.

1. Interpretation of terms.
2. Application of Act.
3. Appointment of registrar and deputy registrar of building societies.

CHAPTER II.

FORMATION AND REGISTRATION OF SOCIETIES.

4. Formation of a society.
5. Registration of societies.
6. Registered building society to be a body corporate.
7. Name of society.
8. Certificate of registration to be conclusive.
9. Deposit of cash or securities to be made with Treasury.
10. Registrar may require association of persons to furnish information.
11. Cancellation and suspension of registration.

CHAPTER III.

ADMINISTRATION OF SOCIETIES.

12. Matters to be set forth in rules.
13. Amendment of rules.
14. Registrar may require revision of rules.
15. Model rules.
16. Binding force of rules.
17. Election or appointment of directors.
18. Disqualification of directors.
19. Disclosure by directors of interest in contracts with society.
20. Head office of society.
21. Branch offices and agencies.
22. General powers of society.
23. Societies to keep records.
24. General meetings.
25. Change of name of society.

CHAPTER IV.

FINANCIAL REQUIREMENTS.

26. Deposits.
27. Loans and overdrafts.
28. Shares.
29. Investment of funds.
30. Share capital.
31. Minimum liquid assets.
32. Minimum prescribed investments.
33. Period for maintaining prescribed minima.
34. Monthly returns.
35. Annual accounts.
36. Statutory reserve.
37. Dividends.

No. 24, 1965.]

WET

Tot samevatting van die wetsbepalings betreffende die registrasie van, die verlening van regspersoonlikheid aan en die reëling, bestuur en ontbinding van bouverenigings.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 12 Maart 1965.)*

RANGSKIKKING VAN ARTIKELS.

HOOFSTUK I.

INLEIDENDE BEPALINGS.

Artikel.

1. Woordomskrywing.
2. Toepassing van Wet.
3. Aanstelling van registrateur en adjunk-registrateur van bouverenigings.

HOOFSTUK II.

OPRIGTING EN REGISTRASIE VAN VERENIGINGS.

4. Oprigting van 'n vereniging.
5. Registrasie van verenigings.
6. Geregistreerde bouvereniging is 'n regspersoon.
7. Naam van vereniging.
8. Sertifikaat van registrasie is afdoende.
9. Kontant of sekuriteite moet by Tesourie gedeponeer word.
10. Registrateur kan van assosiasie van persone inligting eis.
11. Intrekking en opskorting van registrasie.

HOOFSTUK III.

ADMINISTRASIE VAN VERENIGINGS.

12. Aangeleenthede wat in die statute uiteengesit moet word.
13. Wysiging van statute.
14. Registrateur kan hersiening van statute vereis.
15. Modelstatute.
16. Bindende krag van statute.
17. Verkiesing of aanstelling van direkteure.
18. Onbevoegdhede van direkteure.
19. Openbaarmaking deur direkteure van belang by kontrakte met vereniging.
20. Hoofkantoor van vereniging.
21. Takkantore en agentskappe.
22. Algemene bevoegdhede van vereniging.
23. Verenigings moet aantekenings hou.
24. Algemene vergaderings.
25. Verandering van naam van vereniging.

HOOFSTUK IV.

FINANSIËLE VEREISTES.

26. Deposito's.
27. Lenings en oortrekkings.
28. Aandele.
29. Belegging van fondse.
30. Aandelekapitaal.
31. Minimum likwiede bates.
32. Minimum voorgeskrewe beleggings.
33. Tydperk vir instandhouding van voorgeskrewe minima.
34. Maandelikse opgawes.
35. Jaarlikse rekenings.
36. Statutêre reserwe.
37. Diwidende.

CHAPTER V.

ADVANCES.

Section.

38. Reducible mortgage.
39. Fixed term mortgage.
40. Limitation of amount of advance.
41. Restriction on fixed term mortgages.
42. Limitation of sum total of advances in certain circumstances.
43. Restriction on advances on vacant land.
44. Restriction on advances on property used for business purposes.
45. Prohibition of certain types of advances.
46. Collateral security.
47. Valuation of immovable property.
48. Societies may recover certain interest not permitted by Act 37 of 1926.
49. Advances and loans not invalidated by certain irregularities.

CHAPTER VI.

ENQUIRIES AND INVESTIGATIONS.

50. Registrar may demand information from any society.
51. Powers of inspection.
52. Appointment of inspector by registrar on application of members.
53. Investigation by inspector appointed by society.
54. Information to be supplied to inspectors.

CHAPTER VII.

AMALGAMATION, WINDING-UP AND DISSOLUTION.

55. Amalgamation and transfer of assets and liabilities.
56. Judicial management.
57. Winding-up of section of terminating society.
58. Winding-up of terminating society.
59. Voluntary winding-up of permanent society.
60. Winding-up by the court.
61. Appointment of judicial manager and liquidator.
62. Dissolution of a society.
63. Limitation of liability of members.
64. Liability of borrowers in winding-up.
65. Application of certain provisions of Act 46 of 1926 to the Territory.

CHAPTER VIII.

GENERAL PROVISIONS.

66. Societies to provide against loss through negligence or dishonesty of their officers and agents.
67. Auditors of society.
68. Minors and married women.
69. Application for shares, or for leave to make deposits.
70. Share certificates, passbooks and fixed deposit receipts.
71. Prospectuses and other publications and forms to be previously approved by the registrar.
72. Admissibility in evidence of certified documents.
73. Inspection of documents.
74. Carrying on of business by unregistered society and use of designation "building society".
75. Only a society may claim to be a successor of or to be connected with a building society.
76. Acceptance of benefits.

HOOFSTUK V.

VOORSKOTTE.

Artikel.

38. Verminderbare verband.
39. Vastetermyn-verband.
40. Beperking op bedrag van voorskot.
41. Beperking op vastetermyn-verbande.
42. Beperking op totale bedrag van voorskotte in sekere omstandighede.
43. Beperking op voorskotte op onbeboude grond.
44. Beperking op voorskotte op eiendom gebruik vir besigheidsdoeleindes.
45. Verbod op sekere soorte voorskotte.
46. Kollaterale sekuriteit.
47. Waardasie van vaste eiendom.
48. Verenigings kan sekere rente verhaal wat nie deur Wet 37 van 1926 veroorloof word nie.
49. Voorskotte en lenings nie as gevolg van sekere onreëlmatighede ongeldig nie.

HOOFSTUK VI.

NAVRAE EN ONDERSOEKE.

50. Registrateur kan inligting van 'n vereniging eis.
51. Inspeksiebevoegdheide.
52. Aanstelling van inspekteur deur registrateur op aansoek van lede.
53. Ondersoek deur inspekteur deur vereniging aangestel.
54. Inligting wat aan inspekteurs verstrek moet word.

HOOFSTUK VII.

SAMESMELTING, LIKWIDASIE EN ONTBINDING.

55. Samesmelting en oordrag van bates en laste.
56. Geregtelike bestuur.
57. Likwidasië van afdeling van tydelike vereniging.
58. Likwidasië van 'n tydelike vereniging.
59. Vrywillige likwidasië van 'n permanente vereniging.
60. Likwidasië deur die hof.
61. Aanstelling van geregtelike bestuurder en likwidateur.
62. Ontbinding van 'n vereniging.
63. Beperking van aanspreeklikheid van lede.
64. Aanspreeklikheid van leners by likwidasië.
65. Toepassing van sekere bepalings van Wet 46 van 1926 op Gebied.

HOOFSTUK VIII.

ALGEMENE BEPALINGS.

66. Verenigings moet voorsiening maak teen verlies weens nalatigheid of oneerlikheid van hul amptenare en agente.
67. Ouditeure van vereniging.
68. Minderjariges en getroude vroue.
69. Aansoek om aandele of om toestemming om deposito's te stort.
70. Aandelesertifikate, depositoboekies en vastedeposito-kwitansies.
71. Prospektusse en ander publikasies en vorms moet vooraf deur die registrateur goedgekeur word.
72. Toelaatbaarheid van gesertifiseerde dokumente as getuienis.
73. Insae in dokumente.
74. Dryf van besigheid deur ongeregistreerde vereniging en gebruik van benaming „bouvereniging”.
75. Slegs 'n vereniging kan daarop aanspraak maak 'n opvolger van of verbonde aan 'n bouvereniging te wees.
76. Aanname van voordele.

Section.

77. Withholding money or other effects of a society.
78. Default in rendering accounts, furnishing information and giving notice.
79. Default in maintaining prescribed ratio or proportion.
80. Penalties.
81. Prescribed fees.
82. Annual licence.
83. Annual report by the registrar.
84. Regulations.
85. Application to South-West Africa.
86. Periodic review of Act.
87. Repeal and amendment of laws.
88. Short title.

First Schedule.

Second Schedule.

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

CHAPTER I.

INTRODUCTORY.

Interpretation of terms.

1. In this Act, unless the context otherwise indicates—
 - (i) “advance” includes one or more advances on the security of one property or of two or more properties jointly; (i)
 - (ii) “agent” means a representative of a society with express authority in regard to the acceptance of money in respect of deposits or shares or repayments of advances or loans or the receipt of applications in respect of advances or loans on behalf of that society; (ii)
 - (iii) “approved securities” means securities issued by the Government of the Republic and such other securities as the Treasury may approve; (xii)
 - (iv) “bank” or “banker” means a banking institution registered otherwise than provisionally under the Banks Act, 1965, which is required to maintain a reserve balance with the Reserve Bank; (iv)
 - (v) “board”, in relation to any society, means the board of directors or the body managing the business of the society, by whatever name it may be called; (xxvi)
 - (vi) “building society” means an association of persons the principal object of which is the making, out of funds derived from the issue of shares to and the acceptance of deposits from the public or from subscriptions by members, of advances for any purpose upon the security of the mortgage of urban immovable property; (v)
 - (vii) “court”, in relation to a society, and without prejudice to the jurisdiction of any magistrate’s court in relation to any offence under this Act, means any division of the Supreme Court of South Africa within whose jurisdiction the head office of such society is situated; (xiii)
 - (viii) “director” includes an alternate director and any person occupying a position on the board of a society, by whatever name he may be called; (vi)
 - (ix) “discount house” means an institution registered or deemed to be registered as a discount house under the Banks Act, 1965; (vii)
 - (x) “final registration” means the final registration of a society under sub-section (8) of section five; (viii)
 - (xi) “firm” includes any partnership and any company or other corporate body; (ix)
 - (xii) “fixed deposit” means a deposit fixed for a period not exceeding five years and not less than twelve months; (xxxviii)
 - (xiii) “fixed period share capital” means the aggregate amount paid up on shares issued in terms of paragraph (b) of sub-section (1) of section twenty-eight; (xxxix)

Artikel.

77. Terughou van geld of ander bates van 'n vereniging.
78. Versuim om rekenings voor te lê, inligting te verstrek en kennis te gee.
79. Versuim om voorgeskrewe verhouding of proporsie in stand te hou.
80. Boetes.
81. Voorgeskrewe gelde.
82. Jaarlikse lisensie.
83. Jaarverslag deur registrateur.
84. Regulasies.
85. Toepassing in Suidwes-Afrika.
86. Periodieke hersiening van Wet.
87. Herroeping en wysiging van wette.
88. Kort titel.
Eerste Bylae.
Tweede Bylae.

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

HOOFSTUK I.

INLEIDENDE BEPALINGS.

1. Tensy uit die samehang anders blyk, beteken in hierdie **Woordomskrywing.**
Wet—

- (i) „aandeelhouer”, met betrekking tot 'n vereniging, iemand wat aandele daarin besit, ongeag of hulle ten volle of gedeeltelik betaal is en ongeag of hulle as sekuriteit vir 'n voorskot of lening deur die vereniging gehou word al dan nie; (xliii)
- (ii) „agent” 'n verteenwoordiger van 'n vereniging wat uitdruklik gemagtig is om namens daardie vereniging geld ten opsigte van deposito's of aandele of terugbetalings van voorskotte of lenings aan te neem, of aansoeke ten opsigte van voorskotte of lenings te ontvang; (ii)
- (iii) „amptenaar”, met betrekking tot 'n vereniging, 'n direkteur, plaasvervangende direkteur, plaaslike direkteur of plaaslike komiteelid, bestuurder, sekretaris, klerk of ander werknemer van die vereniging; (xxvi)
- (iv) „bank” of „bankier” 'n bankinstelling wat anders as voorlopig geregistreer is kragtens die Bankwet, 1965, en wat 'n reserwesaldo by die Reserwebank in stand moet hou; (iv)
- (v) „bouvereniging” 'n vereniging van persone waarvan die hoofdoel is om uit fondse verkry deur die uitreiking van aandele aan en die aanname van deposito's van die publiek of uit subskripsies deur lede, voorskotte vir enige doel teen sekuriteit van verband op stedelike vaste eiendom te verleen; (vi)
- (vi) „direkteur” ook 'n plaasvervangende direkteur en iemand wat 'n amp in die raad van 'n vereniging beklee, onder watter naam hy ook al bekend staan; (viii)
- (vii) „diskontohuis” 'n instelling wat kragtens die Bankwet, 1965, as 'n diskontohuis geregistreer is of geag word te wees; (ix)
- (viii) „finale registrasie” die finale registrasie van 'n vereniging kragtens sub-artikel (8) van artikel vyf; (x)
- (ix) „firma” ook 'n vennootskap en 'n maatskappy of ander regspersoon; (xi)
- (x) „Gebied” die gebied Suidwes-Afrika; (xlviii)
- (xi) „geregistreer”, met betrekking tot 'n vereniging, voorlopig of finaal geregistreer kragtens hierdie Wet, en het „registrasie” 'n ooreenstemmende betekenis; (xxxvi)
- (xii) „goedgekeurde effekte” effekte deur die Regering van die Republiek uitgegee en die ander effekte wat die Tesourie goedkeur; (iii)
- (xiii) „hof”, met betrekking tot 'n vereniging, en sonder afbreuk aan die regsbevoegdheid van 'n landdroshof met betrekking tot enige misdryf ingevolge hierdie Wet, enige afdeling van die Hooggeregshof van Suid-Afrika binne die regsgebied waarvan die hoofkantoor van dié vereniging geleë is; (vii)

- (xiv) "fixed term mortgage of immovable property" means a mortgage of immovable property other than a reducible mortgage of immovable property; (xl)
- (xv) "*Gazette*", in relation to a society carrying on business in the Territory, and for the purposes of any composite return referred to in sub-section (2) of section *thirty-four*, includes the *Official Gazette* of the Territory; (xxxiv)
- (xvi) "indefinite share capital" means the aggregate amount paid up on shares issued in terms of paragraph (a) of sub-section (1) of section *twenty-eight* and shares referred to in sub-section (3) of section *thirty*; (xxiii)
- (xvii) "Land Bank" means the Land and Agricultural Bank of South Africa; (xv)
- (xviii) "liquid assets" means the aggregate amount of—
 - (a) Reserve Bank Notes and subsidiary coin;
 - (b) deposits, withdrawable on demand, with a bank;
 - (c) deposits, withdrawable on demand, with the National Finance Corporation;
 - (d) loans to discount houses, repayable on demand;
 - (e) Treasury bills of the Republic;
 - (f) stocks of the Government with a maturity, to the latest redemption date, of not more than three years;
 - (g) bills issued by the Land Bank;
 - (h) debentures of the Land Bank with a maturity of not more than three years; and
 - (i) such other assets as the registrar may by notice in the *Gazette* approve for the purposes of this definition; (xix)
- (xix) "liquidator", in relation to a society, means a person appointed to conduct the winding-up of that society; (xviii)
- (xx) "long-term liability", in relation to any date, means a liability which is payable after the expiration of at least six months as from that date or which on that date is subject to at least six months' notice before becoming payable; (xvi)
- (xxi) "medium-term liability", in relation to any date, means a liability which is payable after the expiration of a period of not less than thirty days but less than six months as from that date or which on that date is subject to not less than thirty days' but less than six months' notice before becoming payable, but includes—
 - (a) the aggregate net amount a society is committed to pay out in respect of advances granted;
 - (b) the aggregate amount of cash deposited with a society in terms of sub-paragraph (iii) of paragraph (d) of sub-section (1) of section *twenty-two*; and
 - (c) savings deposits; (xx)
- (xxii) "member", in relation to any society, means a shareholder in that society; (xvii)
- (xxiii) "Minister" means the Minister of Finance; (xxi)
- (xxiv) "mortgage of urban immovable property" includes the cession of a registered lease having not less than twenty years to run, and the cession of any lease or licence, whether or not it is registered, entitling the lessee or licensee and his successors in title to occupy any land situated within the district of Kimberley and belonging to De Beers Consolidated Mines, Limited, or its successors in title; (xli)
- (xxv) "National Finance Corporation" means the National Finance Corporation of South Africa established by section *two* of the National Finance Corporation Act, 1949 (Act No. 33 of 1949); (xxii)
- (xxvi) "officer", in relation to a society, means any director, alternate director, local director or local committee member, manager, secretary, clerk or other employee of the society; (iii)
- (xxvii) "owing", in relation to any advance, means owing in respect of capital amount advanced together with interest due thereon; (xliv)
- (xxviii) "paid-up share" means a share paid for in full at the time of application therefor; (xxiv)
- (xxix) "paid-up share capital" means the sum total of the share capital paid up; (xxv)
- (xxx) "prescribed" means prescribed by or under this Act; (xlviii)

- (xiv) „korttermynverpligting”, met betrekking tot die een of ander datum, 'n verpligting wat binne dertig dae vanaf daardie datum betaalbaar is, of wat op daardie datum aan minder as dertig dae kennis van opsegging onderworpe is voordat dit betaalbaar word; (xiv)
- (xv) „Landbank” die Land- en Landboubank van Suid-Afrika; (xvii)
- (xvi) „langtermynverpligting”, met betrekking tot die een of ander datum, 'n verpligting wat na verloop van minstens ses maande vanaf daardie datum betaalbaar is, of wat op daardie datum aan minstens ses maande kennis van opsegging onderworpe is voordat dit betaalbaar word; (xx)
- (xvii) „lid”, met betrekking tot 'n vereniging, 'n aandeelhouer in daardie vereniging; (xxii)
- (xviii) „likwidadeur”, met betrekking tot 'n vereniging, 'n persoon aangestel om die likwidasië van daardie vereniging te behartig; (xix)
- (xix) „likwiede bates” die totaalbedrag aan—
 - (a) Reserwebanknote en pasmunt;
 - (b) onmiddellik opeisbare deposito's by 'n bank;
 - (c) onmiddellik opeisbare deposito's by die Nasionale Finansiële korporasie;
 - (d) onmiddellik opeisbare lenings aan diskontohuise;
 - (e) skatkisbiljetten van die Republiek;
 - (f) effekte van die Regering waarvan die laaste aflosdatum binne hoogstens drie jaar val;
 - (g) wissels deur die Landbank uitgereik;
 - (h) obligasies van die Landbank wat binne hoogstens drie jaar verval; en
 - (i) die ander bates wat die registrateur vir die doeleindes van hierdie omskrywing by kennisgewing in die *Staatskoerant* goedkeur; (xviii)
- (xx) „middeltermynverpligting”, met betrekking tot die een of ander datum, 'n verpligting wat na verloop van 'n tydperk van minstens dertig dae maar minder as ses maande vanaf daardie datum betaalbaar is, of wat op daardie datum aan minstens dertig dae maar minder as ses maande kennis van opsegging onderworpe is voordat dit betaalbaar word, maar met inbegrip van—
 - (a) die totale netto bedrag wat 'n vereniging moet uitbetaal ten opsigte van voorskotte toegestaan;
 - (b) die totale bedrag aan kontant by 'n vereniging ooreenkomstig sub-paragraaf (iii) van paragraaf (d) van sub-artikel (1) van artikel twee-en-twintig gedeponeer; en
 - (c) spaardeposito's; (xxi)
- (xxi) „Minister” die Minister van Finansies; (xxiii)
- (xxii) „Nasionale Finansiële korporasie” die Nasionale Finansiële korporasie van Suid-Afrika ingestel by artikel twee van die Wet op die Nasionale Finansiële korporasie, 1949 (Wet No. 33 van 1949); (xxv)
- (xxiii) „onbepaalde aandeelkapitaal” die totale bedrag opbetaal op aandeel kragtens paragraaf (a) van sub-artikel (1) van artikel agt-en-twintig uitgereik en aandeel in sub-artikel (3) van artikel dertig bedoel; (xvi)
- (xxiv) „opbetaalde aandeel” 'n aandeel waarvoor ten volle betaal word wanneer aansoek daarom gedoen word; (xxviii)
- (xxv) „opbetaalde aandeelkapitaal” die totale bedrag van die aandeelkapitaal wat opbetaal is; (xxix)
- (xxvi) „raad”, met betrekking tot 'n vereniging, die raad van direkteure of die liggaam wat die sake van die vereniging bestuur, onder watter naam hy ook al bekend staan; (v)
- (xxvii) „registrateur” die registrateur of adjunk-registrateur van bouverenigings kragtens artikel drie aangestel; (xxxvii)
- (xxviii) „regulasie” 'n regulasie uitgevaardig en van krag kragtens hierdie Wet; (xxxviii)
- (xxix) „Republiek” ook die Gebied; (xxxix)
- (xxx) „sekretaris”, met betrekking tot 'n vereniging, ook 'n bestuurder, adjunk- of assistent-bestuurder, sekretaris of ander hoof- uitvoerende amptenaar van die vereniging, onder watter naam hy ook al bekend staan; (xlii)
- (xxxi) „spaardeposito” 'n kreditsaldo op 'n spaarrekening; (xli)

- (xxxix) "prescribed fee" means a fee prescribed in the First Schedule to this Act or in that Schedule as altered or added to under sub-section (2) or (3) of section *eighty-one*; (xli)
- (xxxix) "prescribed form" means a form prescribed by the Minister under section *eighty-four*; (xlii)
- (xxxix) "prescribed investments" means the aggregate amount of—
 - (a) liquid assets;
 - (b) deposits with a bank other than those ranking as liquid assets;
 - (c) deposits with a local authority within the Republic;
 - (d) deposits with the National Finance Corporation and loans to discount houses other than deposits or loans ranking as liquid assets;
 - (e) stocks of the Government other than those ranking as liquid assets;
 - (f) debentures or stock guaranteed by the Government;
 - (g) stocks of and loans to any local authority in the Republic;
 - (h) debentures or stock of the Rand Water Board or the Electricity Supply Commission;
 - (i) debentures of the Land Bank other than those ranking as liquid assets; and
 - (j) such other investments as the registrar may by notice in the *Gazette* approve for the purposes of this definition; (xli)
- (xxxix) "provisional registration" means registration other than final registration; (xli)
- (xxxix) "reducible mortgage of immovable property" means a mortgage of immovable property the terms of which provide for the redemption of the capital amount advanced by regular equal payments which include any interest due on any amount outstanding; (xlii)
- (xxxix) "registered", in relation to any society, means provisionally or finally registered under this Act, and "registration" has a corresponding meaning; (xli)
- (xxxix) "registrar" means the registrar or deputy registrar of building societies appointed under section *three*; (xlii)
- (xxxix) "regulation" means a regulation made and in force under this Act; (xlii)
- (xxxix) "Republic" includes the Territory; (xlii)
- (xli) "savings account" means an account which a depositor maintains with a building society and in which he may not keep a larger credit balance and from which he may not without the consent of the society, make a withdrawal at shorter notice, in relation to the amount to be withdrawn, than is determined by the rules of the society; (xlii)
- (xli) "savings deposit" means a credit balance in a savings account; (xlii)
- (xlii) "secretary", in relation to a society, includes a manager, deputy or assistant manager, secretary or other principal executive officer of the society, by whatever name he may be called; (xlii)
- (xlii) "shareholder", in relation to any society, means a person who holds shares therein, whether fully or partly paid and whether or not held by the society as security for an advance or a loan; (i)
- (xlii) "short-term liability", in relation to any date, means a liability which is payable within thirty days as from that date or which on that date is subject to less than thirty days' notice before becoming payable; (xlii)
- (xlii) "society" means a building society registered under this Act; (xlii)
- (xlii) "special resolution" means a resolution—
 - (a) passed by not less than three-fourths of those members who are personally present or represented by proxy and vote in accordance with the rules of the society at a special general meeting called for that purpose; and
 - (b) the terms and effect of which and the reasons for which have been fully set out in the notice convening that meeting; (xlii)
- (xlii) "subscription share" means a share subscribed for by periodical contributions of fixed amount; (xlii)
- (xlii) "Territory" means the Territory of South-West Africa; (x)

- (xxxii) „spaarrekening” ’n rekening wat ’n deposant by ’n bouvereniging hou en waarop hy nie ’n groter krediet-saldo in stand mag hou, en waaruit hy nie sonder toestemming van die vereniging ’n opvraging kan doen op korter kennis, volgens die bedrag opgevra, as wat die statute van die vereniging bepaal nie; (xl)
- (xxxiii) „spesiale besluit” ’n besluit—
- (a) goedgekeur deur minstens drie-vierdes van die lede wat persoonlik teenwoordig is of ingevolge ’n volmag verteenwoordig word en ooreenkomstig die statute van die vereniging stem op ’n buitengewone algemene vergadering wat vir dié doel belê is; en
- (b) waarvan die bepalings en uitwerking en die redes daarvoor ten volle uiteengesit is in die kennisgewing wat daardie vergadering belê; (xlv)
- (xxxiv) „Staatskoerant”, met betrekking tot ’n vereniging wat in die Gebied sake doen, en vir die doeleindes van ’n saamgestelde opgawe in sub-artikel (2) van artikel vier-en-dertig bedoel, ook die *Offisiële Koerant* van die Gebied; (xv)
- (xxxv) „stedelike vaste eiendom”—
- (a) ’n stuk grond wat as ’n erf, perseel of standplaas in ’n registrasiekantoor van aktes, met inbegrip van die kantoor van die Registrateur van Rand-dorpe, geregistreer is, en wat geleë is in ’n dorp binne die betekenis daaraan toegeskryf in artikel een van die Wet op Adverteer langs en Toebou van Paaie, 1940 (Wet No. 21 van 1940), en ook elke omskrewe gedeelte wat nie vir ’n publieke plek bestem is nie, van ’n stuk grond wat as so ’n dorp ingedeel is, ongeag of dit formeel as ’n dorp erken, goedgekeur of geproklameer is al dan nie;
- (b) ’n kleinhoeve of ander klein stuk grond geleë in die omgewing van so ’n dorp en in ’n gebied wat hoofsaaklik ’n woonbuurt is of daarvoor bestem is;
- (c) ’n huur *in longum tempus* van enige in paragraaf (a) of (b) bedoelde grond, mits so ’n huur nog minstens twintig jaar duur of ’n skriftelike ooreenkoms vir die omsetting van die titel van die huurder van huurbesit tot eiendomsbesit aange-gaan en bedoelde ooreenkoms by die registrerende amptenaar ooreenkomstig die „Townships Amendment Act, 1908” (Wet No. 34 van 1908), van Transvaal, gedeponeer is;
- (d) ’n standplaas of industriële standplaas of ’n huur daarvan wat aan die vereistes van paragraaf (c) voldoen en wat in die kantoor van die Registrateur van Myntitels geregistreer kan word;
- (e) grond wat vir die doeleindes van handel met Bantoes toegeken is ingevolge Proklamasie No. 11 van 1922 met betrekking tot die Transkei, of ingevolge sub-artikel (4) van artikel agtien van die Bantoetrust en -grond Wet, 1936 (Wet No. 18 van 1936), of ’n ander wetsbepaling;
- (f) enige ander grond of regte daarop wat die regi-strateur in die algemeen of in die besonder goed-keur; (1)
- (xxxvi) „subskripsie-aandeel” ’n aandeel waarvoor deur periodieke bydraes van ’n vasgestelde bedrag inge-skryf word; (xlvii)
- (xxxvii) „Tesourie” ’n amptenaar van die Departement van Finansies wat deur die Minister gemagtig is om ’n by hierdie Wet aan die Tesourie toegewese werksaamheid te verrig; (xlix)
- (xxxviii) „vaste deposito” ’n deposito wat vir ’n termyn van hoogstens vyf jaar en minstens twaalf maande vas belê is; (xii)
- (xxxix) „vastetermyn-aandelekapitaal” die totale bedrag op-betaal op aandele kragtens paragraaf (b) van sub-artikel (1) van artikel agt-en-twintig uitgereik; (xiii)
- (xl) „vastetermyn-verband op vaste eiendom” ’n ander verband op vaste eiendom as ’n verminderbare verband op vaste eiendom; (xiv)
- (xli) „verband op stedelike vaste eiendom” ook die sessie van ’n geregistreerde huur wat oor minstens twintig jaar verstryk, en die sessie van enige huur of lisensie, hetsy geregistreer of nie, wat aan die huurder of lisensiehouer en sy regsopvolgers die reg verleen om grond geleë binne die distrik Kimberley en be-horende aan die De Beers Consolidated Mines, Limited, of sy regsopvolgers te okkupeer; (xxiv)

(xlix) "Treasury" means any officer of the Department of Finance authorized by the Minister to perform any function assigned to the Treasury in this Act; (xxxvii)

(l) "urban immovable property" means—

- (a) any piece of land registered as an erf, lot or stand in a deeds registry, including the office of the Rand Townships Registrar, which is situated in a township within the meaning assigned thereto in section *one* of the Advertising on Roads and Ribbon Development Act, 1940 (Act No. 21 of 1940), and including every defined portion, not intended to be a public place, of a piece of land laid out as such a township, whether or not it has been formally recognized, approved or proclaimed as a township;
- (b) any small holding or other small piece of land situated in the vicinity of such a township and in an area which is or is intended to be primarily a residential area;
- (c) any lease *in longum tempus* of any ground mentioned in paragraph (a) or (b), provided such lease has not less than twenty years to run or a written agreement has been entered into for the conversion of the title of the lessee from leasehold to freehold, and such agreement has been lodged with the registering officer in terms of the Townships Amendment Act, 1908 (Act No. 34 of 1908), of the Transvaal;
- (d) any stand or industrial stand or lease thereof complying with the requirements of paragraph (c), which is registrable in the office of the Registrar of Mining Titles;
- (e) any land granted under Proclamation No. 11 of 1922 relating to the Transkei or under sub-section (4) of section *eighteen* of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936), or any other law, for the purpose of trading with Bantu;
- (f) all such other land or rights thereover approved by the registrar either generally or specifically; (xxxv)

(li) "value of share" means the amount standing to the credit of a share in the books of a society. (li)

Application of Act.

2. (1) The provisions of this Act shall apply in respect of building societies.

(2) Any question as to whether or not any association of persons is a building society shall, subject to the provisions of section *three*, be determined by the registrar.

Appointment of registrar and deputy registrar of building societies.

3. (1) The Minister shall, subject to the laws governing the public service, appoint an officer to be styled the registrar of building societies, who shall under the control of and subject to appeal to the Minister exercise all such powers and perform all such duties as are assigned to the registrar by this Act, and may, subject to the said laws, appoint an officer to be styled the deputy registrar of building societies, who may, subject to the control and directions of the registrar, do anything which may lawfully be done by the registrar.

(2) Every appeal to the Minister in terms of sub-section (1) shall be prosecuted in the manner and within the time prescribed by regulation.

(3) The decision of the Minister on an appeal in respect of any matter referred to in sub-section (2) of section *two*, sub-section (5) or (6) of section *five* or sub-section (3) of section *thirteen* shall be subject to appeal to the court, provided such appeal is noted within three months after the decision of the Minister has been pronounced.

- (xlii) „vereniging” ’n kragtens hierdie Wet geregistreerde bouvereniging; (xlv)
- (xliii) „verminderbare verband op vaste eiendom” ’n verband op vaste eiendom waarby beding word dat die kapitaalbedrag wat voorgeskiet is deur die betaling van gereelde gelyke paaiemente tesame met rente betaalbaar op enige uitstaande bedrag gedelg moet word; (xxxv)
- (xliv) „verskuldig”, met betrekking tot ’n voorskot, verskuldig ten opsigte van die kapitaalbedrag van die voorskot tesame met rente daarop verskuldig; (xxvii)
- (xlv) „voorgeskrewe beleggings” die totaalbedrag aan—
 - (a) likwiede bates;
 - (b) deposito’s by ’n bank behalwe dié wat as likwiede bates geld;
 - (c) deposito’s by ’n plaaslike bestuur binne die Republiek;
 - (d) deposito’s by die Nasionale Finansiekkorporasie en lenings aan diskontohuise, behalwe deposito’s of lenings wat as likwiede bates geld;
 - (e) effekte van die Regering behalwe dié wat as likwiede bates geld;
 - (f) obligasies of effekte deur die Regering gewaarborg;
 - (g) effekte van en lenings aan ’n plaaslike bestuur in die Republiek;
 - (h) obligasies of effekte van die Randwaterraad of die Elektrisiteitsvoorsieningskommissie;
 - (i) obligasies van die Landbank behalwe dié wat as likwiede bates geld; en
 - (j) die ander beleggings wat die registrateur vir die doeleindes van hierdie omskrywing by kennisgewing in die *Staatskoerant* goedkeur; (xxxiii)
- (xlvii) „voorgeskrewe gelde” ’n bedrag in die Eerste Bylae by hierdie Wet of in daardie Bylae soos gewysig of aangevul kragtens sub-artikel (2) of (3) van artikel *een-en-tagtig* voorgeskryf; (xxx)
- (xlviii) „voorgeskrewe vorm” ’n kragtens artikel *vier-en-tagtig* deur die Minister voorgeskrewe vorm; (xxxii)
- (xlviii) „voorgeskrewe vorm” deur of kragtens hierdie Wet voorgeskryf; (xxx)
- (xlix) „voorlopige registrasie” registrasie wat nie finale registrasie is nie; (xxxiv)
 - (i) „voorskot” ook een of meer voorskotte teen sekuriteit van een eiendom of van twee of meer eiendomme gesamentlik; (i)
 - (ii) „waarde van aandeel” die bedrag wat op krediet van ’n aandeel in die boeke van ’n vereniging staan. (ii)

2. (1) Die bepalings van hierdie Wet is van toepassing ten opsigte van bouverenigings. Toepassing van Wet.

(2) Die vraag of ’n assosiasie van persone ’n bouvereniging is al dan nie, word, behoudens die bepalings van artikel *drie*, deur die registrateur beslis.

3. (1) Die Minister stel met inagneming van die wetsbepalings op die staatsdiens ’n beampte aan wat die registrateur van bouverenigings heet en wat onder die beheer van en onderworpe aan appèl na die Minister al die bevoegdhede uitoefen en al die pligte vervul wat deur hierdie Wet aan die registrateur verleen word, en kan, met inagneming van bedoelde wetsbepalings ’n beampte aanstel wat die adjunk-registrateur van bouverenigings heet en wat onderworpe aan die beheer en voorskrifte van die registrateur enigiets kan doen wat die registrateur wettiglik kan doen. Aanstelling van registrateur en adjunk-registrateur van bouverenigings.

(2) Elke appèl na die Minister ingevolge sub-artikel (1) word voortgesit op die wyse en binne die tydperk by regulasie voorgeskryf.

(3) Die beslissing van die Minister oor ’n appèl ten opsigte van ’n aangeleentheid in sub-artikel (2) van artikel *twee*, sub-artikel (5) of (6) van artikel *vyf* of sub-artikel (3) van artikel *dertien* bedoel, is onderworpe aan ’n appèl na die hof, mits so ’n appèl binne drie maande na die bekendmaking van die Minister se beslissing aangeteken word.

CHAPTER II.

FORMATION AND REGISTRATION OF SOCIETIES.

Formation of a society.

4. (1) Any seven or more persons (hereinafter referred to as the founders) may form a building society by subscribing their names to rules which have, after submission in draft form to and provisional approval by the registrar, been agreed to by them for the government of such society.

(2) A building society may be either—

(a) a permanent society, that is to say, a society which is not by its rules bound to terminate upon the expiration of a fixed period or upon the occurrence of an event specified in its rules; or

(b) a terminating society, that is to say, a society which by its rules is to terminate upon the expiration of a fixed period or upon the occurrence of an event specified in its rules.

(3) For the purposes of this Act, a society shall be deemed to be a terminating society if, notwithstanding the fact that the society is not by its rules bound to terminate upon the expiration of a period or the occurrence of an event, such society applies to the registrar for registration as a terminating society, and its rules provide for the organization of the members of the society according to sections, for the separate administration of the affairs of each section or the joint administration of the affairs of all sections, and for the termination of each section upon the expiration of a fixed period or upon the occurrence of an event specified in the rules of the society.

(4) No person shall establish a building society without the written permission of the registrar, and the registrar shall not grant such permission unless he has satisfied himself that the establishment of such a society will be in the public interest.

(5) For the purposes of sub-section (4) the registrar may require the persons intending to establish a building society to furnish him with such particulars and information as he may deem necessary and may require such persons or any of them to appear before him in person to furnish any further particulars or information that he may require.

Registration of societies.

5. (1) An application for the registration of a building society shall be lodged with the registrar in the prescribed form as soon as practicable after the formation of the society.

(2) The application shall be accompanied by two copies of the rules agreed to by the founders for the government of the society and signed by them and the intended secretary.

(3) The rules shall be in one of the official languages of the Republic and either typewritten or duplicated or printed, and shall be signed in original by at least seven founders, and opposite every signature there shall appear in legible characters the full name, occupation and residential or business address of the subscriber and the number and type of shares he takes and the nominal value of such shares.

(4) The registrar shall, after consideration of such rules and such further information and arguments as may be submitted to him by such persons, determine whether according to its rules the society is or is not a building society.

(5) (a) If the registrar determines that the society is not a building society, he shall decline to register the society.

(b) Where the registrar determines that the society is a building society, he shall, upon payment to him of the prescribed fee, register the society provisionally under this Act as a building society, provided he is satisfied that its rules are in conformity with this Act and are financially sound, and that the methods of transacting the business of the society as laid down in the rules are not undesirable, and, in the case of a permanent society, that the requirements of section *nine* have been complied with, and shall after such registration return one copy of the rules, with his approval and the date of such registration of the society endorsed thereon, to the intended secretary of the society.

HOOFSTUK II.

OPRIGTING EN REGISTRASIE VAN VERENIGINGS.

4. (1) 'n Bouvereniging kan opgerig word deur sewe of meer persone (hieronder die oprigters genoem) wat die statute deur hulle vir die bestuur van die vereniging aanvaar, onderteken nadat dié statute in konsepvorm aan die registrateur voorgelê is en hy dit voorlopig goedgekeur het. **Oprigting van 'n vereniging.**

(2) 'n Bouvereniging kan—

(a) òf 'n permanente vereniging wees, te wete, 'n vereniging wat nie deur sy statute gebonde is om by verstryking van 'n vasgestelde tydperk of wanneer 'n in die statute vermelde gebeurtenis plaasvind ten einde te loop nie;

(b) òf 'n tydelike vereniging wees, te wete, 'n vereniging wat volgens sy statute by verstryking van 'n vasgestelde tydperk of wanneer 'n in die statute vermelde gebeurtenis plaasvind ten einde loop.

(3) By die toepassing van hierdie Wet word 'n vereniging geag 'n tydelike vereniging te wees al is die vereniging nie deur sy statute gebonde om by verstryking van 'n vasgestelde tydperk of wanneer 'n gebeurtenis plaasvind ten einde te loop nie, indien die vereniging by die registrateur om registrasie as 'n tydelike vereniging aansoek doen en sy statute bepaal dat sy lede volgens afdelings georganiseer word, dat die sake van elke afdeling afsonderlik of van al die afdelings gesamentlik bestuur word, en dat elke afdeling ten einde loop by verstryking van 'n vasgestelde tydperk of wanneer 'n in die statute van die vereniging vermelde gebeurtenis plaasvind.

(4) Niemand mag sonder die skriftelike toestemming van die registrateur 'n bouvereniging oprig nie, en die registrateur verleen nie sodanige toestemming nie tensy hy hom daarvan oortuig het dat die oprigting van so 'n vereniging in die openbare belang sal wees.

(5) By die toepassing van sub-artikel (4) kan die registrateur die persone wat voornemens is om 'n bouvereniging op te rig, aansê om aan hom die besonderhede en inligting te verstrek wat hy nodig ag, en kan hy bedoelde persone of enigeen van hulle aansê om persoonlik voor hom te verskyn ten einde verdere besonderhede of inligting te verstrek wat deur hom vereis word.

5. (1) 'n Aansoek om registrasie van 'n bouvereniging word so gou doenlik na die oprigting van die vereniging, in die voorgeskrewe vorm by die registrateur ingedien. **Registrasie van verenigings.**

(2) Die aansoek moet vergesel gaan van twee afskrifte van die statute deur die oprigters vir die bestuur van die vereniging aanvaar en deur hulle en die voorgename sekretaris onderteken.

(3) Die statute moet in een van die amptelike tale van die Republiek en òf getik òf gedupliseer òf gedruk wees en die oorspronklike eksemplaar moet deur minstens sewe oprigters onderteken wees, en teenoor elke handtekening moet die volle naam, beroep en woon- of besigheidsadres van die ondertekenaar en die getal en soort aandele wat hy neem en die nominale waarde van daardie aandele in leesbare skrif aangegee word.

(4) Na oorweging van bedoelde statute en die verdere inligting en argumente deur die betrokke persone aan hom voorgelê, beslis die registrateur of die vereniging volgens sy statute 'n bouvereniging is al dan nie.

(5) (a) Indien die registrateur beslis dat die vereniging nie 'n bouvereniging is nie, weier hy om die vereniging te registreer.

(b) Waar die registrateur beslis dat die vereniging 'n bouvereniging is, registreer hy, by betaling aan hom van die voorgeskrewe gelde, die vereniging voorlopig ingevolge hierdie Wet as 'n bouvereniging, mits hy oortuig is dat die statute van die vereniging aan die vereistes van hierdie Wet voldoen en uit 'n geldelike oogpunt gesond is, en dat die wyse waarop die vereniging volgens die statute sake gaan doen, nie ongewens is nie, en, in die geval van 'n permanente vereniging, dat aan die voorskrifte van artikel nege voldoen is, en stuur hy na sodanige registrasie een afskrif van die statute, met sy goedkeuring en die datum van sodanige registrasie van die vereniging daarop aangeteken, aan die voorgename sekretaris van die vereniging terug.

(c) The registrar shall when registering any society record whether the society is registered as a permanent society or as a terminating society.

(6) The certificate of provisional registration of a society shall be valid for a period of twelve months from the date of issue thereof, but the registrar may at any time before the expiry of such period or any extended period, in his discretion and subject to such conditions or limitations, not inconsistent with this Act, as he may deem desirable to impose, extend the period of validity of such certificate from time to time for further periods of twelve months each up to a maximum of seven years in all.

(7) No society shall be registered initially otherwise than provisionally, but if the registrar is at any time while a society is provisionally registered satisfied that the society is in a financially sound condition and that the methods of transacting the business of the society are not undesirable, he shall register the society finally under this Act and issue to the society a certificate of final registration indicating whether it is registered as a permanent or a terminating society, and thereupon the society shall cease to be provisionally registered.

(8) If after the expiry of the period of seven years referred to in sub-section (6) the society is unable to qualify for final registration, it shall forthwith cease to carry on the business of a building society and the board shall, subject to the provisions of this Act, arrange either for the transfer of the assets and liabilities of the society to another society or for the voluntary winding-up of the society.

(9) Any person who in connection with an application for registration or the renewal or extension of a provisional registration of a society makes any false statement knowing it to be false, shall be guilty of an offence and liable on conviction to the penalties applicable in respect of the crime of fraud or falsitas.

(10) A building society which immediately prior to the commencement of this Act was finally or provisionally registered as a building society in terms of the Building Societies Act, 1934, (Act No. 62 of 1934), shall be deemed to have been duly so registered under this Act.

Registered building society to be body corporate.

6. (1) A society shall be a body corporate capable of suing and being sued in its registered name, of acquiring, owning, hiring, letting and alienating property and, subject to the provisions of this Act, of doing all such things as may be necessary for or incidental to the exercise of its powers or the performance of its functions in terms of its rules.

(2) (a) Whenever an association which is registered under the Companies Act, 1926 (Act No. 46 of 1926), or under the Companies Ordinance, 1928 (Ordinance No. 19 of 1928), of the Territory, is registered under this Act, the registrar shall notify the registrar of companies in writing of such registration, and upon receipt by the registrar of companies of such notice he shall remove the name of such association from the register of companies.

(b) For the purposes of this sub-section, the expression "registrar of companies", in relation to an association which is registered under the Companies Ordinance, 1928, of the Territory, means the registrar of companies appointed in terms of section *three* of the said Ordinance.

Name of society.

7. (1) A society shall not be registered as a building society under a name under which any other society is registered or was at any time registered as a building society under this Act or under the Building Societies Act, 1934 (Act No. 62 of 1934), or under a name so nearly resembling such name that the one society is likely to be mistaken for the other.

(2) The registrar may refuse to register a society under a name which in his opinion is calculated to mislead the public.

- (c) Die registrateur moet, wanneer hy 'n vereniging registreer, aanteken of die vereniging as 'n permanente vereniging dan wel as 'n tydelike vereniging geregistreer word.

(6) Die sertifikaat van voorlopige registrasie van 'n vereniging is geldig vir 'n tydperk van twaalf maande vanaf die datum van uitreiking, maar die registrateur kan te eniger tyd voor die verstryking van bedoelde tydperk of enige verlengde tydperk, na goeddunke en onderworpe aan die voorwaardes of beperkings wat nie met hierdie Wet strydig is nie en wat hy wenslik ag om op te lê, die geldigheidsduur van so 'n sertifikaat van tyd tot tyd vir verdere tydperke van twaalf maande elk tot 'n maksimum van sewe jaar in die geheel verleng.

(7) Geen vereniging word aanvanklik anders as voorlopig geregistreer nie, maar indien die registrateur te eniger tyd terwyl 'n vereniging voorlopig geregistreer is, oortuig is dat die vereniging wat sy geldsake betref in 'n gesonde toestand verkeer en dat die wyse waarop die vereniging sake doen, nie ongewens is nie, registreer hy die vereniging finaal kragtens hierdie Wet en reik hy aan die vereniging 'n finale registrasiesertifikaat uit waarin aangedui word of dit as 'n permanente of 'n tydelike vereniging geregistreer is, en daarop is die vereniging nie meer voorlopig geregistreer nie.

(8) Indien die vereniging na verstryking van die in sub-artikel (6) bedoelde tydperk van sewe jaar nie aan die vereistes vir finale registrasie kan voldoen nie, moet hy onmiddellik ophou om as 'n bouvereniging sake te doen en moet die raad met inagneming van die bepalings van hierdie Wet reëlings tref of vir die oordrag van die bates en laste van die vereniging aan 'n ander vereniging of vir die vrywillige likwidasie van die vereniging.

(9) Iemand wat in verband met 'n aansoek om registrasie of die hernuwing of verlenging van 'n voorlopige registrasie van 'n vereniging 'n valse verklaring doen met die wete dat dit vals is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat vir die misdaad van bedrog of falsitas geld.

(10) 'n Bouvereniging wat onmiddellik voor die inwerking-treding van hierdie Wet voorlopig of finaal ingevolge die Bouverenigingswet, 1934 (Wet No. 62 van 1934), as 'n bouvereniging geregistreer was, word geag behoorlik aldus geregistreer te wees ingevolge hierdie Wet.

6. (1) 'n Vereniging is 'n regspersoon wat bevoeg is om in sy geregistreeerde naam as eiser of verweerder in regte op te tree, om eiendom te verkry, te besit, te huur, te verhuur en te vervreem, en om onderworpe aan die bepalings van hierdie Wet alle dinge te doen wat vir die uitoefening van sy bevoegdhede of die uitvoering van sy werksaamhede ingevolge sy statute nodig is of daarmee in verband staan.

Geregistreeerde
bouvereniging
is 'n regspersoon.

(2) (a) Wanneer 'n assosiasie wat kragtens die Maatskappywet, 1926 (Wet No. 46 van 1926), of kragtens die Maatskappy Ordonnansie, 1928 (Ordonnansie No. 19 van 1928), van die Gebied, geregistreer is, kragtens hierdie Wet geregistreer word, stel die registrateur die registrateur van maatskappye skriftelik van die registrasie in kennis, en by ontvangs van bedoelde kennisgewing deur die registrateur van maatskappye skrap hy die naam van die assosiasie uit die register van maatskappye.

(b) By die toepassing van hierdie sub-artikel beteken die uitdrukking „registrateur van maatskappye”, met betrekking tot 'n assosiasie wat kragtens die Maatskappy Ordonnansie, 1928, van die Gebied, geregistreer is, die registrateur van maatskappye ingevolge artikel drie van daardie Ordonnansie aangestel.

7. (1) 'n Vereniging word nie as 'n bouvereniging geregistreer onder 'n naam waaronder 'n ander vereniging kragtens hierdie Wet of die Bouverenigingswet, 1934 (Wet No. 62 van 1934), as 'n bouvereniging geregistreer is of te eniger tyd geregistreer was nie, of onder 'n naam wat soveel met daardie naam ooreenkom dat die een vereniging waarskynlik met die ander verwar sal word nie.

Naam van
vereniging.

(2) Die registrateur kan weier om 'n vereniging te registreer onder 'n naam wat na sy oordeel daarop bereken is om die publiek te mislei.

(3) If a society through inadvertence or otherwise is registered in conflict with the provisions of sub-section (1) or (2), the registrar shall, upon becoming aware of the fact, in writing direct the society to change its name, and the provisions of sub-section (5) of section *ten* shall apply *mutatis mutandis* in respect of any such change of name.

(4) Any society which fails within sixty days of the date of a written direction from the registrar in terms of sub-section (3), or within such further period as he may in writing allow, or, in the case of a society which has within the said period or further period moved the court for an order setting aside the registrar's direction, within sixty days after a final decision upholding the registrar's direction, to change its name and to furnish the registrar with a suitable name to comply with such direction, shall be guilty of an offence.

(5) No society shall use or refer to itself by a name other than the name under which it is registered or an abbreviation thereof or a literal translation thereof into the other official language of the Republic approved by the registrar, but nothing in this sub-section shall be construed as prohibiting the use by any society in whose registered name the expression "building society", "permanent", "terminating", "mutual", "bouvereniging", "permanente", "tydelike" or "onderlinge" occurs, of a name which consists of its registered name modified by the substitution therein for the expression in question of the corresponding expression in the other official language of the Republic as used in this Act.

(6) The words "building society" shall form part of the name under which any society is registered, and if the society be a terminating society, the word "terminating" shall also form part of the name.

Certificate of registration to be conclusive.

8. A certificate of registration of a society issued by the registrar shall, in the absence of proof of fraud, upon its mere production be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with and that the society is a society duly registered under this Act.

Deposit of cash or securities to be made with Treasury.

9. (1) A permanent society shall not commence business unless it has deposited with the Treasury money or approved securities or both money and approved securities to the amount of twenty thousand rand or its paid-up share capital amounts to at least one hundred thousand rand, and any society which contravenes the provisions of this sub-section shall be guilty of an offence.

(2) Such deposit shall be subject to the following provisions, namely—

- (a) if money is deposited, the Treasury shall invest such money in approved securities, and such securities shall be deemed to be securities deposited by the society;
- (b) a society which makes a deposit shall, upon application, be entitled to obtain from the Treasury an annual certificate of the deposit so made;
- (c) a society which makes a deposit shall be entitled to receive the income from the securities deposited;
- (d) a society may substitute for any security deposited under this Act any equivalent approved security;
- (e) when the paid-up share capital of any such society amounts to one hundred thousand rand, the Treasury shall return to the society the securities deposited;
- (f) in all matters relating to deposits or to the value of securities deposited the decision of the Treasury shall be final;
- (g) all moneys and securities deposited under this section shall, subject to the provisions of this section, be and remain as a security for the payment of liabilities of the society in respect of shares in and deposits with the society, and shall not be liable for any other liabilities of the society until the liabilities of the society in respect of shares in and deposits with the society have been fulfilled;
- (h) securities deposited or deemed to have been deposited shall be valued at their market value in the manner provided in sub-section (4) of section *thirty-one*; and

(3) Indien 'n vereniging per abuis of andersins in stryd met die bepalings van sub-artikel (1) of (2) geregistreer word, moet die registrateur, wanneer daardie feit tot sy kennis kom, die vereniging skriftelik gelas om sy naam te verander, en die bepalings van sub-artikel (5) van artikel *tien* is *mutatis mutandis* ten opsigte van so 'n naamsverandering van toepassing.

(4) 'n Vereniging wat versuim om binne sestig dae na die datum van 'n skriftelike lasgewing van die registrateur ingevolge sub-artikel (3), of binne die verdere tydperk wat hy skriftelik toelaat, of, in die geval van 'n vereniging wat binne bedoelde tydperk of verdere tydperk by die hof aansoek gedoen het om 'n bevel waarby die registrateur se lasgewing tersyde gestel word, binne sestig dae na 'n finale beslissing waarby die registrateur se lasgewing gehandhaaf word, sy naam te verander en aan die registrateur 'n geskikte naam ter voldoening aan die lasgewing te verstrek, is aan 'n misdryf skuldig.

(5) Geen vereniging mag gebruik maak van of na homself verwys by 'n ander naam as die naam waaronder hy geregistreer is of 'n verkorting daarvan of 'n letterlike vertaling daarvan in die ander amptelike taal van die Republiek wat deur die registrateur goedgekeur is nie, maar die bepalings van hierdie sub-artikel word nie so uitgelê dat dit 'n vereniging in die geregistreerde naam waarvan die uitdrukking „bouvereniging”, „permanente”, „tydelike”, „onderlinge”, „building society”, „permanent”, „terminating” of „mutual” voorkom, belet om 'n naam te gebruik bestaande uit sy geregistreerde naam wat verander is deur bedoelde uitdrukking daarin deur die ooreenstemmende uitdrukking in die ander amptelike taal van die Republiek soos in hierdie Wet gebesig, te vervang nie.

(6) Die woord „bouvereniging” moet deel uitmaak van die naam waaronder 'n vereniging geregistreer word, en indien die vereniging 'n tydelike vereniging is, moet die woord „tydelike” ook deel van die naam uitmaak.

8. 'n Sertifikaat van registrasie van 'n vereniging deur die registrateur uitgereik, is by ontstentenis van bewys van bedrog, bloot by vertoning daarvan afdoende bewys dat aan al die vereistes van hierdie Wet ten opsigte van registrasie en van sake wat dit voorafgaan en daarmee in verband staan, voldoen is en dat die vereniging 'n behoorlik kragtens hierdie Wet geregistreerde vereniging is.

Sertifikaat
van registrasie
is afdoende.

9. (1) 'n Permanente vereniging begin nie sake doen nie tensy hy geld of goedgekeurde effekte of sowel geld as goedgekeurde effekte tot die bedrag van twintigduisend rand by die Tesourie gedeponeer het of sy opbetaalde aandeelkapitaal minstens honderdduisend rand bedra, en 'n vereniging wat die bepalings van hierdie sub-artikel oortree, is aan 'n misdryf skuldig.

Kontant of
sekuriteite moet
by Tesourie
gedeponeer word.

(2) So 'n deposito is onderworpe aan die volgende bepalings, te wete—

- (a) indien geld gedeponeer word, belê die Tesourie dié geld in goedgekeurde effekte en word bedoelde effekte geag effekte te wees wat die vereniging gedeponeer het;
- (b) 'n vereniging wat 'n deposito stort, is op aansoek geregtig om van die Tesourie 'n jaarlikse sertifikaat te verkry dat die deposito aldus gestort is;
- (c) 'n vereniging wat 'n deposito stort, is geregtig om die inkomste van die gedeponeerde effekte te ontvang;
- (d) 'n vereniging kan effekte ooreenkomstig hierdie Wet gedeponeer, deur gelykwaardige goedgekeurde effekte vervang;
- (e) wanneer die opbetaalde aandeelkapitaal van so 'n vereniging honderdduisend rand bedra, stuur die Tesourie die gedeponeerde effekte aan die vereniging terug;
- (f) in alle sake rakende deposito's of die waarde van gedeponeerde effekte is die Tesourie se beslissing afdoende;
- (g) alle gelde en effekte ooreenkomstig hierdie artikel gedeponeer, dien en bly behoudens die bepalings van hierdie artikel as sekerheid vir die betaling van skulde van die vereniging ten opsigte van aandele in en deposito's by die vereniging, en is nie vir ander verpligtings van die vereniging beskikbaar voordat die skulde van die vereniging ten opsigte van aandele in en deposito's by die vereniging vereffen is nie;
- (h) effekte wat gedeponeer is of geag word te wees, word teen hul markwaarde gewaardeer op die wyse in sub-artikel (4) van artikel *een-en-dertig* bepaal; en

- (i) if at any time the value of the securities falls short of the amount mentioned in sub-section (1), the Treasury shall by notice in writing call upon the society to make good the deficiency by a further deposit of money or approved securities or of both money and approved securities, at the option of the society, and the society shall comply with the said notice within a period of thirty days from the date of the notice by the Treasury.

Registrar may require association of persons to furnish information.

10. (1) The registrar may at any time by notice in writing require any association of persons, whether or not it is registered under any law relating to companies, and whether incorporated or not, which is not registered under this Act, and which he has reason to suspect is a building society, to transmit to him within a period stated in such notice, or within such further period as the registrar may allow, one copy of its rules duly certified as such by two of the directors and the secretary of the association, together with one set of copies of the last annual accounts of the association certified by its auditors, such copies of its previous annual accounts so certified and such further particulars of and information regarding the association as the registrar may require.

(2) For the purpose of this section "rules" means any act, charter, deed of settlement, memorandum of association or other document by which the association is constituted and the articles of association or other document relating to the conduct of the business of the association.

(3) The registrar may require the persons managing the affairs of such association or any of them to appear before him in person for interrogation and may at any time make or cause to be made such inspection of its books, accounts and records as he may consider necessary for the purpose of establishing whether the association is a building society or not.

(4) If the registrar requires such association to be registered as a building society under this Act—

- (a) all assets belonging to or held in trust for the existing association shall upon such registration vest in the society as registered without transfer or cession; and
- (b) the society as registered shall assume all liabilities of the existing association:

Provided that such registration shall in no way deprive any creditor of the existing association who at the date of registration was not a member of the association, of any right or remedy which he had immediately prior to such registration against the existing association or any member or officer thereof.

(5) Whenever in accordance with the provisions of this section an association is registered as a building society under a name other than that by which it has been known, the officer in charge of a deeds registry or other office in which is registered any deed or other document relating to any asset or right which in terms of sub-section (4) devolves upon the society, shall upon production to him by the society of its certificate of registration and the deed or other document aforesaid, without payment of transfer duty, stamp duty, registration fees or charges, make any endorsements upon such deed or document and any entries in his registers that may be necessary by reason of the change of name.

(6) From the date of such registration, no person shall, notwithstanding anything contained in the rules of the association in force prior to such registration or in any agreement entered into by the association prior to such registration, be deemed to be a member of the society unless he holds shares in the society, and the rights and privileges of every member of the society shall be determined in accordance with the provisions of this Act and the rules of the society as approved under this Act.

(7) The provisions of section five shall *mutatis mutandis* apply to any such association.

Cancellation and suspension of registration.

11. (1) If a society has been registered on the strength of any false or incorrect statement or the registrar has reasonable grounds for believing that a society exists for an illegal purpose or has wilfully and after notice from the registrar violated any provision of this Act applicable to it, or if a society has been convicted of any offence under this Act or does not carry on satisfactorily the business of a building society or misrepresents

- (i) indien die waarde van die effekte te eniger tyd minder bedra as die bedrag in sub-artikel (1) genoem, moet die Tesourie die vereniging by skriftelike kennisgewing aansê om die tekort aan te vul deur 'n verdere deposito van geld of goedgekeurde effekte of sowel geld as goedgekeurde effekte, volgens die keuse van die vereniging, en die vereniging moet binne 'n tydperk van dertig dae vanaf die datum van die kennisgewing van die Tesourie daaraan voldoen.

10. (1) Die registrateur kan 'n assosiasie van persone, ongeag of hy kragtens 'n wet op maatskappye geregistreer is en ongeag of hy 'n regspersoon is, al dan nie, wat nie kragtens hierdie Wet geregistreer is nie en wat na sy redelike vermoede 'n bouvereniging is, te eniger tyd by skriftelike kennisgewing aansê om binne 'n tydperk in die kennisgewing vermeld, of binne die verdere tydperk wat die registrateur toelaat, een afskrif van sy statute wat behoorlik as sodanig deur twee van die direkteure en die sekretaris van die assosiasie gesertifiseer is, tesame met een stel afskrifte van die jongste jaarlikse rekenings van die assosiasie gesertifiseer deur sy ouditeure, sodanige afskrifte van sy vorige jaarlikse rekenings wat aldus gesertifiseer is en sodanige verdere besonderhede en inligting omtrent die assosiasie as wat die registrateur vereis, aan hom te stuur.

Registrateur kan van assosiasie van persone inligting eis.

(2) By die toepassing van hierdie artikel beteken „statute” enige akte, oktrooi, beskikkingsakte, akte van oprigting of ander dokument waardeur die assosiasie opgerig is en die statute of ander dokument met betrekking tot die bestuur van die besigheid van die assosiasie.

(3) Die registrateur kan die persone wat die sake van bedoelde assosiasie bestuur of enigeen van hulle aansê om persoonlik vir ondervraging voor hom te verskyn en kan te eniger tyd die ondersoek van sy boeke, rekenings en stukke doen of laat doen wat hy nodig ag ten einde vas te stel of die assosiasie 'n bouvereniging is al dan nie.

(4) Indien die registrateur vereis dat bedoelde assosiasie as 'n bouvereniging kragtens hierdie Wet geregistreer moet word—

- (a) gaan alle bates wat aan die bestaande assosiasie behoort of in trust vir hom gehou word, by sodanige registrasie sonder oordrag of sessie oor op die vereniging soos geregistreer; en

- (b) aanvaar die vereniging soos geregistreer alle verpligtings hoegenaamd van die bestaande assosiasie:

Met dien verstande dat sodanige registrasie op generlei wyse 'n skuldeiser van die bestaande assosiasie wat op die datum van registrasie nie 'n lid van die assosiasie was nie, enige reg of regsmiddel ontnem wat hy onmiddellik voor sodanige registrasie teen die bestaande assosiasie of enige lid of amptenaar daarvan gehad het nie.

(5) Wanneer 'n assosiasie ooreenkomstig die bepalings van hierdie artikel as 'n bouvereniging geregistreer word onder 'n ander naam as dié waaronder hy bekend gestaan het, moet die amptenaar in beheer van 'n registrasiekantoor van aktes of ander kantoor waarin 'n akte of ander dokument geregistreer is wat betrekking het op 'n bate of reg wat ingevolge sub-artikel (4) op die vereniging oorgaan, by oorlegging aan hom deur die vereniging van sy registrasiesertifikaat en bedoelde akte of ander dokument, sonder betaling van herereg, seëlreg, registrasiegelde of -koste, die endossemente op bedoelde akte of dokument en die inskrywings in sy registers aanbring wat as gevolg van die verandering van naam nodig is.

(6) Ondanks enigiets vervat in die statute van die assosiasie wat voor sodanige registrasie van krag was of in enige ooreenkoms voor sodanige registrasie deur die assosiasie aangegaan, word niemand vanaf die datum van sodanige registrasie geag lid van die vereniging te wees nie tensy hy aandele in die vereniging besit, en word die regte en voorregte van elke lid van die vereniging bepaal ooreenkomstig die bepalings van hierdie Wet en die statute van die vereniging soos kragtens hierdie Wet goedgekeur.

(7) Die bepalings van artikel vyf is *mutatis mutandis* op so 'n assosiasie van toepassing.

11. (1) Indien 'n vereniging op grond van 'n valse of onjuiste verklaring geregistreer is, of die registrateur redelike gronde het om te vermoed dat 'n vereniging vir 'n onwettige doel bestaan of opsetlik en na kennisgewing van die registrateur 'n op hom toepaslike bepaling van hierdie Wet oortree het, of indien 'n vereniging aan 'n misdryf ingevolge hierdie Wet skuldig bevind is of nie op bevredigende wyse as 'n bouvereniging sake doen nie of hom skuldig maak aan wanvoorstelling

Intrekking en opskorting van registrasie.

the facilities which it offers to its members or to the public, the registrar may apply to the court for the cancellation or suspension of the registration of the society, or may, where any person has been convicted of fraud or falsitas under sub-section (9) of section *five* by reason of the fact that he made a false statement on the strength whereof the society was registered, himself cancel the registration or suspend it on such conditions as he may think fit to impose.

(2) The registrar shall before making any such application give to the society not less than twenty-one days' previous notice in writing of his intention to make the application, specifying briefly the grounds of the proposed application.

(3) The court may on any such application cancel the registration of the society or suspend such registration for such period as it thinks fit, and may attach to such cancellation or suspension such conditions as it thinks desirable or may make any other order which in the circumstances it thinks desirable.

(4) Unless the court otherwise orders, the costs of the registrar in or in connection with any such application shall be paid by the society and shall be a first charge upon the assets of the society.

(5) The registrar shall cancel the registration of a society—

- (a) on proof to his satisfaction that the society has ceased to exist; or
- (b) if the registrar and the society are agreed that the society was registered by mistake in circumstances not amounting to fraud.

(6) The registrar shall as soon as practicable after the cancellation or suspension of the registration of any society under sub-section (3), cause notice to that effect to be published in the *Gazette*, and in one Afrikaans and one English newspaper circulating in the district in which the head office of the society is situated.

(7) A society whose registration has been cancelled or suspended shall from the time of such cancellation or suspension (but in case of suspension only while the suspension lasts) be deemed to be a society not registered under this Act and shall cease to enjoy the privileges of a registered society.

(8) The cancellation or suspension of the registration of a society shall be without prejudice to any right acquired by any person against the society before the publication in the *Gazette* of the notice referred to in sub-section (6), and any such right may be enforced as if such cancellation or suspension had not taken place.

CHAPTER III.

ADMINISTRATION OF SOCIETIES.

Matters to be
set forth in rules.

12. (1) The rules of a society shall set forth—
- (a) the name of the society and the situation of its head office;
 - (b) the principal objects of the society;
 - (c) the manner in which the funds of the society are to be raised, the purposes to which they are to be applied and the manner in which surplus funds are to be invested;
 - (d) the manner in which membership is to be acquired and to cease;
 - (e) the types of shares to be issued, the conditions of redemption or repayment thereof and the preferential and other special rights attaching thereto;
 - (f) the manner in which advances upon the security of the mortgage of immovable property are to be made and repaid;
 - (g) whether the society intends to accept deposits and to borrow money other than by way of deposit, and, if deposits are to be accepted, the conditions of acceptance and repayment;
 - (h) the fees, fines and charges that may be demanded from or imposed upon shareholders, depositors and borrowers;
 - (i) the manner of making an annual or more frequent audit of the accounts, and the inspection by the auditors of the mortgage bonds and other securities belonging to the society;
 - (j) the manner in which profits or losses are to be ascertained and dealt with or provided for;

wat betref die fasiliteite wat hy aan sy lede of aan die publiek aanbied, kan die registrateur by die hof om die intrekking of opskorting van die registrasie van die vereniging aansoek doen, of kan hy, waar iemand ingevolge sub-artikel (9) van artikel vyf aan bedrog of falsitas skuldig bevind is weens 'n valse verklaring wat hy gedoen het en op grond waarvan die vereniging geregistreer is, self die registrasie intrek of opskort op die voorwaardes wat hy goedgevind om op te lê.

(2) Die registrateur moet voordat hy so 'n aansoek doen, die vereniging minstens een-en-twintig dae vooraf skriftelik kennis gee van sy voorneme om die aansoek te doen en die gronde van die voorgename aansoek kortliks in die kennisgewing uiteensit.

(3) Die hof kan by so 'n aansoek die registrasie van die vereniging intrek of sodanige registrasie opskort vir 'n tydperk wat hy goedgevind, en kan aan so 'n intrekking of opskorting die voorwaardes heg wat hy wenslik ag of enige ander bevel uitvaardig wat hy onder die omstandighede wenslik ag.

(4) Tensy die hof anders beveel, word die koste van die registrateur by of in verband met so 'n aansoek betaal deur die vereniging en is dit 'n preferente vordering teen die bates van die vereniging.

(5) Die registrateur trek die registrasie van 'n vereniging in—

(a) by bewys tot sy bevrediging dat die vereniging nie meer bestaan nie; of

(b) indien die registrateur en die vereniging dit eens is dat die vereniging per abuis geregistreer is onder omstandighede wat nie op bedrog neerkom nie.

(6) Die registrateur laat so spoedig doenlik nadat die registrasie van 'n vereniging kragtens sub-artikel (3) ingetrek of opgeskort is, 'n kennisgewing te dien effekte publiseer in die *Staatskoerant* en in een Afrikaanse en een Engelse nuusblad in omloop in die distrik waarin die hoofkantoor van die vereniging geleë is.

(7) 'n Vereniging waarvan die registrasie ingetrek of opgeskort is, word vanaf die tydstop van die intrekking of opskorting (maar in die geval van opskorting slegs solank die opskorting duur) geag 'n vereniging te wees wat nie ingevolge hierdie Wet geregistreer is nie, en geniet dan nie meer die voorregte van 'n geregistreerde vereniging nie.

(8) Die intrekking of opskorting van die registrasie van 'n vereniging doen geen afbreuk aan enige reg wat iemand voor die publikasie in die *Staatskoerant* van die in sub-artikel (6) bedoelde kennisgewing teen die vereniging verkry het nie, en so 'n reg kan uitgeoefen word asof die intrekking of opskorting nie plaasgevind het nie.

HOOFTUK III.

ADMINISTRASIE VAN VERENIGINGS.

12. (1) Die statute van 'n vereniging moet die volgende Aangeleenthede vermeld, te wete— wat in die statute uiteengesit moet word.

(a) die naam van die vereniging en waar sy hoofkantoor geleë is;

(b) die vernaamste doelstellings van die vereniging;

(c) die wyse waarop die fondse van die vereniging verkry moet word, die doeleindes waarvoor dit aangewend moet word en die wyse waarop surplusfondse belê moet word;

(d) die wyse waarop lidmaatskap verkry en beëindig moet word;

(e) die soorte aandele wat uitgereik moet word, die voorwaardes van aflossing of terugbetaling daarvan, en die preferente en ander spesiale regte daaraan verbonde;

(f) die wyse waarop voorskotte teen sekerheid van verband op vaste eiendom verleen en terugbetaal moet word;

(g) of die vereniging voornemens is om deposito's te ontvang en geld te leen behalwe by wyse van deposito, en, indien deposito's aangeneem gaan word, die voorwaardes van aanname en terugbetaling;

(h) die leges, boetes en vorderings wat van aandeelhouders, deposante en leners gevorder of hulle opgelê kan word;

(i) die wyse waarop jaarliks of meer dikwels 'n oudit van die rekenings moet geskied, en inspeksie deur die ouditeure van die verbande en ander sekuriteite van die vereniging;

(j) die wyse waarop winste of verliese vasgestel en daarmee gehandel of daarvoor voorsiening gemaak moet word:

- (k) the manner of altering and rescinding the rules of the society and of making additional rules;
- (l) the manner of electing, appointing, removing and fixing the remuneration of directors, and their qualifications, powers and duties, and the manner of appointing, removing and fixing the remuneration of members of local boards or committees and officers of the society;
- (m) the manner of calling the annual general meeting and special general meetings of members, the quorum necessary for the transaction of business at such meetings, and the manner of voting thereat;
- (n) whether disputes between the society and any of its members, or between the society and any persons claiming under the rules or whose claims are derived from members, shall be settled by the court or by arbitration;
- (o) how contracts or other documents binding the society shall be executed;
- (p) how custody shall be kept of the mortgage bonds, title deeds and other securities belonging to or held by the society;
- (q) subject to the provisions of this Act, the manner in which the society shall be terminated or wound up;
- (r) the manner in which any amalgamation or transfer of assets and liabilities to or from another society shall be effected; and
- (s) such other matters as the registrar may approve.

(2) The provisions of sub-section (1) may be modified by the registrar in their application to terminating societies, having regard to the nature of the business transacted by such societies.

(3) A terminating society shall not include in its rules the power—

- (a) to accept deposits; or
- (b) to borrow money, except by one section from another section of the society; or
- (c) to issue shares other than shares subscribed for by periodical contributions of fixed amount and ranking *pari passu* in all respects; or
- (d) to make any investment referred to in paragraph (a) of sub-section (1) of section *twenty-two*, unless it has obtained the prior written consent of the registrar.

Amendment of rules.

13. (1) A society may in the manner directed by its rules alter or rescind any rule or make any additional rule, but no such alteration, rescission or addition shall be valid—

- (a) if it purports to affect any right of a creditor of the society who is not a member thereof; or
- (b) if it is directed against any particular individual; or
- (c) if it purports to alter the rights of members in a winding-up.

(2) Within fourteen days from the date of passing a resolution for the alteration or rescission of any rule or the making of any additional rule, two copies of such resolution shall be transmitted by the secretary of the society to the registrar together with a certificate signed by the chairman of the board and the secretary of the society that the provisions of the rules of the society governing the alteration or rescission of or addition to any rule have been complied with.

(3) If the registrar finds that such alteration, rescission or addition is in conformity with this Act, and is satisfied that it is financially sound and that the methods of transacting the business of the society as laid down therein are not undesirable, he shall register the resolution and return one of the copies to the secretary of the society with the date of registration endorsed thereon, and any such alteration, rescission or addition shall take effect as from the date of the registration.

Registrar may require revision of rules.

14. (1) Notwithstanding anything contained in this Act, and subject to the limitations laid down in sub-section (1) of section *thirteen*, the registrar may at any time require any society to effect such amendments to its rules not in conflict with the provisions of this Act as he may deem desirable in order to remove anomalies or undesirable divergencies in the rules of

- (k) die wyse waarop die statute van die vereniging gewysig en herroep en aanvullende statute gemaak kan word;
 - (l) die wyse van verkiesing, aanstelling, ontslag en vasstelling van die besoldiging van direkteure, en hulle kwalifikasies, bevoegdhede en pligte, en die wyse van aanstelling, ontslag en vasstelling van die besoldiging van lede van plaaslike rade of komitees en amptenare van die vereniging;
 - (m) die wyse waarop die jaarlikse algemene vergadering en buitengewone algemene vergaderings van lede belê moet word, die kworum wat vir die afhandeling van werksaamhede op sodanige vergaderings nodig is en die wyse waarop aldaar gestem word;
 - (n) of geskille tussen die vereniging en enige van sy lede, of tussen die vereniging en persone wat uit hoofde van die statute of van lede verkreeë vorderings het, deur die hof of by arbitrasie besleg moet word;
 - (o) hoe kontrakte of ander stukke wat die vereniging bind, verly moet word;
 - (p) hoe die verbande, titelbewyse en ander sekuriteite wat aan die vereniging behoort of deur hom gehou word, bewaar moet word;
 - (q) behoudens die bepalings van hierdie Wet, die wyse waarop die vereniging ten einde loop of gelikwedeer moet word;
 - (r) die wyse waarop enige samesmelting of oordrag van bates en laste na of van 'n ander vereniging teweeggebring moet word; en
 - (s) die ander aangeleenthede wat die registrateur goedkeur.
- (2) Die bepalings van sub-artikel (1) kan by die toepassing daarvan op tydelike verenigings, deur die registrateur gewysig word met inagneming van die aard van die besigheid wat deur die betrokke verenigings gedoen word.
- (3) 'n Tydelike vereniging sluit nie in sy statute die bevoegdheid in—
- (a) om deposito's te ontvang nie; of
 - (b) om geld te leen nie, behalwe deur een afdeling van 'n ander afdeling van die vereniging; of
 - (c) om ander aandele uit te reik as aandele waarvoor deur periodieke bydraes van 'n vasgestelde bedrag ingeskryf word, en wat in alle opsigte *pari passu* gelykgeregig is nie; of
 - (d) om enige in paragraaf (a) van sub-artikel (1) van artikel twee-en-twintig bedoelde belegging te maak nie, tensy hy vooraf skriftelike toestemming van die registrateur verkry het.

13. (1) 'n Vereniging kan op die in sy statute voorgeskrewe wysig van wysig enige van sy statute wysig of herroep of sy statute aanvul, statute. maar so 'n wysiging, herroeping of aanvulling is nie geldig nie—

- (a) indien dit inbreuk heet te maak op 'n reg van 'n skuldeiser van die vereniging wat nie 'n lid daarvan is nie; of
 - (b) indien dit teen 'n besondere persoon gerig is; of
 - (c) indien dit die regte van lede by likwidasië heet te wysig.
- (2) Binne veertien dae vanaf die datum van aanname van 'n besluit waarby 'n statuut gewysig of herroep of 'n aanvullende statuut gemaak word, moet twee afskrifte van dié besluit deur die sekretaris van die vereniging aan die registrateur gestuur word tesame met 'n sertifikaat onderteken deur die voorsitter van die raad en die sekretaris van die vereniging ten effekte dat daar aan die voorskrifte van die statute van die vereniging betreffende die wysiging of herroeping of aanvulling van 'n statuut voldoen is.
- (3) Indien die registrateur bevind dat die wysiging, herroeping of aanvulling aan die voorskrifte van hierdie Wet voldoen, en oortuig is dat dit uit 'n geldelike oogpunt gesond is en dat die wyse waarop die vereniging sake doen soos daarin bepaal, nie ongewens is nie, moet hy die besluit registreer en een van die afskrifte met die datum van registrasie daarop aangeteken aan die sekretaris van die vereniging terugstuur, en so 'n wysiging, herroeping of aanvulling is vanaf die datum van die registrasie van krag.

14. (1) Ondanks enigiets in hierdie Wet vervat, en behoudens die beperkings in sub-artikel (1) van artikel dertien voorgeskryf, kan die registrateur te eniger tyd 'n vereniging aansê om die wysigings wat nie met die bepalings van hierdie Wet strydig is nie, aan sy statute aan te bring wat die registrateur wenslik ag ten einde ongerymdhede of ongewenste afwykings in die statute van verskillende verenigings te verwyder, en die raad van so 'n

Registrateur kan hersiening van statute vereis.

different societies, and the board of such society shall thereupon submit the proposed amendments to its members at or before the next annual general meeting of the society and notify the registrar of the decision thereon not more than fourteen days thereafter.

(2) If adoption of the proposed amendments is decided upon, the provisions of sub-section (2) of section *thirteen* shall *mutatis mutandis* apply.

Model rules.

15. (1) The Minister may by notice in the *Gazette* prescribe model rules not inconsistent with this Act for the government of a society.

(2) Any society which it is proposed to register under this Act may adopt as its rules all or any of the model rules so prescribed and in force at the time.

(3) Upon registration of a society any model rules so prescribed and in force at the time shall, in so far as they are not inconsistent with and are not excluded or modified by the rules tendered for registration, be deemed to form part of the rules of that society in the same manner and to the same extent as if they were contained in the rules so tendered.

(4) No alteration of or addition to or rescission of the model rules shall apply to any society registered prior to the date of the publication in the *Gazette* of the notice containing such alteration, addition or rescission unless the alteration, addition or rescission is adopted by the society in general meeting in accordance with the provisions of section *thirteen*.

Binding force of rules.

16. (1) The rules of a society shall when registered be binding upon the society and the members and officers thereof, and upon all persons claiming under the rules or whose claims are derived from a member.

(2) Any officer of a society who knowingly and wilfully commits or concurs in the commission of any breach of the rules of the society shall be guilty of an offence.

(3) A society shall make available for inspection by members of the public during the normal business hours of the society a copy of its rules.

(4) Any member shall be entitled upon request to obtain from the society free of charge a copy of the rules of the society, and every depositor shall similarly be entitled to extracts from such of the rules as relate to deposits.

Election or appointment of directors.

17. (1) The business of a society shall be managed by a board of directors.

(2) A director shall be elected for a period not exceeding three years but shall be eligible for re-election upon the termination of any period for which he has been elected.

(3) Whenever a casual vacancy occurs on the board of a society, the remaining directors may appoint a person to fill the vacancy until the next annual general meeting, and the person elected at that meeting shall fill the vacancy for the unexpired period of office of the vacating director.

(4) Save as provided in sub-section (3), vacancies on the board of a society shall be filled at the annual general meeting by election by a majority of the members voting in accordance with the rules.

(5) A society shall within fourteen days of the appointment under sub-section (3) or the election under sub-section (4) of a director, send to the registrar a notice of the appointment or election signed by the director appointed or elected and by the secretary of the society.

(6) A society shall with the notice referred to in sub-section (5) furnish the registrar with the name and address of each of its directors and the date upon which the period of office of such director is normally due to expire.

(7) If the remaining directors fail to fill a casual vacancy in accordance with sub-section (3) or the members of the society assembled in annual general meeting fail to fill any vacancy in accordance with sub-section (4), the registrar may in his discretion, and upon the submission to him of a sworn statement in writing made by any seven members and the secretary of the society or by two directors and the secretary of the society, setting forth the fact that such a failure has occurred, appoint a duly qualified member of the society to fill the vacancy until the next annual general meeting.

vereniging moet daarop die voorgestelde wysigings op of voor die volgende jaarlikse algemene vergadering van die vereniging aan sy lede voorlê en die registrateur binne hoogstens veertien dae daarna van die besluit daaromtrent in kennis stel.

(2) Indien op die aanname van die voorgestelde wysigings besluit word, is die bepalings van sub-artikel (2) van artikel *dertien mutatis mutandis* van toepassing.

15. (1) Die Minister kan by kennisgewing in die *Staatskoerant* Modelstatute. modelstatute wat nie met hierdie Wet strydig is nie vir die bestuur van 'n vereniging voorskryf.

(2) 'n Vereniging waarvan registrasie kragtens hierdie Wet beoog word, kan al die aldus voorgeskrewe modelstatute of enige daarvan wat dan van krag is, as sy statute aanneem.

(3) By die registrasie van 'n vereniging word die aldus voorgeskrewe modelstatute wat dan van krag is, vir sover dit nie met die vir registrasie aangebode statute strydig is of daardeur uitgesluit of gewysig word nie, geag deel van die statute van daardie vereniging uit te maak op dieselfde wyse en in dieselfde mate asof dit in die aldus aangebode statute vervat is.

(4) Geen wysiging, aanvulling of herroeping van die modelstatute is van toepassing op 'n vereniging geregistreer voor die datum van publikasie in die *Staatskoerant* van die kennisgewing waarin die wysiging, aanvulling of herroeping vervat is nie, tensy die wysiging, aanvulling of herroeping deur die vereniging by 'n algemene vergadering ooreenkomstig die bepalings van artikel *dertien* aangeneem word.

16. (1) Die statute van 'n vereniging is na registrasie daarvan bindend vir die vereniging en sy lede en amptenare en vir alle persone wat uit hoofde van die statute of van 'n lid verkreef vorderings het. Bindende krag van statute.

(2) 'n Amptenaar van 'n vereniging wat wetens en opsetlik 'n oortreding van die statute van die vereniging begaan of hom met so 'n oortreding vereenselwig, is aan 'n misdryf skuldig.

(3) 'n Vereniging moet 'n afskrif van sy statute gedurende die vereniging se normale besigheidsure vir insae deur lede van die publiek beskikbaar stel.

(4) 'n Lid is geregtig om, op versoek en sonder betaling, van die vereniging 'n afskrif van die statute van die vereniging te verkry, en elke deposant is insgelyks geregtig op uittreksels uit die statute wat op deposito's betrekking het.

17. (1) Die sake van 'n vereniging word deur 'n raad van direkteure bestuur. Verkiesing of aanstelling van direkteure.

(2) 'n Direkteur word verkies vir 'n tydperk van hoogstens drie jaar maar kan by verstryking van 'n tydperk waarvoor hy verkies is, weer verkies word.

(3) Wanneer 'n toevallige vakature in die raad van 'n vereniging ontstaan, kan die oorblywende direkteure iemand aanstel om die vakature tot die volgende jaarlikse algemene vergadering te vul, en die persoon wat op daardie vergadering verkies word, vul die vakature vir die onverstreke gedeelte van die ampstermyn van die direkteur wie se amp vakant geword het.

(4) Behoudens die bepalings van sub-artikel (3), word vakatures in die raad van 'n vereniging by die jaarlikse algemene vergadering gevul deur verkiesing deur 'n meerderheid van die lede wat ooreenkomstig die statute stem.

(5) 'n Vereniging moet binne veertien dae na die aanstelling van 'n direkteur ingevolge sub-artikel (3) of sy verkiesing ingevolge sub-artikel (4), aan die registrateur 'n kennisgewing van die aanstelling of verkiesing stuur wat deur die aangestelde of verkose direkteur en deur die sekretaris van die vereniging onderteken is.

(6) 'n Vereniging moet saam met die in sub-artikel (5) bedoelde kennisgewing die naam en adres van elk van sy direkteure en die datum waarop die ampstermyn van so 'n direkteur normaalweg sal verstryk aan die registrateur stuur.

(7) Indien die oorblywende direkteure in gebreke bly om 'n toevallige vakature ooreenkomstig sub-artikel (3) te vul of die lede van die vereniging op 'n jaarlikse algemene vergadering versuim om 'n vakature ooreenkomstig sub-artikel (4) te vul, kan die registrateur na goeddunke, en by voorlegging aan hom van 'n beëdigde skriftelike verklaring deur enige sewe lede en die sekretaris van die vereniging of deur twee direkteure en die sekretaris van die vereniging afgelê, waarin vermeld word dat so 'n versuim plaasgevind het, 'n behoorlik bevoegde lid van die vereniging aanstel om die vakature tot die volgende jaarlikse algemene vergadering te vul.

(8) The board of directors shall cause to be kept minutes of all its meetings, and such minutes shall be confirmed and signed by the chairman at the next ensuing ordinary meeting of the board.

(9) For the purposes of election to the board of a society, a person appointed by the remaining directors in terms of sub-section (3), shall not be regarded as a retiring director.

Disqualifications of directors.

18. (1) Any of the following persons shall be disqualified from being appointed or holding the office of a director of a society, namely—

- (a) a minor or any other person under legal disability;
- (b) save under the authority of the court—
 - (i) an unrehabilitated insolvent;
 - (ii) any individual who has at any time been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document or perjury and sentenced in respect thereof to a term of imprisonment without the option of a fine or to a fine exceeding fifty rand;
 - (iii) any person who has been removed from an office of trust on account of misconduct;
- (c) any auditor of the society or any person in his employ;
- (d) the secretary or any other employee or any agent of the society or any person in the employ of such an agent.

(2) For the purposes of this section "employee" shall not include an architect, attorney, quantity surveyor or similar professional person who derives fees from the society for his professional services.

Disclosure by directors of interests in contracts with society.

19. (1) A director of a society who is in any way, whether directly or indirectly, interested in any contract or proposed contract with the society or participates in the profits of any contract with the society, or is a director, office-bearer or officer of any company or a member of any firm entering into any contract with the society, shall declare the nature and extent of his interest as provided in sub-section (2).

(2) The declaration required by sub-section (1) shall be made at the meeting of the directors of the society at which the question of entering into the contract is first taken into consideration if the director concerned is present at such meeting, or otherwise at the next meeting of the directors following his receipt of notification in writing of such contract, or, if the director was not at the date of that meeting interested in the proposed contract, at the first meeting after he becomes so interested, and, where a director becomes interested in a contract after it is made, at the first meeting of the directors held after the director becomes so interested.

(3) A director having an interest as set out in sub-section (1), shall not take part in the discussion of any such contract or any matter arising from it, nor shall he vote in respect thereof.

Head office of society.

20. (1) Every society shall have its head office in the Republic.

(2) Notice in writing of the situation of the head office shall be lodged by a society with the registrar when application for the registration of the society is made, and whenever any change takes place in the situation of the head office, a notice in writing of the change shall be lodged by the society with the registrar within fourteen days thereof.

Branch offices and agencies.

21. (1) The board of any society may in its discretion establish one or more branch offices or agencies of the society at such place or places within the Republic as it may determine.

(2) The board may place any such office or agency under the management of a local board and may determine the powers and duties of any such local board.

(3) Every local board and every officer appointed to any such office or agency shall be under the control of the board of the society.

General powers of societies.

22. (1) A society shall, provided it is, save in so far as it is otherwise provided in this section, so authorized by its rules, have power—

(8) Die raad van direkteure moet notule van al sy vergaderings laat hou, en dié notule moet op die eersvolgende gewone vergadering van die raad goedgekeur en deur die voorsitter onderteken word.

(9) Vir die doeleindes van verkiesing tot die raad van 'n vereniging, word 'n persoon ingevolge sub-artikel (3) deur die oorblywende direkteure aangestel, nie as 'n aftredende direkteur beskou nie.

18. (1) Enige van die volgende persone is onbevoeg om aangestel te word as of die amp te beklee van 'n direkteur van 'n vereniging, te wete—

Onbevoegdheid van direkteure.

(a) 'n minderjarige of 'n ander regsonbevoegde persoon;

(b) behalwe op gesag van die hof—

(i) 'n ongerehabiliteerde insolvente persoon;

(ii) 'n individu wat te eniger tyd veroordeel is, hetsy in die Republiek of elders, weens diefstal, bedrog, vervalsing of uitgifte van 'n vervalste dokument of meened en ten opsigte daarvan gevonnissen is tot 'n termyn van gevangenisstraf sonder die keuse van 'n boete of tot 'n boete van meer as vyftig rand;

(iii) iemand wat weens wangedrag uit 'n vertrouensamp ontslaan is;

(c) 'n ouditeur van die vereniging of iemand in sy diens;

(d) die sekretaris of 'n ander werknemer of 'n agent van die vereniging of iemand in die diens van so 'n agent.

(2) By die toepassing van hierdie artikel word onder „werknemer” nie ook 'n argitek, prokureur, bestekopnemer of 'n dergelike professionele persoon wat vir sy professionele dienste gelde van die vereniging verkry, verstaan nie.

19. (1) 'n Direkteur van 'n vereniging wat op enige wyse, hetsy regstreeks of onregstreeks, belang het by 'n kontrak of voorgenome kontrak met die vereniging of deel in die winste van enige kontrak met die vereniging, of 'n direkteur, amptenaar of amptenaar van 'n maatskappy of lid van 'n firma is wat 'n kontrak met die vereniging aangaan, moet die aard en omvang van sy belang volgens voorskrif van sub-artikel (2) verklaar.

Openbaarmaking deur direkteure van belang by kontrakte met vereniging.

(2) Die by sub-artikel (1) vereiste verklaring moet gedoen word op die vergadering van die direkteure van die vereniging waarop die vraag of die kontrak aangegaan moet word vir die eerste keer in oorweging geneem word indien die betrokke direkteur op daardie vergadering teenwoordig is, of anders op die volgende vergadering van die direkteure na die ontvangs deur hom van skriftelike kennisgewing van sodanige kontrak, of, indien die direkteur nie op die datum van daardie vergadering belang by die voorgenome kontrak gehad het nie, op die eerste vergadering nadat hy aldus 'n belanghebbende geword het, en, waar 'n direkteur 'n belanghebbende by 'n kontrak word nadat dit aangegaan is, op die eerste vergadering van die direkteure gehou nadat die direkteur so 'n belanghebbende geword het.

(3) 'n Direkteur wat belang het soos in sub-artikel (1) bedoel, mag nie deelneem aan die bespreking van so 'n kontrak of enige aangeleentheid wat daaruit ontstaan, of ten opsigte daarvan stem nie.

20. (1) Elke vereniging se hoofkantoor moet binne die Republiek geleë wees.

Hoofkantoor van vereniging.

(2) 'n Vereniging moet wanneer om registrasie van die vereniging aansoek gedoen word, 'n skriftelike kennisgewing van die plek waar sy hoofkantoor geleë is by die registrateur indien, en by verskuiwing van die hoofkantoor moet die vereniging binne veertien dae daarna 'n skriftelike kennisgewing van die verskuiwing by die registrateur indien.

21. (1) Die raad van 'n vereniging kan na goeddunke een of meer takkantore of agentskappe van die vereniging stig op die plek of plekke binne die Republiek wat hy bepaal.

Takkantore en agentskappe.

(2) Die raad kan so 'n kantoor of agentskap onder die beheer van 'n plaaslike raad stel en kan die bevoegdhede en pligte van so 'n plaaslike raad bepaal.

(3) Elke plaaslike raad en elke amptenaar in so 'n kantoor of agentskap aangestel, moet onder die beheer van die raad van die vereniging staan.

22. (1) 'n Vereniging is, mits hy, behalwe vir sover hierdie artikel anders bepaal, deur sy statute daartoe gemagtig is, bevoeg—

Algemene bevoegdhede van verenigings.

- (a) to acquire or retain the ownership of any land or any lease of land and to erect buildings thereon primarily required for the administration of the society's affairs, including the housing of members of its staff, and from time to time to alienate any such land or terminate or cede any such lease and to acquire or hire other or further land for like purposes, and to let such portion of the buildings in which the business of the society is carried on as may not be required for the purposes of the society: Provided that, except with the written consent of the registrar, and subject to such conditions as he may prescribe, the total investment in any such land and buildings by any permanent society shall not exceed the percentage set out in the second column of the table hereunder, in relation in each case to the sum of the society's paid-up indefinite share capital and statutory reserve as set out in the first column thereof.

Total paid-up indefinite share capital, plus statutory reserve.				Maximum percentage of land and buildings.
Not exceeding R20,000,000	..	..	..	20
Not exceeding R100,000,000	..	..	..	15
Not exceeding R200,000,000	..	..	..	12½
Exceeding R200,000,000	..	..	..	10

- (b) to buy in immovable property mortgaged to the society or acquire leases of or licences to land ceded to the society in security for debt: Provided that all such immovable property and every such lease or licence shall be sold within five years from the date of its acquisition, except where the registrar in writing authorizes its retention for a longer period;
- (c) from time to time to raise funds by the issue, subject to the provisions of sections *twenty-eight*, *thirty* and *thirty-seven*, of paid-up shares or subscription shares or both paid-up shares and subscription shares, of such types and denominations and with such preferential rights regarding dividends and subject to such conditions as to transfer as may be decided by the society in accordance with its rules and, subject to the provisions of this Act and the rules, to repay such shares according to the terms under which they were issued;
- (d) in the case of a permanent society—
- subject to the provisions of section *twenty-six*, to receive savings deposits or fixed deposits on which interest is payable;
 - subject to the provisions of section *twenty-seven*, to borrow money at interest, otherwise than in the form of savings or fixed deposits, or to arrange overdraft facilities with a bank approved by the registrar;
 - to accept cash as collateral security in respect of advances made in terms of section *twenty-nine* and to pay interest thereon;
- (e) to hold cash and make deposits and investments as authorized by section *twenty-nine*;
- (f) to maintain safe deposits for the use of members and others;
- (g) to negotiate the purchase or sale and the hiring or letting by members or others of immovable property mortgaged or to be mortgaged to the society;
- (h) to act as the agent of insurance companies or societies in effecting insurances in respect of immovable property mortgaged or to be mortgaged to the society and any other insurances designed to secure any debt to the society and to collect on behalf of such companies or societies the premiums in respect of any insurances so effected and of insurances pledged to the society;
- (i) notwithstanding anything in the rules of the society, to make donations out of its available profits, whether

- (a) om eiendomsreg op grond of 'n huur van grond te verkry of te behou en geboue hoofsaaklik benodig vir die bestuur van die vereniging se sake, met inbegrip van die huisvesting van lede van sy personeel, daarop op te rig, en om van tyd tot tyd sodanige grond te vervreem of so 'n huur te beëindig of te sedeer en ander of verdere grond vir dergelike doeleindes te verkry of te huur, en om 'n gedeelte van die geboue waarin die sake van die vereniging gedoen word en wat nie vir die doeleindes van die vereniging benodig is nie, te verhuur: Met dien verstande dat, behalwe met die skriftelike toestemming van die registrateur, en onderworpe aan die voorwaardes wat hy voorskryf, die totale belegging in sodanige grond en geboue deur 'n permanente vereniging nie die persentasie in die tweede kolom van die tabel hieronder uiteengesit, in verhouding in elke geval tot die bedrag van die vereniging se opbetaalde onbepaalde aandeelkapitaal en statutêre reserwe soos in die eerste kolom daarvan uiteengesit, mag oorskry nie.

<i>Totale opbetaalde onbepaalde aandeelkapitaal plus statutêre reserwe.</i>	<i>Maksimum persentasie van grond en geboue.</i>
Nie meer nie as R20,000,000	20
Nie meer nie as R100,000,000	15
Nie meer nie as R200,000,000	12½
Meer as R200,000,000	10

- (b) om vaste eiendom in te koop wat aan die vereniging verhipotekeer is of huurkontrakte of lisensies ten opsigte van grond wat aan die vereniging oorgedra is as sekuriteit vir skuld te verkry: Met dien verstande dat al die bedoelde vaste eiendom en elke sodanige huurkontrak of lisensie binne vyf jaar vanaf die datum van verkryging daarvan verkoop moet word, behalwe waar die registrateur die besit daarvan vir 'n langer tydperk skriftelik magtig;
- (c) om van tyd tot tyd geld op te neem deur die uitgifte, met inagneming van die bepalings van artikels *agt-en-twintig*, *dertig* en *sewe-en-dertig*, van opbetaalde aandeel of subskripsie-aandeel of van sowel opbetaalde as subskripsie-aandeel van die klasse en waardes en met die voorkeurregte wat betref diwidende en onderworpe aan die voorwaardes betreffende oordrag wat die vereniging ooreenkomstig sy statute bepaal, en om, behoudens die bepalings van hierdie Wet en die statute, bedoelde aandeel terug te betaal ooreenkomstig die voorwaardes waarop hulle uitgegee is;
- (d) in die geval van 'n permanente vereniging—
- om met inagneming van die bepalings van artikel *ses-en-twintig* spaardeposito's of vaste deposito's waarop rente betaalbaar is, te ontvang;
 - om met inagneming van die bepalings van artikel *sewe-en-twintig*, geld op rente anders as in die vorm van spaar- of vaste deposito's te leen of oortrekkingsfasiliteite by 'n deur die registrateur goedgekeurde bank te reël;
 - om kontant as kollaterale sekerheid aan te neem ten opsigte van voorskotte ingevolge artikel *nege-en-twintig* verleen en rente daarop te betaal;
- (e) om kontant te hou en deposito's te stort en beleggings te maak soos by artikel *nege-en-twintig* gemagtig;
- (f) om loketkluse vir gebruik van lede en andere in stand te hou;
- (g) om die koop of verkoop en die huur of verhuur deur lede of andere van vaste eiendom wat aan die vereniging verhipotekeer is of staan te word, te behartig;
- (h) om as verteenwoordiger van versekeringsmaatskappye of verenigings op te tree om versekering te bewerkstellig ten opsigte van vaste eiendom wat aan die vereniging verhipotekeer is of staan te word en enige ander versekerings wat bedoel is om 'n skuld aan die vereniging te dek, en om namens sodanige maatskappye of verenigings die premies ten opsigte van enige versekerings wat aldus bewerkstellig is en van versekerings wat aan die vereniging verpand is, in te vorder;
- (i) om ondanks enigiets in die statute van die vereniging vervat, uit sy beskikbare winste, hetsy teenswoordige

past or present, for or to any national, public, charitable or educational purpose, organization or institution;

- (j) to pay pensions or gratuities to its employees or to adopt or to establish and maintain or to join with other building societies in adopting and maintaining pension, superannuation, benevolent or medical aid funds or schemes in respect of its employees: Provided that the assets of any such fund or scheme shall not be merged with the assets of the society;
- (k) in the case of a permanent society, to grant loans to its employees for the purpose of defraying educational and medical expenses and for such other purposes as may have been approved by the registrar;
- (l) notwithstanding anything contained in the rules of the society, to grant loans to any educational organization or institution approved by the registrar by notice in the *Gazette*;
- (m) to establish or join with other building societies in establishing an insurance company with limited liability, to be registered under the Companies Act, 1926 (Act No. 46 of 1926), the activities of which shall be confined to effecting insurances—
 - (i) in respect of immovable property mortgaged or to be mortgaged to a society; or
 - (ii) to provide further security for the repayment of any advance made by a society on the security of a mortgage of immovable property; or
 - (iii) in respect of any recognized class of risk against which a society in the conduct of its business normally insures itself;

Provided that—

- (a) save with the consent of the registrar, no person other than a building society shall be the registered or beneficial owner of any share in any such company and that a building society or building societies shall at all times be the registered and beneficial owner or owners of the majority of the shares in such company; and
- (b) the memorandum and articles of association of any such company or any amendment thereto shall be subject to the prior approval of the registrar and of the registrar of insurance;
- (n) to undertake such other business as may be approved by the State President by proclamation in the *Gazette*.

(2) A society shall not undertake any business other than that authorized by this section, and in particular shall not enter into any contract (other than a contract for the allotment of shares in terms of paragraph (c) of sub-section (1) or for the receipt of money on deposit or loan in terms of paragraph (d) of that sub-section) whereby the society agrees, in return for one or more sums of money paid to the society, to pay a sum of money at a future date or a series of sums of money at future dates.

(3) Save with the written consent of the registrar, and subject to such conditions and limitations as he may prescribe, a terminating society shall not make any investment referred to in paragraph (a) of sub-section (1).

Societies to keep records.

23. A society shall keep such records in one of the official languages of the Republic as are necessary to exhibit clearly and correctly the state of the society's affairs and to explain its transactions and financial position and to enable the registrar to determine whether the society has complied with the provisions of this Act, and shall preserve every such record in a safe place for a period of at least three years as from the date of the last entry therein.

General meetings.

24. (1) A general meeting of the members of every society shall be held within four months after the close of every financial year of the society in order that its financial position, the account and balance sheet referred to in section *thirty-five*, the

winste of winste in die verlede gemaak, skenkings te doen ten bate van of aan enige nasionale, openbare, liefdadigheids- of opvoedkundige doel, organisasie of inrigting;

- (j) om pensioene of gratifikasies aan sy werknemers te betaal of pensioen-, voorsorgs-, hulp- of mediese hulpfondse of -skemas ten opsigte van sy werknemers te aanvaar of in te stel en in stand te hou, of saam met ander bouverenigings so 'n fonds of skema te aanvaar en in stand te hou: Met dien verstande dat die bates van so 'n fonds of skema nie met die bates van die vereniging saamgesmelt mag word nie;
- (k) in die geval van 'n permanente vereniging, om lenings aan sy werknemers te verstrek ter bestryding van opvoedkundige en geneeskundige uitgawes en vir die ander doeleindes wat die registrateur goedgekeur het;
- (l) om ondanks enigiets in die statute van die vereniging vervat, lenings te verstrek aan enige opvoedkundige organisasie of inrigting wat die registrateur by kennisgewing in die *Staatskoerant* goedgekeur het;
- (m) om alleen of saam met ander bouverenigings 'n versekeringsmaatskappy met beperkte aanspreeklikheid op te rig wat kragtens die Maatskappywet, 1926 (Wet No. 46 van 1926), geregistreer moet word en waarvan die bedrywighede beperk moet word tot die daarstelling van versekerings—
 - (i) ten opsigte van vaste eiendom wat ten gunste van 'n vereniging verhipotekeer is of staan te word; of
 - (ii) om bykomende sekuriteit te voorsien vir die terugbetaling van 'n voorskot deur 'n vereniging teen sekuriteit van 'n verband op vaste eiendom verstrek; of
 - (iii) ten opsigte van enige erkende soort risiko waarteen 'n vereniging homself in die gewone loop van sy besigheid verseker:

Met dien verstande dat—

- (a) behalwe met die toestemming van die registrateur, niemand anders as 'n bouvereniging die geregistreerde eienaar of die genottrekkeer ten opsigte van enige aandeel in so 'n maatskappy mag wees nie en dat 'n bouvereniging of bouverenigings te alle tye die geregistreerde eienaar of eienaars en genottrekkeer of genottrekkeers van die meerderheid van die aandele in so 'n maatskappy moet wees; en
- (b) die akte van oprigting en statute van so 'n maatskappy of enige wysiging daarvan aan die voorafgaande goedkeuring van die registrateur en van die registrateur van versekeringswese onderworpe moet wees;
- (n) om die ander besigheid te onderneem wat die Staatspresident by proklamasie in die *Staatskoerant* goedkeur.

(2) 'n Vereniging onderneem geen besigheid wat nie deur hierdie artikel gemagtig word nie, en gaan in besonder geen kontrak (behalwe 'n kontrak vir die toekenning van aandele ingevolge paragraaf (c) van sub-artikel (1) of vir die ontvangs van geld op deposito of by wyse van lening ingevolge paragraaf (d) van daardie sub-artikel) aan waardeur die vereniging teen betaling aan hom van een of meer somme geld onderneem om 'n som geld op 'n toekomstige datum of 'n reeks somme geld op toekomstige datums te betaal nie.

(3) Behalwe met die skriftelike toestemming van die registrateur en onderworpe aan die voorwaardes en beperkings wat hy voorskryf, mag 'n tydelike vereniging nie 'n in paragraaf (a) van sub-artikel (1) bedoelde belegging maak nie.

23. 'n Vereniging moet in een van die amptelike tale van die Republiek die aantekenings hou wat nodig is om die stand van die vereniging se sake duidelik en juis aan te toon en om sy transaksies en geldsake te verduidelik en om die registrateur in staat te stel om te bepaal of die vereniging aan die bepalings van hierdie Wet voldoen het, en moet sodanige aantekenings vir 'n tydperk van minstens drie jaar vanaf die datum van die laaste inskrywing daarin op 'n veilige plek bewaar.

Verenigings
moet aantekenings
hou.

24. (1) 'n Algemene vergadering van die lede van elke vereniging moet binne vier maande na die verstryking van elke boekjaar van die vereniging gehou word sodat sy geldsake, die rekening en balansstaat in artikel vyf-en-dertig bedoel, die

Algemene
vergaderings.

auditor's report and the report of the board may be considered and dealt with, directors may be elected and general business may be transacted.

(2) The meeting in question shall be designated the annual general meeting and shall be held at the head office of the society or at such other convenient place and at such time as may be prescribed by the rules.

(3) A special general meeting may be convened by three or more directors and shall be convened by the board upon receipt of a requisition signed by one hundred members or, if the membership is less than one thousand, by not less than one-tenth of the whole body of members or such smaller number or proportion of members as the rules of the society may prescribe.

(4) If within fourteen days after the receipt of such a requisition a special general meeting of the society is not convened by the board, it may be convened by the requisitionists or a majority of them.

(5) Notice of annual and special general meetings of a society shall be given to all members, and to the registrar and the auditors of the society in the form and manner prescribed by the rules, and shall specify the day, hour and place and the objects of the meeting, and shall if any alteration, rescission or addition to the rules is intended to be proposed, contain a copy of every such alteration, rescission or addition: Provided that in the case of the intended adoption of a new set of rules it shall be sufficient compliance with the foregoing provisions of this sub-section and with any provision in the rules of a society if the notice of the meeting contains a statement to the effect that copies of the proposed new rules are available for inspection at every branch office and agency of the society and available to members on request.

(6) The period of notice of any annual or special general meeting shall be not less than twenty-one days.

(7) Every registered society shall cause minutes of all proceedings of annual or special general meetings to be entered in one of the official languages of the Republic in one or more books kept for that purpose.

(8) The secretary of the society shall transmit to the registrar a copy of the minutes of the proceedings of any annual or special general meeting, certified by himself and two directors, within fourteen days after the meeting, whether the minutes have or have not been confirmed, and if at any time any alteration of any such minutes is approved, shall transmit to the registrar a copy of the minutes so altered, certified as aforesaid, within fourteen days after the date on which the alteration was approved.

**Change of name
of society.**

25. (1) A society may by special resolution change its name.

(2) Where the name of a society is changed in terms of sub-section (1) the registrar shall enter the new name in his records in place of the former name and shall issue a new certificate of registration of the society under its new name, provided the certificate previously issued by him is delivered to him for cancellation.

(3) The change of name shall not affect any right or obligation of the society or any member thereof or any other person concerned or render defective any legal proceedings by or against the society, and any legal proceedings that may or could have been continued or commenced by or against it under its former name may be continued or commenced under its new name.

(4) The officer in charge of a deeds registry or other office in which is registered any mortgage bond or any immovable property belonging to the society shall, upon production to him by the society of such bond or of the title deeds of such immovable property and a certificate by the registrar of the registration of the society under its new name, and upon payment of the fees that may be payable in terms of any law relating to deeds registries, make such endorsements upon such bond or title deeds and such entries in his registers as may be necessary by reason of the change of name.

(5) If the registrar has certified in writing that in his opinion the new name of the society is so similar to its former name that both names obviously refer to the same society, any mortgage bond or title deeds registered in the former name of the society

ouditeursverslag en die verslag van die raad in oorweging geneem en behandel en direkteure gekies en algemene werksaamhede afgehandel kan word.

(2) Die betrokke vergadering heet die jaarlikse algemene vergadering en word gehou by die hoofkantoor van die vereniging of op die ander gerieflike plek en op die tyd in die statute bepaal.

(3) 'n Buitengewone algemene vergadering kan deur drie of meer direkteure belê word en moet by ontvangs van 'n versoekskrif onderteken deur honderd lede of, indien daar minder as duisend lede is, deur minstens een-tiende van al die lede of deur die kleiner getal lede of persentasie van die lede in die statute van die vereniging bepaal, deur die raad belê word.

(4) Indien die raad nie binne veertien dae na ontvangs van so 'n versoekskrif 'n buitengewone algemene vergadering van die vereniging belê nie, kan die versoekers of die meerderheid van hulle so 'n vergadering belê.

(5) Kennis van jaarlikse en buitengewone algemene vergaderings van 'n vereniging moet in die vorm en op die wyse in die statute voorgeskryf aan alle lede en aan die registrateur en die ouditeure van die vereniging gegee word, en moet die dag, uur en plek en die doel van die vergadering vermeld, en indien daar 'n voorneme bestaan om 'n wysiging, herroeping of aanvulling van die statute voor te stel, moet die kennisgewing 'n afskrif van elke sodanige wysiging, herroeping of aanvulling bevat: Met dien verstande dat waar die aanname van 'n nuwe stel statute voorgestel word, daar op genoegsame wyse aan voorgaande bepalings van hierdie sub-artikel en aan enige bepaling in die statute van 'n vereniging voldoen word indien die kennisgewing van die vergadering 'n verklaring bevat ten effekte dat afskrifte van die voorgestelde nuwe statute by elke takkantoor en agentskap van die vereniging ter insae beskikbaar is en deur lede op aansoek verkrygbaar is.

(6) Daar moet van 'n jaarlikse of buitengewone algemene vergadering minstens een-en-twintig dae kennis gegee word.

(7) Elke geregistreerde vereniging moet notule van alle verrigtings van jaarlikse of buitengewone algemene vergaderings in een van die amptelike tale van die Republiek laat hou in een of meer boeke wat vir daardie doel gehou word.

(8) Die sekretaris van die vereniging moet binne veertien dae na 'n jaarlikse of buitengewone algemene vergadering aan die registrateur 'n afskrif van die notule van die verrigtings van die vergadering stuur wat deur hom en twee direkteure gesertifiseer is, hetsy die notule goedgekeur is al dan nie, en indien 'n verandering van sodanige notule te eniger tyd goedgekeur word, moet hy aan die registrateur 'n afskrif stuur van die aldus veranderde notule, gesertifiseer soos voormeld, binne veertien dae na die datum waarop die verandering goedgekeur is.

25. (1) 'n Vereniging kan by spesiale besluit sy naam verander. **Verandering van naam van vereniging.**

(2) Wanneer die naam van 'n vereniging ingevolge sub-artikel (1) verander word, teken die registrateur die nuwe naam in plaas van die vorige in sy registers aan en reik hy 'n nuwe sertifikaat van registrasie van die vereniging onder sy nuwe naam uit, mits die vorige sertifikaat deur hom uitgereik vir kansellering aan hom gelewer word.

(3) Die naamsverandering het geen invloed op enige reg of verpligting van die vereniging of 'n lid daarvan of enige ander betrokke persoon nie en maak geen regsgeding ingestel deur of teen die vereniging ongeldig nie, en enige regsgeding wat onder sy vorige naam deur of teen hom voortgesit of ingestel is of kon geword het, kan onder sy nuwe naam voortgesit of ingestel word.

(4) Die beampte belas met die beheer oor 'n registrasiekantoor van aktes of ander kantoor waarin enige verband of vaste eiendom geregistreer is wat aan die vereniging behoort, moet by oorlegging aan hom deur die vereniging van daardie verband of die titelbewys van daardie vaste eiendom en 'n sertifikaat deur die registrateur van die vereniging se registrasie onder sy nuwe naam, en by betaling van die gelde betaalbaar ingevolge enige wetsbepaling op registrasiekantore van aktes, die endossemente op daardie verband of titelbewys en die inskrywings in sy registers maak wat as gevolg van die naamsverandering nodig is.

(5) Indien die registrateur skriftelik gesertifiseer het dat die nuwe naam van die vereniging na sy oordeel in so 'n mate met sy vorige naam ooreenkom dat albei name klaarblyklik op dieselfde vereniging betrekking het, word enige verband of titelbewys wat in die vorige naam van die vereniging geregi-

shall, unless and until it is sought to endorse such bond or title deeds regarding any transaction other than a cancellation, be deemed to have been registered in the name of the society as changed.

(6) The provisions of section *seven* shall apply *mutatis mutandis* in respect of a change of name.

CHAPTER IV.

FINANCIAL REQUIREMENTS.

Deposits.

26. (1) A society shall not accept deposits of money subject to withdrawal by cheque, draft or order payable on demand.

(2) A society shall not accept savings deposits from any company with limited liability, except in the case of an association licensed in terms of section *twenty-one* of the Companies Act, 1926 (Act No. 46 of 1926).

(3) The provisions of sub-section (2) shall not apply to savings accounts which existed at the commencement of the Building Societies Amendment Act, 1964, and were still in existence immediately before the commencement of this Act, but no further amounts other than interest shall be credited to any such account.

(4) A society shall not allow any one person to maintain with it a credit balance on savings account in excess of—

(a) two thousand rand if the society's total assets as at the close of the last preceding financial year did not exceed five hundred thousand rand; or

(b) six thousand rand if the said assets at the close of such financial year exceeded five hundred thousand rand:

Provided that nothing in this sub-section contained shall preclude a society from crediting interest to a savings account.

(5) Where at the commencement of the Building Societies Amendment Act, 1964, and immediately before the commencement of this Act, the credit balance on a savings account exceeded the limit prescribed by sub-section (4), such balance shall not by reason of the provisions of the said sub-section be required to be reduced: Provided that—

(a) no further amount other than interest shall be credited to such account so long as it shows a credit balance exceeding the said limit; and

(b) if the balance in such account is at any time reduced to below the said limit, such limit shall also apply to it.

(6) Where the limit prescribed by sub-section (4) is exceeded as a result of an amalgamation of two or more societies or the transfer of assets and liabilities of any society to another society, the provisions of sub-section (5) shall *mutatis mutandis* apply as if the savings account in question had been in existence immediately before the commencement of the Building Societies Amendment Act, 1964, and had exceeded that limit immediately before the commencement of this Act.

(7) Save with the written consent of the registrar, which may be given either generally or specially, and subject to such conditions as he may prescribe, no society with total assets as set out in any item of the first column in the table hereunder, shall allow any one person to hold fixed deposits exceeding in the aggregate, exclusive of interest, the amount set out opposite that item in the second column of such table:

TABLE.

<i>Total assets as at the close of the last preceding financial year.</i>	<i>Maximum aggregate fixed deposits.</i>
Under R200,000	R15,000
R200,000 and under R500,000	R30,000
R500,000 and under R2,000,000	R60,000
R2,000,000 and under R10,000,000	R90,000
R10,000,000 and under R20,000,000	R120,000
R20,000,000 and over	R150,000

(8) Where funds are deposited for account of a *bona fide* trust, separate accounts may be opened by the same trustee for different trusts, subject in each individual case to the limits prescribed by this section.

streer is, geag in die veranderde naam van die vereniging geregi-streer te wees, tensy en totdat 'n endossement met betrekking tot 'n ander transaksie as 'n kansellering op bedoelde verband of titelbewys verlang word.

(6) Die bepalings van artikel *sewe* is *mutatis mutandis* ten opsigte van 'n verandering van naam van toepassing.

HOOFSTUK IV.

FINANSIËLE VEREISTES.

26. (1) 'n Vereniging neem nie geld op deposito aan wat op Deposito's. aanvraag per tjek, wissel of order betaalbaar is en onttrek kan word nie.

(2) 'n Vereniging neem nie spaardeposito's van 'n maatskappy met beperkte aanspreeklikheid aan nie, behalwe in die geval van 'n vereniging wat kragtens artikel *een-en-twintig* van die Maatskappywet, 1926 (Wet No. 46 van 1926), gelisensieer is.

(3) Die bepalings van sub-artikel (2) is nie van toepassing op spaarrekenings wat by die inwerkingtreding van die Wysigingswet op Bouverenigings, 1964, bestaan het, en onmiddellik voor die inwerkingtreding van hierdie Wet nog bestaan het nie, maar geen verdere bedrae behalwe rente word aan so 'n rekening gekrediteer nie.

(4) 'n Vereniging laat niemand toe om by hom 'n kreditsaldo op spaarrekening te hou van meer as—

- (a) tweeduisend rand indien die vereniging se totale bates aan die einde van die jongste voorafgaande boekjaar nie meer as vyfhonderdduisend rand bedra het nie; of
- (b) sesduisend rand indien bedoelde bates aan die einde van daardie boekjaar meer as vyfhonderdduisend rand bedra het nie:

Met dien verstande dat die bepalings van hierdie sub-artikel 'n vereniging nie belet om 'n spaarrekening met rente te krediteer nie.

(5) Waar die kreditsaldo op 'n spaarrekening by die inwerkingtreding van die Wysigingswet op Bouverenigings, 1964, en onmiddellik voor die inwerkingtreding van hierdie Wet die by sub-artikel (4) voorgeskrywe perk oorskry het, hoef dit nie op grond van die bepalings van vermelde sub-artikel verminder te word nie: Met dien verstande dat—

- (a) geen verdere bedrag behalwe rente aan so 'n rekening gekrediteer mag word solank sy kreditsaldo genoemde perk oorskry nie; en
- (b) indien die saldo van so 'n rekening te eniger tyd benede vermelde perk daal, dié perk ook daarop van toepassing is.

(6) Waar die perk voorgeskryf by sub-artikel (4) oorskry word as gevolg van die samesmelting van twee of meer verenigings of die oordrag van bates en laste van een vereniging aan 'n ander, is die bepalings van sub-artikel (5) *mutatis mutandis* van toepassing asof die betrokke spaarrekening onmiddellik voor die inwerkingtreding van die Wysigingswet op Bouverenigings, 1964, bestaan het en daardie perk onmiddellik voor die inwerkingtreding van hierdie Wet oorskry het.

(7) Behalwe met die skriftelike toestemming van die registrator, wat in die algemeen of in bepaalde gevalle verleen kan word, en onderworpe aan die voorwaardes wat hy voorskryf, mag geen vereniging met totale bates soos in 'n item in die eerste kolom van die tabel hieronder uiteengesit, 'n enkele persoon toelaat om vaste deposito's te hou wat, afgesien van rente, in die geheel meer as die bedrag teenoor bedoelde item uiteengesit in die tweede kolom van daardie tabel, beloop nie:

TABEL.

<i>Totale bates by die sluiting van die jongste voorafgaande boekjaar.</i>	<i>Maksimum totale vaste deposito's.</i>
Onder R200,000	R15,000
R200,000 en onder R500,000	R30,000
R500,000 en onder R2,000,000	R60,000
R2,000,000 en onder R10,000,000	R90,000
R10,000,000 en onder R20,000,000	R120,000
R20,000,000 en daarbo	R150,000

(8) Waar fondse op rekening van 'n *bona fide*-trust gedeponeer word, kan afsonderlike rekenings deur dieselfde trustee vir verskillende trusts geopen word, onderworpe in elke afsonderlike geval aan die perke in hierdie artikel voorgeskryf.

(9) A society shall repay a fixed deposit on due date and not earlier, but shall not be required to repay it on due date where the depositor concerned has previously instructed it in writing as to the manner in which the deposit or any portion thereof is to be re-invested with the society.

(10) Notwithstanding the provisions of sub-section (9), a society may in its discretion repay a fixed deposit before due date—

- (a) where the deposit forms part of the assets in an insolvent or a deceased estate;
- (b) where the depositor has been placed under curatorship;
- (c) where the depositor has been placed under judicial management or in liquidation;
- (d) where the deposit is required by a pension fund to effect deferred pension payments;
- (e) in the case of a fixed deposit ceded to the society as collateral security;
- (f) in any case after the expiration of a period of twelve months from the date on which the deposit was made with it or was last re-invested with it if the depositor has given it at least thirty days' notice of withdrawal; or
- (g) in such other cases as the registrar may approve either generally or in any particular case.

(11) A society shall not grant a loan against the security of a fixed deposit which it holds to the credit of the borrower at a rate of interest which is not at least one per cent on the amount of such loan higher than the rate payable in respect of such deposit.

Loans and overdrafts.

27. (1) No society shall borrow money from any person other than a banker approved by the registrar or otherwise than in accordance with such terms as may be approved in writing by the registrar, but nothing in this sub-section shall be construed as prohibiting the receipt of deposits in accordance with the rules of the society.

(2) A loan or overdraft granted to a society by an approved bank shall not be invalidated by reason only of any contravention of this Act by the society.

(3) No society shall pledge any assets as security for loans or overdrafts unless its unencumbered assets apart from assets which have been so pledged amount to not less than the sum of—

- (a) all its liabilities excluding indefinite shares and reserves; and
- (b) the amount of paid-up indefinite share capital and statutory reserve which it is required to maintain in terms of sub-section (1) of section *thirty*.

Shares.

28. (1) A society shall not issue any shares other than—

- (a) shares for an indefinite period, which shall be paid-up shares and of which the shareholder shall not be entitled at any time to demand redemption, and which the society shall, subject to the provisions of this section, be entitled to redeem after six months' notice to the shareholder;
- (b) fixed period shares, which shall be—
 - (i) paid-up shares issued for periods of not less than five years;
 - (ii) subscription shares calculated to mature after the expiry of a period of not less than three years, and of which the shareholder shall not be entitled to demand redemption and which the society shall not be entitled to redeem before the period of issue has expired or the share has matured: Provided that in regard to the issue of such shares the limitations prescribed in sub-section (7) of section *twenty-six* shall *mutatis mutandis* apply: Provided further that no society shall issue a subscription share to any limited liability company other than an association licensed in terms of section *twenty-one* of the Companies Act, 1926 (Act No. 46 of 1926).

(2) Subject to the provisions of this section a society may issue any or all of the classes of shares described in sub-section (1).

(3) No society shall purport to undertake to give more than six months' notice of its intention to redeem any indefinite share, and any undertaking so given shall not bind the society.

(9) 'n Vereniging moet 'n vaste deposito op die vervaldag terugbetaal en nie vroeër nie, maar hoef dit nie op die vervaldag terug te betaal waar die betrokke deposant hom vooraf skriftelik opdrag gegee het betreffende die wyse waarop die deposito of enige gedeelte daarvan by die vereniging herbelê moet word nie.

(10) Ondanks die bepaling van sub-artikel (9), kan 'n vereniging na goeëdunke 'n vaste deposito voor die vervaldag terugbetaal—

- (a) waar die deposito deel uitmaak van die bates van 'n insolvente of bestorwe boedel;
- (b) waar die deposant onder kuratele geplaas is;
- (c) waar die deposant onder geregtelike bestuur of in likwidasië geplaas is;
- (d) waar die deposito deur 'n pensioenfonds benodig is om uitgestelde pensioenbetalings te doen;
- (e) in die geval van 'n vaste deposito wat as kollaterale sekuriteit aan die vereniging gesedeer is;
- (f) in enige geval na die verstryking van 'n tydperk van twaalf maande vanaf die datum waarop die deposito by hom gestort of laas by hom herbelê is, indien die deposant hom minstens dertig dae kennis van opvraging gegee het; of
- (g) in die ander gevalle wat die registrateur in die algemeen of in 'n besondere geval goedkeur.

(11) 'n Vereniging mag nie teen sekuriteit van 'n vaste deposito wat die lener by hom het 'n lening verstrek teen 'n rentekoers wat nie minstens een persent op die bedrag van die lening hoër is as die rentekoers wat op bedoelde deposito betaalbaar is nie.

27. (1) 'n Vereniging leen nie geld van iemand anders as 'n deur die registrateur goedgekeurde bankier of anders as op die bedinge wat skriftelik deur die registrateur goedgekeur is nie, maar die bepaling van hierdie sub-artikel word nie uitgelê asof dit die ontvangs van deposito's ooreenkomstig die statute van die vereniging verbied nie. **Lenings en oortrekkings.**

(2) 'n Lening of oortrekking deur 'n goedgekeurde bank aan 'n vereniging verleen, word nie ongeldig bloot op grond van 'n oortreding van hierdie Wet deur die vereniging nie.

(3) 'n Vereniging verpand nie enige bates as sekuriteit vir lenings of oortrekkings nie, tensy sy onbeswaarde bates, bo en behalwe bates aldus verpand, nie minder bedra nie as die som van—

- (a) al sy laste, uitgesonderd onbepaalde aandele en reserwes; en
- (b) die bedrag van opbetaalde onbepaalde aandeelkapitaal en statutêre reserwe wat hy ingevolge sub-artikel (1) van artikel dertig moet hou.

28. (1) 'n Vereniging gee geen ander aandele uit nie as— **Aandele.**

- (a) aandele vir 'n onbepaalde termyn, wat opbetaalde aandele moet wees waarvan aflossing nie te eniger tyd deur die aandeelhouer gevorder kan word nie en wat die vereniging behoudens die bepaling van hierdie artikel, geregtig is om af te los na ses maande kennisgewing aan die aandeelhouer;
- (b) vastetermyn-aandele wat—

(i) opbetaalde aandele moet wees wat vir termyn van minstens vyf jaar uitgegee word;

(ii) subskripsie-aandele moet wees wat bereken is om na verstryking van 'n termyn van minstens drie jaar te verval,

en waarvan die aandeelhouer nie geregtig is om aflossing te vorder, en wat die vereniging nie geregtig is om af te los, voor die verstryking van die termyn van uitgifte of die vervaldag van die aandeel nie: Met dien verstande dat die beperkings in sub-artikel (7) van artikel ses-en-twintig voorgeskryf *mutatis mutandis* op die uitreiking van sodanige aandele van toepassing is: Met dien verstande voorts dat geen vereniging 'n subskripsie-aandeel aan 'n ander maatskappy met beperkte aanspreeklikheid as 'n vereniging wat kragtens artikel een-en-twintig van die Maatskappywet, 1926 (Wet No. 46 van 1926), gelisensieer is, mag uitreik nie.

(2) Behoudens die bepaling van hierdie artikel, kan 'n vereniging enigeen van of al die soorte aandele in sub-artikel (1) beskryf, uitreik.

(3) 'n Vereniging mag nie voorgee dat hy onderneem om meer as ses maande kennis te gee van sy voorneme om 'n onbepaalde aandeel af te los nie, en 'n onderneming aldus gegee, bind nie die vereniging nie.

(4) A society shall not give notice of its intention to redeem any indefinite share before the expiration of a period of one year from the date of issue of that share.

(5) Whenever the period of issue of a paid-up fixed period share expires or a subscription share matures the society shall redeem that share.

(6) Notwithstanding anything contained in this section the registered owner of any share in a society may upon giving three months' notice obtain redemption of that share if the society then agrees to redeem it: Provided that no such share shall be redeemed before the expiration of a period of eighteen months from the date of acquisition of that share by that shareholder: Provided further that the period of eighteen months and the requirement in regard to notice shall not apply—

- (a) in the case of an insolvent or deceased estate of a registered owner;
- (b) where the registered owner has been notified of the intended reduction of the dividend rate in terms of sub-section (5) of section *thirty-seven* and he applies for redemption during the period of notice mentioned in the said sub-section;
- (c) where the shareholder has been placed under curatorship;
- (d) where the shareholder has been placed under judicial management or in liquidation;
- (e) in the case of a share ceded to the society as collateral security; or
- (f) in such other cases as the registrar may approve either generally or in any particular case.

(7) Notwithstanding the provisions of paragraph (b) of sub-section (1) the board of a society may in its discretion, and in the manner and under the circumstances set forth in the rules of the society, repay before the date of maturity the aggregate amount of the periodical contributions made in respect of a subscription share and any accrued dividends.

(8) No society shall issue any share with a right to a cumulative dividend except where such right is limited to the seven years immediately succeeding the first registration of the society and any claim to such accumulated dividends is limited to the available profits of the said seven years.

(9) No society shall issue any paid-up share at a price other than its nominal or face value nor shall it redeem any such share at an amount which exceeds the nominal or face value of such share.

(10) No society shall issue any share conferring a preferent claim to the assets of the society in the case of the winding-up of the society.

(11) Where a society has issued a share prior to the commencement of the Building Societies Amendment Act, 1961, (Act No. 77 of 1961), subject to the condition that it shall confer a preferent claim to the assets of the society in the case of the winding-up of the society, such condition shall lapse upon the expiry of a period of ten years from the thirty-first day of August, 1959, or upon the death of the beneficial owner of such share before that date, whichever event first occurs.

(12) No society shall issue any share which confers upon the holder thereof any voting rights more favourable than those conferred by any of the other shares issued by it.

(13) No society shall grant a loan against the security of any share issued by it at a rate of interest which is not at least one per cent on the amount of such loan higher than the rate of dividend payable on such share.

(14) The provisions of this section shall not apply to any terminating society.

Investment of funds.

29. Such portion of the funds of a society as is not held in the form of assets ranking as liquid assets or prescribed investments or used for any purpose mentioned in paragraph (k) or (l) of sub-section (1) of section *twenty-two*, shall, subject to the provisions of this Act, be invested in one or more of the following forms of security and in no other manner, that is to say—

- (a) subject to the provisions of sections *thirty-eight* to *forty-six*, inclusive, in advances or re-advances to members and others on the security of a reducible or fixed term mortgage of urban immovable property situated within the Republic;

(4) 'n Vereniging mag nie voor die verstryking van 'n termyn van een jaar vanaf die datum van uitreiking van 'n onbepaalde aandeel kennis gee van sy voorneme om daardie aandeel af te los nie.

(5) Wanneer die termyn van uitgifte van 'n opbetaalde vastetermyn-aandeel verstryk of 'n subskripsie-aandeel verval, moet die vereniging daardie aandeel aflos.

(6) Ondanks enigiets in hierdie artikel vervat, kan die geregistreerde eienaar van 'n aandeel in 'n vereniging na drie maande kennisgewing aflossing van daardie aandeel verkry indien die vereniging dan instem om dit af te los: Met dien verstande dat so 'n aandeel nie afgelos mag word voor die verloop van 'n termyn van agtien maande vanaf die datum van verkryging van daardie aandeel deur daardie aandeelhouer nie: Met dien verstande voorts dat die termyn van agtien maande en die vereiste betreffende kennisgewing nie van toepassing is nie—

(a) in die geval van 'n insolvente of bestorwe boedel van 'n geregistreerde eienaar;

(b) waar die geregistreerde eienaar ooreenkomstig sub-artikel (5) van artikel *sewe-en-dertig* van die voorgenome vermindering van die diwidendkoers verwittig is en hy gedurende die tydperk van die kennisgewing in vermelde sub-artikel genoem, om aflossing aansoek doen;

(c) waar die aandeelhouer onder kuratele geplaas is;

(d) waar die aandeelhouer onder geregtelike bestuur of in likwidasie geplaas is;

(e) in die geval van 'n aandeel wat as kollaterale sekuriteit aan die vereniging gesedeer is; of

(f) in die ander gevalle wat die registrateur in die algemeen of in 'n besondere geval goedkeur.

(7) Ondanks die bepalings van paragraaf (b) van sub-artikel (1), kan die raad van 'n vereniging na goeddunke en op die wyse en in die omstandighede in die statute van die vereniging uiteengesit, die totale bedrag van die periodieke bydraes ten opsigte van 'n subskripsie-aandeel gedoen en enige opgelope diwidende, voor die vervaldag terugbetaal.

(8) 'n Vereniging gee nie 'n aandeel met 'n reg op 'n oplopende diwidend uit nie, behalwe waar sodanige reg beperk is tot die sewe jaar wat onmiddellik op die eerste registrasie van die vereniging volg en 'n eis vir sodanige opgelope diwidende beperk is tot die beskikbare winste van bedoelde sewe jaar.

(9) 'n Vereniging gee nie 'n opbetaalde aandeel uit teen 'n ander prys as sy nominale of sigwaarde nie en los nie so 'n aandeel af teen 'n bedrag wat die nominale of sigwaarde van daardie aandeel oorskry nie.

(10) 'n Vereniging gee nie 'n aandeel uit wat 'n preferente eis teen die bates van die vereniging in die geval van die likwidasie van die vereniging verleen nie.

(11) Waar 'n vereniging voor die inwerkingtreding van die Wysigingswet op Bouverenigings, 1961 (Wet No. 77 van 1961), 'n aandeel uitgegee het onderworpe aan die voorwaarde dat dit 'n preferente eis teen die bates van die vereniging in die geval van die likwidasie van die vereniging verleen, verval sodanige voorwaarde by verstryking van 'n tydperk van tien jaar vanaf die een-en-dertigste dag van Augustus 1959 of by die dood van die genottrekke van bedoelde aandeel voor daardie datum, na gelang van watter gebeurtenis die eerste voorval.

(12) 'n Vereniging gee nie 'n aandeel uit wat aan die houer daarvan 'n gunstiger stemreg verleen as dié verleen deur enige van die ander aandele deur die vereniging uitgereik nie.

(13) 'n Vereniging mag nie teen sekuriteit van 'n aandeel deur hom uitgereik 'n lening verstrek teen 'n rentekoers wat nie minstens een persent op die bedrag van die lening hoër is as die koers waarteen diwidende op bedoelde aandeel betaalbaar is nie.

(14) Die bepalings van hierdie artikel is nie van toepassing op 'n tydelike vereniging nie.

29. Daardie deel van die fondse van 'n vereniging wat nie Belegging in die vorm van bates wat as likwiede bates of voorgeskrewe van fondse. beleggings geld, gehou of vir 'n doel genoem in paragraaf (k) of (l) van sub-artikel (1) van artikel *twee-en-twintig* gebruik word nie, moet, behoudens die bepalings van hierdie Wet, in een of meer van die volgende sekuriteite belê word, en op geen ander wyse nie, te wete—

(a) onderworpe aan die bepalings van artikels *agt-en-dertig* tot en met *ses-en-veertig*, in voorskotte of hervoorskotte aan lede en ander persone teen sekerheid van 'n verminderbare of vastetermyn-verband op stedelike onroerende eiendom geleë binne die Republiek;

- (b) in loans to depositors on the security of their deposits with the society and to members on the security of their shares in the society;
- (c) in stock of the National Finance Corporation;
- (d) in shares of any insurance company established in terms of paragraph (m) of sub-section (1) of section *twenty-two*;
- (e) in the case of a terminating society, on deposit with registered permanent societies or banking institutions registered otherwise than provisionally under the Banks Act, 1965;
- (f) in any other security approved by the registrar by notice in the *Gazette*.

Share capital.

30. (1) A permanent society shall maintain a paid-up indefinite share capital and statutory reserve together amounting to not less than twenty-five per cent of the sum of its remaining paid-up share capital and of the deposits, loans and overdrafts it may have received but has not yet repaid, as shown in the last preceding monthly return furnished by it to the registrar in terms of sub-section (1) of section *thirty-four*.

(2) For the purposes of sub-section (1) the amount of the share capital shall be deemed to be reduced by the aggregate amount owing to the society on loans made against the security of shares in the society.

(3) The issue before the first day of January, 1937, by any society which at that date was a registered society, of a paid-up share on condition that the holder thereof could not at any time demand redemption of such share or that the society could not at any time redeem that share, shall be deemed to be the issue of a share for an indefinite period.

Minimum liquid assets.

31. (1) (a) A permanent society shall maintain in the Republic in respect of its liabilities to the public (excluding shares for an indefinite period issued by it), liquid assets amounting to not less than the aggregate of—

- (i) fifteen per cent of its short-term liabilities;
 - (ii) ten per cent of its medium-term liabilities; and
 - (iii) five per cent of its long-term liabilities,
- as shown in the last preceding monthly return furnished by it to the registrar in terms of sub-section (1) of section *thirty-four*: Provided that in respect of its liabilities in the form of fixed deposits a society may, instead of an amount calculated in accordance with the foregoing provisions of this paragraph, maintain liquid assets equal to seven and one-half per cent of the aggregate amount of all such deposits.

(b) The provisions of paragraph (a) shall in respect of a society which was in existence at the commencement of the Building Societies Amendment Act, 1964, come into operation one year after such commencement: Provided that—

- (i) a society which for reasons acceptable to the registrar does not at the end of the said period of one year hold the full amount of liquid assets prescribed by paragraph (a), may apply to the registrar for an extension of that period and the registrar may extend it in respect of such society by not more than twelve months; and
- (ii) the society shall during the said period of one year and any extension thereof at all times comply with the requirements relating to liquid assets which were applicable to it prior to the said commencement.

(2) The liabilities of a society as calculated for the purposes of sub-section (1) may be reduced by—

- (a) the amount owing on loans made against the security of deposits or shares in accordance with paragraph (b) of section *twenty-nine*; and
- (b) the amount of advances made by the State to the society under a State-assisted housing scheme.

(3) A society shall not pledge or otherwise encumber any liquid assets held for the purposes of this section.

- (b) in lenings aan deposante teen sekuriteit van hulle deposito's by die vereniging en aan lede teen sekuriteit van hulle aandele in die vereniging;
- (c) in aandele van die Nasionale Finansiële Korporasie;
- (d) in aandele van 'n versekeringsmaatskappy opgerig kragtens paragraaf (m) van sub-artikel (1) van artikel twee-en-twintig;
- (e) in die geval van 'n tydelike vereniging, in deposito's by gereistreerde permanente verenigings of bank-instellings wat anders as voorlopig geregistreer is kragtens die Bankwet, 1965;
- (f) in enige ander deur die registrateur by kennisgewing in die *Staatskoerant* goedgekeurde sekuriteit.

30. (1) 'n Permanente vereniging moet 'n opbetaalde onbepaalde aandeelkapitaal en statutêre reserwe in stand hou wat tesame nie minder bedra nie as vyf-en-twintig persent van die totaalbedrag van sy oorblywende opbetaalde aandeelkapitaal en van die deposito's, lenings en oortrekkings wat hy ontvang het maar nog nie terugbetaal het nie, soos aangegee in die jongste vorige maandopgawe wat hy ingevolge sub-artikel (1) van artikel vier-en-dertig aan die registrateur verstrek het.

(2) Vir die doeleindes van sub-artikel (1), word die bedrag van die aandeelkapitaal geag verminder te wees deur die totaalbedrag aan die vereniging verskuldig op lenings teen sekuriteit van aandele in die vereniging verstrek.

(3) Die uitgifte voor die eerste dag van Januarie 1937 deur 'n vereniging wat op daardie datum 'n gereistreerde vereniging was, van 'n opbetaalde aandeel op voorwaarde dat die houer daarvan nie te eniger tyd die aflossing van daardie aandeel kon vorder nie of dat die vereniging nie te eniger tyd daardie aandeel kon aflos nie, word geag die uitgifte van 'n aandeel vir 'n onbepaalde termyn te wees.

31. (1) (a) 'n Permanente vereniging moet in die Republiek ten opsigte van sy verpligtings teenoor die publiek (uitgesonderd aandele vir 'n onbepaalde termyn deur hom uitgereik) likwiede bates in stand hou tot 'n bedrag van minstens die som van—

Minimum
likwiede bates.

- (i) vyftien persent van sy korttermynverpligtings;
 - (ii) tien persent van sy middeltermynverpligtings; en
 - (iii) vyf persent van sy langtermynverpligtings,
- soos aangegee in die jongste vorige maandopgawe wat hy ingevolge sub-artikel (1) van artikel vier-en-dertig aan die registrateur verstrek het: Met dien verstande dat 'n vereniging ten opsigte van sy verpligtings in die vorm van vaste deposito's, in plaas van 'n bedrag volgens voorgaande bepalings van hierdie paragraaf bereken, likwiede bates gelyk aan sewe en 'n halfpersent van die totale bedrag van al daardie deposito's in stand kan hou.

(b) Die bepalings van paragraaf (a) tree ten opsigte van 'n vereniging wat by die inwerkingtreding van die Wysigingswet op Bouverenigings, 1964, bestaan het, in werking een jaar na vermelde datum: Met dien verstande dat—

- (i) 'n vereniging wat om vir die registrateur aanneemlike redes aan die einde van genoemde tydperk van een jaar nog nie die volle by paragraaf (a) voorgeskrewe bedrag aan likwiede bates besit nie, by die registrateur om verlenging van bedoelde tydperk aansoek kan doen en die registrateur dit ten opsigte van so 'n vereniging met hoogstens twaalf maande kan verleng; en
- (ii) die vereniging gedurende genoemde tydperk van een jaar en enige verlenging daarvan te alle tye moet voldoen aan die voorskrifte insake likwiede bates wat voor genoemde inwerkingtreding vir hom gegeld het.

(2) Die verpligtings van 'n vereniging soos vir die doeleindes van sub-artikel (1) bereken, kan verminder word met—

- (a) die bedrag verskuldig op lenings wat ooreenkomstig paragraaf (b) van artikel nege-en-twintig teen die sekuriteit van deposito's of aandele verstrek is; en
- (b) die bedrag van voorskotte ingevolge 'n Staatsondersteunde behuisingskema deur die Staat aan die vereniging toegestaan.

(3) 'n Vereniging mag nie likwiede bates wat vir die doeleindes van hierdie artikel gehou word, verpand of op 'n ander wyse beswaar nie.

(4) For the purposes of this section a security shall be valued at its market value as certified by the secretary of the board of public debt commissioners.

Minimum prescribed investments.

32. (1) A permanent society shall maintain prescribed investments to an amount not less than ten per cent of its liabilities to the public inclusive of all classes of shares issued by it but excluding the amount of advances granted but not yet paid out, as shown in the last preceding monthly return furnished by it to the registrar in terms of sub-section (1) of section *thirty-four*.

(2) The provisions of sub-sections (3) and (4) of section *thirty-one* shall *mutatis mutandis* apply in regard to such investments.

Period for maintaining prescribed minima.

33. A permanent society shall maintain any minimum amount prescribed by section *thirty*, *thirty-one* or *thirty-two* at all times during the period from the date of certification in terms of sub-section (1) of section *thirty-four* of the monthly return by reference to which that amount is determined, until the day preceding the date on which the next succeeding monthly return is so certified.

Monthly returns.

34. (1) Every permanent society shall not later than the twenty-first day of every calendar month transmit to the registrar a statement, in the form prescribed by the Minister and signed by two directors and the secretary, showing as at the close of business at the end of the preceding calendar month—

- (a) the value of shares issued;
- (b) the amounts owing on deposits, loans, overdrafts, interest accrued and dividends;
- (c) the amount of its unimpaired statutory reserve;
- (d) the investment in office premises;
- (e) the advances against mortgage bonds;
- (f) the liquid assets;
- (g) the aggregate net amount it is committed to pay out in respect of advances granted,

and such supplementary information as the Minister may prescribe.

(2) A composite return for all permanent societies, extracted from the statements so transmitted to him, shall be published by the registrar in the *Gazette* each month, in such form and giving such details as he may think fit.

(3) Any society which contravenes the provisions of this section shall be guilty of an offence.

Annual accounts.

35. (1) The financial year of every society shall end on the *thirty-first* day of March.

(2) After the end of each financial year the board of a society shall prepare in the prescribed form an account of all the revenue and expenditure of the society in respect of that financial year and a balance sheet as at the end of such financial year.

(3) Such balance sheet shall not include as an asset any sum representing expenses of organization or extension or the purchase of business or goodwill.

(4) In every such balance sheet shall be specified *inter alia*—

- (a) the amounts to the credit of the holders of the various types of shares, respectively;
- (b) the amount due under each type of deposits, separately;
- (c) the amount owing by the society for loans and overdrafts;
- (d) the number and the aggregate amount of all advances made pursuant to the provisions of paragraph (a) of section *twenty-nine*, to be classified separately as follows, in terms of the amount owing to the society, namely—
 - (i) not exceeding fifteen thousand rand;
 - (ii) exceeding fifteen thousand rand but not exceeding twenty thousand rand;
 - (iii) exceeding twenty thousand rand but not exceeding forty thousand rand;
 - (iv) exceeding forty thousand rand;

(4) By die toepassing van hierdie artikel, word effekte gewaardeer teen markwaarde soos deur die sekretaris van die raad van Staatskuldkommissarisse gesertifiseer.

32. (1) 'n Permanente vereniging moet voorgeskrewe beleggings in stand hou ten bedrae van minstens tien persent van sy verpligtings teenoor die publiek, met inbegrip van alle soorte aandele deur hom uitgereik, maar uitgesonderd die bedrag van voorskotte toegestaan maar nog nie uitbetaal nie, soos aangegee in die jongste vorige maandopgawe wat hy ingevolge sub-artikel (1) van artikel vier-en-dertig aan die registrateur verstrek het.

Minimum voorgeskrewe beleggings.

(2) Die bepalings van sub-artikels (3) en (4) van artikel een-en-dertig is *mutatis mutandis* van toepassing ten opsigte van bedoelde beleggings.

33. 'n Permanente vereniging moet enige minimum bedrag by artikel dertig, een-en-dertig of twee-en-dertig voorgeskryf te alle tye in stand hou gedurende die tydperk vanaf die datum van sertifisering ingevolge sub-artikel (1) van artikel vier-en-dertig van die maandopgawe waarvolgens daardie bedrag vasgestel word tot die dag voor die datum waarop die eersvolgende maandopgawe aldus gesertifiseer word.

Tydperk vir instandhouding van voorgeskrewe minima.

34. (1) Elke permanente vereniging moet nie later nie as die een-en-twintigste dag van elke kalendermaand aan die registrateur 'n staat in die deur die Minister voorgeskrewe vorm stuur wat deur twee direkteure en die sekretaris onderteken is en waarin aangegee word—

Maandelikse opgawes.

- (a) die waarde van uitgereikte aandele;
- (b) die verskuldigde bedrae op deposito's, lenings, oortrekkings, opgelope rente en diwidende;
- (c) die bedrag van sy onaangetaste statutêre reserwe;
- (d) die belegging in kantoorgeboue;
- (e) die voorskotte teen verbande;
- (f) die likwiede bates;
- (g) die totale netto bedrag wat hy hom verbind het om uit te betaal ten opsigte van toegestane voorskotte,

en die aanvullende inligting wat die Minister voorskryf, by die sluiting van besigheid aan die einde van die vorige kalendermaand.

(2) 'n Saamgestelde opgawe vir alle permanente verenigings opgemaak uit die state aldus aan hom deurgestuur, word elke maand deur die registrateur in die *Staatskoerant* gepubliseer in die vorm en met vermelding van die besonderhede wat hy goedvind.

(3) 'n Vereniging wat die bepalings van hierdie artikel oortree, is aan 'n misdryf skuldig.

35. (1) Die boekjaar van elke vereniging eindig op die een-en-dertigste dag van Maart.

Jaarlikse rekenings.

(2) Die raad van 'n vereniging moet na die einde van elke boekjaar 'n rekening in die voorgeskrewe vorm opmaak van al die inkomste en uitgawes van die vereniging ten opsigte van daardie boekjaar, asook 'n balansstaat aan die einde van daardie boekjaar.

(3) So 'n balansstaat mag nie 'n bedrag wat die onkoste van organisasie of uitbreiding of die aankoop van besigheid of klandisiewaarde verteenwoordig, as 'n bate insluit nie.

(4) In elke sodanige balansstaat word onder meer vermeld—

- (a) die bedrae wat tot krediet van die houer van die onderskeie soorte aandele staan;
- (b) die bedrag ten opsigte van elke soort deposito afsonderlik verskuldig;
- (c) die bedrag deur die vereniging aan lenings en oortrekkings verskuldig;
- (d) die getal en die totale bedrag van alle voorskotte wat ooreenkomstig die bepalings van paragraaf (a) van artikel nege-en-twintig toegestaan is, afsonderlik geklassifiseer volgens die bedrag aan die vereniging verskuldig, soos volg, te wete—
 - (i) nie meer as vyftienduisend rand nie;
 - (ii) meer as vyftienduisend rand maar nie meer as twintigduisend rand nie;
 - (iii) meer as twintigduisend rand maar nie meer as veertigduisend rand nie;
 - (iv) meer as veertigduisend rand;

- (c) particulars of the amount invested in government, municipal and other securities, giving for each class the value at which they are held in the books of the society, and the aggregate value of securities of all classes at the date of the balance sheet, every security then held being taken at the market value at that date, as certified by the secretary of the board of public debt commissioners.
- (5) Every such balance sheet shall indicate by way of a note—
- (a) the aggregate amount of the remuneration paid to directors and to members of local boards and committees;
 - (b) the aggregate net amount the society is committed to pay out in respect of advances granted;
 - (c) where practicable, the aggregate amount or estimated amount, if it is material, of contracts for capital expenditure so far as not provided for;
 - (d) the general nature of any contingent liabilities not provided for and, where practicable, the aggregate amount of those liabilities, if it is material;
 - (e) the fact that any asset of the society is pledged or encumbered otherwise than by operation of law, as security for any liability of the society, if such be the case, and if so, details of that asset and of that liability.
- (6) (a) To every such balance sheet shall be annexed a statement disclosing the aggregate amount owing to the society by its officers or by any firm in which they or any of them have any direct interest, in respect of every advance in excess of twenty thousand rand in the case of a society whose assets do not exceed twenty million rand at the date of the balance sheet or in excess of forty thousand rand in the case of a society whose assets exceed twenty million rand at the date of the balance sheet.
- (b) Every such statement shall be certified as true and correct by two directors and the secretary.
- (c) For the purpose of this sub-section "direct interest" includes shares in a company or corporate body held through a nominee, but does not include a shareholding or participation in a company (other than a private company as defined in sub-section (1) of section *one hundred and four* of the Companies Act, 1926 (Act No. 46 of 1926)), or corporate body where the interest of the officer concerned does not exceed five per cent of the issued share capital or where such interest was acquired not less than one year after the date upon which the advance was granted.
- (7) Every person referred to in paragraph (a) of sub-section (6) shall give notice in writing to the society of such matters relating to his interest in any company or corporate body as may be necessary for the purposes of the said sub-section, and any person who fails to comply with this sub-section shall be guilty of an offence.
- (8) The account and balance sheet shall be signed on behalf of the board by two directors and the secretary, and the auditors of the society shall make a report to the members on such account and balance sheet.
- (9) A copy of every such account, balance sheet and annexure thereto accompanied by a copy of the auditors' report shall be sent to the registrar within fourteen days after the annual general meeting at which they are presented or within four months after the expiration of the financial year, whichever period first expires.
- (10) With every such account and balance sheet there shall be sent to the registrar, within the period laid down in sub-section (9), all such subsidiary statements relating to matters dealt with in the account and balance sheet as may be prescribed, and every such subsidiary statement shall be certified as correct by two directors and the secretary of the society.
- (11) If any copy of a balance sheet is issued, circulated or published by a society without having annexed thereto a copy of the statement referred to in sub-section (6) and a copy of the auditors' report referred to in sub-section (8), the society shall be guilty of an offence.

- (e) besonderhede van die bedrag wat in regerings-, munisipale en ander effekte belê is, met vermelding, ten opsigte van elke kategorie, van die waarde waarteen sodanige effekte in die boeke van die vereniging ingeskrywe staan, en die totale waarde van effekte van alle kategorieë op die datum van die balansstaat wat ten opsigte van elke effek op daardie datum gehou teen sy dan geldende markwaarde, soos gesertifiseer deur die sekretaris van die raad van Staatskuldkommis-sarisse, bereken word.
- (5) Elke sodanige balansstaat moet by wyse van 'n nota aandui—
- (a) die totale bedrag van besoldiging betaal aan direkteure en aan lede van plaaslike rade en komitees;
 - (b) die totale netto bedrag wat die vereniging homself verbind het om ten opsigte van toegestane voorskotte uit te betaal;
 - (c) waar doenlik, die totale bedrag of geraamde bedrag, indien dit van belang is, van kontrakte vir kapitaal-uitgawes vir sover daarvoor nie voorsiening gemaak is nie;
 - (d) die algemene aard van enige voorwaardelike verpligtings waarvoor nie voorsiening gemaak is nie en, waar doenlik, die totale bedrag van daardie verpligtings indien dit van belang is;
 - (e) die feit dat 'n bate van die vereniging anders as deur regswerking verpand of beswaar is as sekuriteit vir 'n las van die vereniging, indien dit die geval is, en in so 'n geval ook besonderhede van daardie bate en van daardie las.
- (6) (a) Aan elke sodanige balansstaat moet 'n staat geheg word wat die totale bedrag aantoon wat deur amptenare van die vereniging of deur enige firma waarin hulle of enige van hulle 'n regstreekse belang het, aan die vereniging verskuldig is ten opsigte van elke voorskot van meer as twintigduisend rand in die geval van 'n vereniging wie se bates op die datum van die balansstaat nie twintigmiljoen rand oorskry nie, of meer as veertigduisend rand in die geval van 'n vereniging wie se bates op die datum van die balansstaat twintigmiljoen rand oorskry.
- (b) Elke sodanige staat moet deur twee direkteure en die sekretaris as waar en juis gesertifiseer word.
- (c) By die toepassing van hierdie sub-artikel word onder „regstreekse belang” ook aandele in 'n maatskappy of regspersoon gehou deur middel van 'n benoemde verstaan, maar nie ook aandeelbesit of deelname in 'n maatskappy (behalwe 'n private maatskappy soos omskryf in sub-artikel (1) van artikel *honderd-en-vier* van die Maatskappywet, 1926 (Wet No. 46 van 1926)) of 'n regspersoon waar die belang van die betrokke amptenaar nie vyf persent van die uitgereikte aandeelkapitaal oorskry nie of waar sodanige belang nie vroeër verkry is nie as een jaar na die datum waarop die voorskot toegestaan is.
- (7) Elke in paragraaf (a) van sub-artikel (6) bedoelde persoon moet die vereniging skriftelik in kennis stel van alle aangeleenthede aangaande sy belang in enige maatskappy of regspersoon wat vir die doeleindes van bedoelde sub-artikel nodig is, en iemand wat versuim om aan hierdie sub-artikel te voldoen, is aan 'n misdryf skuldig.
- (8) Die rekening en balansstaat word namens die raad deur twee direkteure en die sekretaris onderteken, en die ouditeure van die vereniging moet oor sodanige rekening en balansstaat aan die lede verslag doen.
- (9) 'n Afskrif van elke sodanige rekening, balansstaat en daarbygaande bylae tesame met 'n afskrif van die ouditeursverslag moet binne veertien dae na die jaarlikse algemene vergadering waarop dit voorgelê word of binne vier maande na die verstryking van die boekjaar, watter tydperk ook al die eerste verstryk, aan die registrateur gestuur word.
- (10) Saam met elke sodanige rekening en balansstaat moet binne die in sub-artikel (9) bepaalde tydperk al die voorgeskrewe aanvullende state aangaande aangeleenthede in die rekening en balansstaat behandel, aan die registrateur gestuur word, en elke sodanige aanvullende staat moet deur twee direkteure en die sekretaris van die vereniging as juis gesertifiseer wees.
- (11) Indien 'n afskrif van 'n balansstaat deur 'n vereniging uitgereik, gesirkuleer of gepubliseer word sonder dat 'n afskrif van die in sub-artikel (6) bedoelde staat en 'n afskrif van die in sub-artikel (8) bedoelde ouditeursverslag daarby aangeheg is, is die vereniging aan 'n misdryf skuldig.

(12) The registrar may call for any explanations and for such additional information as he may deem necessary with regard to the account, balance sheet, annexure thereto and the subsidiary statements sent to him, and such explanations and information shall be furnished by the society in such form as the registrar may direct and shall, if he so directs, be certified by two directors and the secretary of the society and also by the auditors.

Statutory reserve.

36. (1) Subject to the provisions of this section every permanent society shall at the end of each financial year set aside from its profits an amount equal to at least ten per cent of the net profit in that year for the purpose of forming and maintaining therewith a reserve to be known as the statutory reserve: Provided that the aforementioned ten per cent may be reduced by the ratio, expressed as a percentage (to two decimal places), which the amount, if any, standing to the credit of the statutory reserve bears to the aggregate amount of share capital and deposits at the close of the said financial year.

(2) For the purposes of sub-section (1) the net profit shall be arrived at in the manner set forth in the relevant prescribed form except where a loss, determined in accordance with the provisions of sub-section (7), is carried forward from the previous year, in which event the said net profit shall first be applied towards liquidating such loss and any balance of profit thereafter remaining shall be regarded as the net profit for the year.

(3) A society may make such further allocations to the statutory reserve as it may deem fit, out of the net profits earned in previous years or from any of its other reserves.

(4) The statutory reserve so formed may be invested in the forms of security described in section *twenty-nine*.

(5) If and so long as the statutory reserve accumulated in accordance with this section equals or exceeds ten per cent of the sum total of the society's liabilities to depositors and in respect of loans and overdrafts received and the paid-up share capital of the society, it shall not be obligatory upon the society to apply any portion of its profits to the increase of that reserve.

(6) Except in the case of the winding-up of the society the statutory reserve shall not be drawn upon otherwise than to meet any loss sustained by the society during any year.

(7) For the purpose of sub-section (6) "loss" means the deficiency remaining after profits for the current year and those carried forward from previous years, together with any amount standing to the credit of the published reserves other than specific reserves of the society, have first been applied to meet such loss.

(8) Any officers who concur—

(a) in any failure to comply with the provisions of sub-section (1), as qualified by sub-section (5); or

(b) in any contravention of sub-section (6),

shall be jointly and severally liable, as a debt due by them to the society—

(i) for any amount which by reason of such failure was not applied to the statutory reserve; and

(ii) for any amount by which the statutory reserve was so drawn upon.

(9) In lieu of any amount which it is required to set aside in terms of sub-section (1) a society may accept from any person a cash deposit, to be known as the statutory reserve guarantee deposit, equal to the amount which it does not so set aside, but on condition that such deposit—

(a) is to be repayable only at the instance of the society;

(b) may be repaid from time to time to the extent to which such deposit together with the amount standing to the credit of the statutory reserve in the books of the society exceeds the amount that would have stood to the credit of the reserve if the provisions of sub-section (1) had been complied with, without recourse having been taken to the provisions of this sub-section;

(c) shall for the purposes of this Act be deemed to form part of and be subject to all the provisions which are applicable to the statutory reserve;

(d) may be utilized for all the purposes to which the statutory reserve may be applied, in which event the depositor shall have no claim on the society for the amount so utilized or applied;

(e) shall in no way be encumbered or pledged; and

(12) Die registrateur kan enige verduidelikings en die bykomende inligting wat hy nodig ag, aanvra aangaande die rekening, balansstaat, daarbygaande bylae en die aanvullende state aan hom gestuur, en sodanige verduidelikings en inligting moet deur die vereniging verstrekkend word in die vorm wat die registrateur gelas en moet, indien hy dit gelas, deur twee direkteure en die sekretaris van die vereniging asook deur die ouditeure gesertifiseer wees.

36. (1) Behoudens die bepalings van hierdie artikel, moet elke permanente vereniging aan die end van elke boekjaar uit sy winste 'n bedrag opsy sit, gelyk aan minstens tien persent van die netto winste in daardie jaar, ten einde daarmee 'n reserwe, wat die statutêre reserwe heet, daar te stel en in stand te hou: Met dien verstande dat voormelde tien persent verminder kan word met die verhouding, uitgedruk as 'n persentasie (tot twee desimale plekke), waarin die bedrag, indien daar is, wat op krediet van die statutêre reserwe staan, tot die totaalbedrag van aandeelkapitaal en deposito's by die afsluiting van bedoelde boekjaar staan.

(2) By die toepassing van sub-artikel (1) word die netto wins bereken op die wyse uiteengesit in die toepaslike voorgeskrewe vorm behalwe waar 'n verlies, bepaal ooreenkomstig die bepalings van sub-artikel (7), van die vorige jaar oorgedra word, in watter geval bedoelde netto wins eers ter delging van so 'n verlies aangewend word en enige winssaldo wat daarna oorbly as die netto wins vir die jaar beskou word.

(3) 'n Vereniging kan na goeë dunnke verdere bedrae uit die netto winste wat in vorige jare verdien is of uit enige van sy ander reserwes aan die statutêre reserwe toewys.

(4) Die aldus gevormde statutêre reserwe kan in die in artikel *nege-en-twintig* vermelde soorte effekte belê word.

(5) Indien en solank die statutêre reserwe wat ooreenkomstig hierdie artikel opgehoop is, gelyk is aan of meer bedra as tien persent van die totale som van die verpligtings van die vereniging teenoor sy deposante en ten opsigte van ontvangende lenings en oortrekkings en die opbetaalde aandeelkapitaal van die vereniging, is die vereniging nie verplig om enige deel van sy winste tot stywing van daardie reserwefonds aan te wend nie.

(6) Behalwe in geval van die likwidasië van die vereniging, word geen geld uit die statutêre reserwe getrek nie behalwe om 'n verlies te dek wat in enige jaar deur die vereniging gely is.

(7) By die toepassing van sub-artikel (6) beteken „verlies” die tekort wat oorbly nadat winste vir die lopende jaar en dié wat oorgebring is van vorige jare tesame met enige bedrag wat tot krediet van ander gepubliseerde reserwes as spesifieke reserwes van die vereniging staan, eers aangewend is om sodanige verlies te dek.

(8) Amptenare wat instem—

(a) met 'n versuim om aan die vereistes van sub-artikel (1), soos deur sub-artikel (5) beperk, te voldoen; of

(b) met 'n oortreding van die bepalings van sub-artikel (6), is gesamentlik en afsonderlik aanspreeklik, as 'n skuld deur hulle aan die vereniging verskuldig—

(i) vir enige bedrag wat weens die versuim nie tot stywing van die statutêre reserwe aangewend is nie; en

(ii) vir enige bedrag aldus uit die statutêre reserwe getrek.

(9) In plaas van enige bedrag wat hy ingevolge sub-artikel (1) opsy moet sit, kan 'n vereniging van enige persoon 'n kontant-deposito aanneem, wat die statutêre reserwe-garansiedeposito heet, gelyk aan die bedrag wat hy nie aldus opsy sit nie, maar op voorwaarde dat sodanige deposito—

(a) terugbetaalbaar is slegs indien die vereniging daartoe besluit;

(b) van tyd tot tyd terugbetaal kan word vir sover bedoelde deposito tesame met die bedrag wat tot krediet van die statutêre reserwe in die boeke van die vereniging staan, die bedrag oorskry wat tot krediet van die reserwe sou gestaan het indien aan die bepalings van sub-artikel (1) voldoen was sonder dat toevlug tot die bepalings van hierdie sub-artikel geneem is;

(c) by die toepassing van hierdie Wet geag word deel uit te maak van en onderworpe is aan al die bepalings wat van toepassing is op die statutêre reserwe;

(d) gebruik kan word vir alle doeleindes waarvoor die statutêre reserwe aangewend kan word, in watter geval die deposant geen eis teen die vereniging het vir die bedrag aldus gebruik of aangewend nie;

(e) op generlei wyse beswaar of verpand mag word; en

- (f) shall in the event of the liquidation of the society be repaid to the depositor only if and when all the claims of creditors and the share capital of the shareholders of the society have been paid in full.

(10) This section shall not apply to terminating societies.

Dividends.

37. (1) A society shall not pay any dividend or bonus on the shares issued by it otherwise than out of the available profits of the society.

(2) No society shall in any one financial year pay on any share a dividend, inclusive of any bonus, the rate of which exceeds by more than two and one-half per cent the rate of dividend and bonus payable in that year in respect of indefinite paid-up shares issued by it.

(3) Where a society has issued a share prior to the commencement of the Building Societies Amendment Act, 1961 (Act No. 77 of 1961), subject to conditions whereby the limits referred to in sub-section (2) may be exceeded, such conditions shall lapse upon the expiry of a period of ten years from the thirty-first day of August, 1959, or upon the death of the person who was the beneficial owner of such share on the thirtieth day of August, 1959, whichever is the earlier date.

(4) Where shares have been issued on condition that for the seven years immediately succeeding the registration of the society concerned its members shall be entitled to a cumulative dividend, and the profits available during the said period of seven years are insufficient to extinguish such cumulative dividend, the holders of such shares shall have no claim in respect of any shortfall in the amount so payable.

(5) Where a society has, in terms of its rules, at the time of issue of any indefinite or fixed period share fixed the rate of dividend payable in respect of that share, the society shall, notwithstanding the terms on which the share has been issued, have the right from time to time to reduce the fixed rate of dividend so payable after giving the shareholder not less than one month's written notice of the intended reduction.

(6) The provisions of this section shall not apply to a terminating society.

CHAPTER V.

ADVANCES.

Reducible mortgage.

38. (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 fifteen 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 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.

(2) A reducible mortgage of immovable property may, subject to the provisions of sub-section (1) of section *thirty-nine*, sub-section (4) of section *forty* and section *forty-one* be converted at any time into a fixed term mortgage of immovable property, but no such conversion shall have the effect of extending the date of repayment of the capital amount advanced beyond the date on which it would have been repayable if no conversion had taken place.

Fixed term mortgage.

39. (1) A fixed term mortgage of immovable property shall provide for the repayment of the capital amount advanced within a period of not more than five years: Provided that the period within which the capital amount is to be repaid may be extended from time to time in the discretion of the society for further periods not exceeding five years: Provided further that

- (f) in geval van die likwidasië van die vereniging, aan die deposant terugbetaal moet word slegs indien en wanneer al die eise van die skuldeisers en die aandeelkapitaal van die aandeelhouders van die vereniging ten volle betaal is.

(10) Hierdie artikel is nie op tydelike verenigings van toepassing nie.

37. (1) 'n Vereniging betaal geen diwidend of bonus op die deur hom uitgereikte aandele nie behalwe uit die beskikbare winste van die vereniging. **Diwidende.**

(2) Geen vereniging mag in 'n bepaalde boekjaar op enige aandeel 'n diwidend, met inbegrip van 'n bonus, betaal teen 'n koers wat meer as twee en 'n halfpersent hoër is as die koers van die diwidend en bonus wat in daardie jaar betaalbaar is ten opsigte van onbepaalde opbetaalde aandele deur hom uitgegee nie.

(3) Waar 'n vereniging voor die inwerkingtreding van die Wysigingswet op Bouverenigings, 1961 (Wet No. 77 van 1961), 'n aandeel uitgegee het onderworpe aan voorwaardes waardeur die in sub-artikel (2) bedoelde beperkings oorskry mag word, vervul bedoelde voorwaardes by verstryking van 'n tydperk van tien jaar vanaf die een-en-dertigste dag van Augustus 1959 of by die afsterwe van die persoon wat op die dertigste dag van Augustus 1959 die genottrekke van bedoelde aandeel was, watter datum ook al die vroegste is.

(4) Waar aandele uitgegee is op voorwaarde dat die lede van die betrokke vereniging vir die sewe jaar wat onmiddellik op sy registrasie volg op 'n oplopende diwidend geregtig sal wees, en die beskikbare winste gedurende bedoelde tydperk van sewe jaar onvoldoende is om daardie oplopende diwidend uit te wissel, het die houders van bedoelde aandele geen vordering ten opsigte van enige tekort in die bedrag aldus betaalbaar nie.

(5) Waar 'n vereniging ooreenkomstig sy statute ten tyde van die uitreiking van 'n onbepaalde of vastetermyn-aandeel die diwidendkoers betaalbaar ten opsigte van daardie aandeel vasgestel het, is die vereniging, ongeag die bedinge waarop die aandeel uitgereik is, geregtig om van tyd tot tyd die aldus betaalbare vasgestelde diwidendkoers te verminder nadat hy minstens een maand skriftelike kennis van die voorgenome vermindering aan die aandeelhouer gegee het.

(6) Die bepalings van hierdie artikel is nie op 'n tydelike vereniging van toepassing nie.

HOOFTUK V.

VOORSKOTTE.

38. (1) 'n Verminderbare verband op vaste eiendom moet voorsiening maak vir die terugbetaling van die kapitaalbedrag wat voorgesket is— **Verminderbare verband.**

- (a) binne 'n tydperk van hoogstens dertig jaar waar bedoelde kapitaalbedrag nie vyftienduisend rand oorskry nie en die verhipotekeerde eiendom eiendom is waarop 'n woonhuis opgerig is of gaan word; of
- (b) binne 'n tydperk van hoogstens twintig jaar in alle ander gevalle:

Met dien verstande dat indien enige gedeelte van die kapitaalbedrag wat voorgesket is aan die vereniging terugbetaal en weer deur hom voorgesket is, die tydperk waarbinne die saldo van bedoelde kapitaalbedrag en die bedrag weer aldus voorgesket, terugbetaal moet word, bereken moet word vanaf die datum waarop dit weer voorgesket word.

(2) 'n Verminderbare verband op vaste eiendom kan, behoudens die bepalings van sub-artikel (1) van artikel *nege-en-dertig*, sub-artikel (4) van artikel *veertig* en artikel *een-en-veertig*, te eniger tyd in 'n vastetermyn-verband op vaste eiendom omskep word, maar so 'n omskepping het nie die uitwerking dat die datum van terugbetaling van die kapitaalbedrag wat voorgesket is, verskuif word tot 'n datum na die datum waarop dit terugbetaalbaar sou gewees het indien die omskepping nie plaasgevind het nie.

39. (1) 'n Vastetermyn-verband op vaste eiendom moet voorsiening maak vir die terugbetaling van die kapitaalbedrag wat voorgesket is binne 'n tydperk van hoogstens vyf jaar: Met dien verstande dat die tydperk waarbinne die kapitaalbedrag terugbetaal moet word van tyd tot tyd na goeë dunnke van die vereniging vir verdere tydperke van hoogstens vyf jaar verleng **Vastetermyn-verband.**

the provisions of sub-section (4) of section *forty*, sub-section (1) of section *forty-one* and sub-sections (1) and (2) of section *forty-seven* shall *mutatis mutandis* apply in respect of every such extension.

(2) A fixed term mortgage of immovable property may within five years from the date of its registration be converted into a reducible mortgage of immovable property: Provided that the terms of such reducible mortgage shall provide for the repayment of the capital amount advanced by a date not later than the latest date which could have been determined under sub-section (1) of section *thirty-eight* if such amount had originally been advanced on the security of a reducible mortgage of immovable property.

(3) A terminating society shall not advance money on the security of a fixed term mortgage of immovable property.

**Limitation of
amount of
advance.**

40. (1) A society shall not make against the security of a mortgage of urban immovable property an advance exceeding—

- (a) twenty thousand rand or ten per cent of the sum of its indefinite share capital and statutory reserve as at the close of its last preceding financial year, whichever is the greater amount, nor exceeding in any event four hundred thousand rand; or
- (b) ten thousand rand or ten per cent of its indefinite share capital, whichever is the lesser amount, in the case of a society which has not completed its first financial year.

(2) A permanent society shall not on the security of a reducible mortgage of immovable property advance more than seventy-five per cent of the value reasonably determined of the property hypothecated or the lease or licence ceded and of the costs of transfer of the said property in so far as such costs do not exceed four per cent of the purchase price of such property: Provided that if collateral security is furnished it may advance an amount—

- (a) not exceeding the value so determined of the said property, lease or licence; and
- (b) not exceeding the sum of—
 - (i) seventy-five per cent of the value so determined of the said property, lease or licence and the said transfer costs; plus
 - (ii) the value of the collateral security calculated as provided in sub-section (2) of section *forty-six*.

(3) In the case of property which was mortgaged to the society and which has been purchased by it owing to the default of the debtor or which has been sold in execution or upon insolvency or under authority of the debtor granted subsequent to his default under a mortgage bond, a society may, notwithstanding the provisions of sub-section (2), lend to a purchaser on the security of a reducible mortgage, an amount not exceeding the amount due to the society by the previous owner at the time of purchase or sale, as the case may be, and previously secured by the mortgage of the said property, plus the aggregate amount of costs and preferent charges incurred by the society in respect of—

- (a) legal proceedings instituted by it against such owner for the recovery of any of the moneys due under the mortgage bond resulting from default on the part of such owner;
- (b) obtaining transfer of the property into its name; and
- (c) essential repairs or the installation of sewerage, light or water or other essential services which it may be legally required to provide at the instance of a local authority or similar body.

(4) A permanent society shall not, on the security of a fixed term mortgage of immovable property advance more than sixty-six and two-thirds per cent of the value reasonably determined of the property hypothecated or the lease or licence ceded and of the costs of transfer of the said property in so far as such costs do not exceed four per cent of the purchase price of such property: Provided that if collateral security is furnished, it may advance an amount—

- (a) not exceeding the value so determined of the said property, lease or licence; and

kan word: Met dien verstande voorts dat die bepalings van sub-artikel (4) van artikel *veertig*, sub-artikel (1) van artikel *een-en-veertig* en sub-artikels (1) en (2) van artikel *sewe-en-veertig* ten opsigte van elke sodanige verlenging *mutatis mutandis* van toepassing is.

(2) 'n Vastetermyn-verband op vaste eiendom kan binne vyf jaar vanaf die datum van registrasie daarvan in 'n verminderbare verband op vaste eiendom omgeskep word: Met dien verstande dat die bedinge van sodanige verminderbare verband voorsiening moet maak vir die terugbetaling van die kapitaalbedrag wat voorgeskiet is, teen 'n datum nie later nie as die laaste datum wat kragtens sub-artikel (1) van artikel *agt-en-dertig* vasgestel sou kon gewees het indien daardie bedrag oorspronklik teen sekuriteit van 'n verminderbare verband op vaste eiendom voorgeskiet was.

(3) 'n Tydelike vereniging mag nie geld teen sekuriteit van 'n vastetermyn-verband op vaste eiendom voorskiet nie.

40. (1) 'n Vereniging mag nie teen sekuriteit van 'n verband op stedelike vaste eiendom 'n voorskot verleen wat meer bedra nie as—

Beperking op
bedrag van
voorskot.

- (a) twintigduisend rand of tien persent van die totaalbedrag van sy onbepaalde aandeelkapitaal en statutêre reserwe aan die einde van sy jongste vorige boekjaar, watter bedrag ook al die grootste is, of wat in enige geval meer as vierhonderdduisend rand bedra nie; of
- (b) tienduizend rand of tien persent van sy onbepaalde aandeelkapitaal, watter bedrag ook al die kleinste is, in die geval van 'n vereniging waarvan die eerste boekjaar nog nie verstryk het nie.

(2) 'n Permanente vereniging mag nie teen sekuriteit van 'n verminderbare verband op vaste eiendom meer voorskiet as vyf-en-sewentig persent van die redelik vasgestelde waarde van die verhipotekeerde eiendom of die oorgedraagde huurkontrak of lisensie en van die koste van oordrag van bedoelde eiendom vir sover daardie koste nie vier persent van die koopprys van bedoelde eiendom oorskry nie: Met dien verstande dat indien kollaterale sekuriteit gestel word, hy 'n bedrag kan voorskiet—

- (a) van hoogstens die aldus vasgestelde waarde van bedoelde eiendom, huurkontrak of lisensie; en
- (b) van hoogstens die som van—
 - (i) vyf-en-sewentig persent van die aldus vasgestelde waarde van bedoelde eiendom, huurkontrak of lisensie en bedoelde oordragkoste; plus
 - (ii) die waarde van die kollaterale sekuriteit bereken volgens voorskrif van sub-artikel (2) van artikel *ses-en-veertig*.

(3) In die geval van eiendom wat aan die vereniging verhipotekeer was en wat deur hom ingekoop is weens die versuim van die skuldenaar of wat verkoop is in eksekusie of by insolvensie of kragtens magtiging van die skuldenaar verleen na sy versuim ingevolge 'n verband, kan 'n vereniging, ondanks die bepalings van sub-artikel (2), aan 'n koper teen sekuriteit van 'n verminderbare verband 'n bedrag leen wat nie meer is nie as die bedrag wat deur die vorige eienaar ten tyde van die koop of verkoping, na gelang van die geval, aan die vereniging verskuldig was en wat voorheen deur die verhipotekering van bedoelde eiendom gesekureer was, plus die totaalbedrag van koste en preferente uitgawes deur die vereniging aangegaan ten opsigte van—

- (a) geregtelike proses deur hom ingestel teen bedoelde eienaar vir die verhaal van enige van die gelde kragtens die verband verskuldig as gevolg van die versuim aan die kant van bedoelde eienaar;
- (b) die verkryging van transport van die eiendom op sy naam; en
- (c) noodsaaklike herstelwerk of die aanlê van 'n rioolstelsel, lig of water of ander noodsaaklike dienste wat hy wettiglik verplig kan word om op versoek van 'n plaaslike bestuur of dergelike liggaam te voorsien.

(4) 'n Permanente vereniging mag nie teen sekuriteit van 'n vastetermyn-verband op vaste eiendom meer voorskiet as ses-en-sestig en twee-derdes persent van die redelik vasgestelde waarde van die verhipotekeerde eiendom of die oorgedraagde huurkontrak of lisensie en van die koste van oordrag van bedoelde eiendom vir sover daardie koste nie vier persent van die koopprys van bedoelde eiendom oorskry nie: Met dien verstande dat indien kollaterale sekuriteit gestel word, hy 'n bedrag kan voorskiet—

- (a) van hoogstens die aldus vasgestelde waarde van bedoelde eiendom, huurkontrak of lisensie; en

- (b) not exceeding the sum of—
 - (i) sixty-six and two-thirds per cent of the value so determined of the said property, lease or licence and the said transfer costs; plus
 - (ii) the value of the collateral security calculated as provided in sub-section (2) of section *forty-six*.
- (5) For the purposes of sub-section (2) or (4) any amounts disbursed by the society in respect of—
 - (a) premiums on insurance policies designed to provide further security for the repayment of an advance secured by the mortgage of the immovable property; or
 - (b) rates, taxes and licences in respect of the said immovable property; or
 - (c) the maintenance and repair of the said immovable property; or
 - (d) the installation of sewerage on the said immovable property; or
 - (e) the provision of light and water on the said immovable property; or
 - (f) the cost incurred in converting the said immovable property from leasehold to freehold; or
 - (g) legal costs incurred by the society in respect of legal proceedings instituted by it against a borrower for the recovery of any moneys due under the mortgage bond resulting from default on the part of such borrower,

shall not be reckoned as part of the amount advanced, whether the amounts referred to in paragraphs (a) to (f), inclusive, were disbursed on behalf of the present borrower or any previous borrower.

Restriction on fixed term mortgages.

41. (1) The aggregate amount of advances granted by a society on the security of fixed term mortgages of immovable property shall at no time exceed ten per cent of the total assets of the society as at the close of its last financial year.

(2) No society shall advance money on the security of a fixed term mortgage of immovable property until after the expiry of twelve months from the date of registration of the society.

Limitation of sum total of advances in certain circumstances.

42. (1) The sum total of all advances on each of which there is owing to a society an aggregate sum in excess of fifteen thousand rand shall at no time exceed an amount equivalent to twenty-five per cent of the total assets of the society as at the close of the last preceding calendar quarter.

(2) The registrar may, subject to such conditions and limitations as he may prescribe, allow a society to exceed the limit applicable to it in terms of sub-section (1) for such period or periods as he may deem fit, not exceeding twelve months each or a maximum period of five years in all—

(a) where the society exceeds such limit owing to a reduction in its assets; and

(b) in such other cases as the registrar may determine:

Provided that the registrar shall not grant a further period of grace at the termination of any such period of twelve months unless he is satisfied that the society concerned has during the said period taken all such steps as it could reasonably be expected to take to conform to the aforesaid limit.

Restriction on advances on vacant land.

43. (1) Save with the written consent of the registrar and subject to such conditions as he may prescribe, the aggregate amount owing to a society in respect of advances secured by mortgage of vacant land shall not at any time exceed ten thousand rand or five per cent of the sum of its indefinite share capital and statutory reserve as at the close of the last preceding financial year, whichever is the greater amount, nor shall the aggregate amount owing to the society in respect of advances on vacant land situated in any one township at any time exceed five thousand rand or one per cent of the sum of its indefinite share capital and statutory reserve as at the close of the last preceding financial year, whichever is the greater amount.

(2) For the purposes of sub-section (1) "township" bears the meaning assigned thereto in paragraph (a) and the definition of "urban immovable property" in section *one* and includes any area sub-divided into stands or industrial stands or small holdings falling within the said definition.

(b) van hoogstens die som van—

- (i) ses-en-sestig en twee-derdes persent van die aldus vasgestelde waarde van bedoelde eiendom, huurkontrak of lisensie en bedoelde oordragkoste; plus
- (ii) die waarde van die kollaterale sekuriteit bereken volgens voorskrif van sub-artikel (2) van artikel *ses-en-veertig*.

(5) By die toepassing van sub-artikel (2) of (4) word enige bedrae deur die vereniging uitbetaal ten aansien van—

- (a) premies op versekeringspolisse bedoel om verdere sekuriteit te verskaf vir die terugbetaling van 'n voorskot wat deur die verhipotekering van die vaste eiendom verseker is; of
- (b) belastinge en lisensies ten opsigte van bedoelde vaste eiendom; of
- (c) die instandhouding en herstel van bedoelde vaste eiendom; of
- (d) die aanlê van 'n rioolstelsel op bedoelde vaste eiendom; of
- (e) die voorsiening van lig en water op bedoelde vaste eiendom; of
- (f) die koste aangegaan om bedoelde vaste eiendom van huurbesit na eiendomsbesit om te skeep; of
- (g) regskoste aangegaan deur die vereniging ten opsigte van geregtelike prosesse deur hom ingestel teen 'n lener vir die verhaal van enige gelde kragtens die verband verskuldig as gevolg van die versuim aan die kant van bedoelde lener,

nietes beskou as deel van die bedrag wat voorgeskiet is nie, ongeag of die in paragrafe (a) tot en met (f) bedoelde bedrae namens die huidige lener of 'n vorige lener uitbetaal is.

41. (1) Die totaalbedrag van voorskotte deur 'n vereniging toegestaan teen sekuriteit van vastetermyn-verbande op vaste eiendom mag te gener tyd tien persent van die totale bates van die vereniging by die sluiting van sy jongste boekjaar oorskry nie. **Beperking op vastetermyn-verbande.**

(2) Geen vereniging mag geld teen sekuriteit van 'n vastetermyn-verband op vaste eiendom voorskiet voor die verstryking van twaalf maande vanaf die datum van registrasie van die vereniging nie.

42. (1) Die totaalbedrag van alle voorskotte op elkeen waarvan daar in die geheel meer as vyftienduisend rand aan 'n vereniging verskuldig is, mag te gener tyd 'n bedrag gelyk aan vyf-en-twintig persent van die totale bates van die vereniging by die sluiting van die jongste voorafgaande kalenderkwartaal oorskry nie. **Beperking op totale bedrag van voorskotte in sekere omstandighede.**

(2) Die registrateur kan, onderworpe aan die voorwaardes en beperkings wat hy voorskryf, 'n vereniging toelaat om vir die tydperk of tydperke wat hy goedvind, maar hoogstens twaalf maande op 'n keer en hoogstens vyf jaar in die geheel, die perk wat ingevolge sub-artikel (1) vir hom van toepassing is, te oorskry—

(a) waar die vereniging bedoelde perk weens vermindering van sy bates oorskry; en

(b) in die ander gevalle wat die registrateur bepaal:

Met dien verstande dat die registrateur nie by die verstryking van so 'n tydperk van twaalf maande verdere uitstel verleen nie, tensy hy oortuig is dat die betrokke vereniging gedurende bedoelde tydperk alle stappe gedoen het wat redelikerwys van hom verwag kon word om aan voormelde perk te voldoen.

43. (1) Behalwe met die skriftelike toestemming van die registrateur en onderworpe aan die voorwaardes wat hy voorskryf, mag die totaalbedrag wat aan 'n vereniging verskuldig is ten opsigte van voorskotte teen sekuriteit van verbande op onbeboude grond te gener tyd tienduisend rand of vyf persent van die som van sy onbepaalde aandeelkapitaal en statutêre reserwe aan die einde van sy jongste voorafgaande boekjaar, watter bedrag ook al die grootste is, oorskry nie, en die totaalbedrag wat aan die vereniging verskuldig is ten opsigte van voorskotte op onbeboude grond geleë in 'n bepaalde dorpsgebied, mag ook te gener tyd vyfduisend rand of een persent van die som van sy onbepaalde aandeelkapitaal en statutêre reserwe aan die einde van sy jongste voorafgaande boekjaar, watter bedrag ook al die grootste is, oorskry nie. **Beperking op voorskotte op onbeboude grond.**

(2) By die toepassing van sub-artikel (1) het „dorpsgebied” die betekenis in paragraaf (a) van die omskrywing van „stedelike vaste eiendom” in artikel *een* daaraan toegeskryf en sluit dit ook enige gebied in wat onderverdeel is in standplase of industriële standplase of kleinhoewes wat binne bedoelde omskrywing val.

Restriction on advances on property used for business purposes.

44. (1) A society shall not during any financial year grant advances or re-advances upon the security of the mortgage of immovable property which is or is to be used for business purposes, to an amount exceeding in the aggregate five per cent of the total amount of advances upon the security of the mortgage of immovable property granted by the society during that year.

(2) For the purposes of this section—

- (a) the use of immovable property for the purposes of any building of which more than fifty per cent of the floor area is used for residential purposes or purposes incidental thereto shall not be deemed to constitute use of such immovable property for business purposes; and
- (b) the use of any building for the purposes of an hotel or a boarding house or similar business shall not be deemed to constitute use for residential purposes.

Prohibition of certain types of advances.

45. A society shall not—

- (a) advance money on the security of immovable property unless the bond securing the debt is a first mortgage, but nothing in this paragraph shall debar a society from holding a second or subsequent mortgage if such property is already bonded to it by way of a first mortgage;
- (b) at any time allow a mortgage over immovable property bonded to it to rank *pari passu* with a mortgage bond held by any other person over the property so bonded;
- (c) advance money on the security of a notarial general bond.

Collateral security.

46. Save with the written consent of the registrar, and subject to such conditions and limitations as he may prescribe, no form of guarantee, other than a bank guarantee, may be accepted as collateral security for the purpose of sub-section (2) or (4) of section *forty* unless such guarantee is supported by additional security in any of the forms set out in paragraph (a), (b), (c) or (d) of sub-section (2) or by a mortgage over urban or rural immovable property.

(2) In calculating for the purposes of sub-section (2) or (4) of section *forty* the value of any collateral security furnished, that value shall, if the collateral security—

- (a) consists of cash deposited with the society, be taken at the full amount so deposited;
- (b) consists of deposits with a permanent society or fixed deposits with a bank, be taken at the full amount of the deposits;
- (c) consists of shares in a permanent society, be taken at the amount paid up on the shares;
- (d) consists of a life insurance policy, be taken at the surrender value of the policy;
- (e) consists of a bank guarantee or any form of guarantee or suretyship approved by the registrar, be taken at the full amount guaranteed;
- (f) consists of any other form of guarantee or suretyship supported to the full amount thereof by additional security in any of the forms set out in paragraph (a), (b), (c) or (d), which shall be valued on the bases respectively set out in the said paragraphs, be taken at the full amount thereof;
- (g) is in any form not mentioned in paragraph (a), (b), (c), (d) or (e)—
 - (i) in the case of a reducible mortgage of immovable property, be taken at seventy-five per cent of the value of the collateral security reasonably determined; and
 - (ii) in the case of a fixed term mortgage of immovable property, be taken at sixty-six and two-thirds per cent of the value of the collateral security reasonably determined.

Valuation of immovable property.

47. (1) All advances on the security of the mortgage of immovable property made by a society in terms of section *twenty-nine* shall be based upon a valuation effected by a person appointed for the purpose by the society, who shall base such valuation upon a personal inspection: Provided that such inspection shall not be necessary in the case of vacant land with which the valuator is personally acquainted.

44. (1) 'n Vereniging staan nie gedurende enige boekjaar voorskotte of hervoorskotte toe teen sekuriteit van verbande op vaste eiendom wat vir besigheidsdoeleindes gebruik word of staan te word, tot 'n bedrag wat in die geheel vyf persent van die totale bedrag aan voorskotte teen sekuriteit van verbande op vaste eiendom gedurende daardie jaar deur die vereniging toegestaan, oorskry nie.

Beperking op voorskotte op eiendom gebruik vir besigheidsdoeleindes.

(2) By die toepassing van hierdie artikel—

- (a) word die gebruik van vaste eiendom vir die doeleindes van 'n gebou waarvan meer as vyftig persent van die vloeroppervlakte vir woondoeleindes of daarmee in verband staande doeleindes gebruik word, nie geag gebruik van daardie vaste eiendom vir besigheidsdoeleindes uit te maak nie; en
- (b) word die gebruik van 'n gebou vir die doeleindes van 'n hotel, losieshuis of soortgelyke besigheid nie geag gebruik vir woondoeleindes uit te maak nie.

45. 'n Vereniging mag nie—

- (a) geld teen sekuriteit van vaste eiendom voorskiet nie, tensy die verband wat die skuld sekureer 'n eerste verband is, maar die bepalinge van hierdie paragraaf verhinder nie 'n vereniging om 'n tweede of latere verband te hou indien bedoelde eiendom reeds by wyse van 'n eerste verband aan hom verhipotekeer is nie;
- (b) te eniger tyd toelaat dat 'n verband op vaste eiendom wat aan hom verhipotekeer is, *pari passu* gelyk-geregig is met 'n verband deur 'n ander persoon oor die aldus verhipotekeerde eiendom gehou nie;
- (c) geld voorskiet teen sekuriteit van 'n notariële algemene verband nie.

Verbod op sekere soorte voorskotte.

46. (1) Behalwe met die skriftelike toestemming van die registrator, en onderworpe aan die voorwaardes en beperkings wat hy voorskryf, word geen vorm van garansie, behalwe 'n bankgaransie, as kollaterale sekuriteit vir die doeleindes van sub-artikel (2) of (4) van artikel *veertig* aangeneem nie, tensy sodanige garansie deur bykomende sekuriteit in enige van die vorms in paragraaf (a), (b), (c) of (d) van sub-artikel (2) uiteengesit of deur 'n verband op stedelike of landelike vaste eiendom gesteun word.

Kollaterale sekuriteit.

(2) By die berekening, vir die doeleindes van sub-artikel (2) of (4) van artikel *veertig*, van die waarde van enige kollaterale sekuriteit verstrekkend, word daardie waarde, indien die kollaterale sekuriteit—

- (a) uit by die vereniging gedeponeerde kontant bestaan, teen die volle aldus gedeponeerde bedrag geneem;
- (b) uit deposito's by 'n permanente vereniging of vaste deposito's by 'n bank bestaan, teen die volle bedrag van die deposito's geneem;
- (c) uit aandele in 'n permanente vereniging bestaan, teen die op die aandele opbetaalde bedrag geneem;
- (d) uit 'n lewensversekeringspolis bestaan, teen die afkoopwaarde van die polis geneem;
- (e) uit 'n bankgaransie of enige deur die registrator goedgekeurde vorm van garansie of borgtog bestaan, teen die volle gegarandeerde bedrag geneem.
- (f) uit 'n ander vorm van garansie of borgtog bestaan, tot die volle bedrag daarvan gesteun deur bykomende sekuriteit in enige van die vorms uiteengesit in paragraaf (a), (b), (c) of (d) wat gewaardeer word op die onderskeie grondslae in daardie paragraawe uiteengesit, teen die volle bedrag daarvan geneem;
- (g) in 'n vorm is wat nie in paragraaf (a), (b), (c), (d) of (e) vermeld word nie—
 - (i) in die geval van 'n verminderbare verband op vaste eiendom, teen vyf-en-sewentig persent van die redelik vasgestelde waarde van die kollaterale sekuriteit geneem; en
 - (ii) in die geval van 'n vastetermyn-verband op vaste eiendom, teen ses-en-sestig en twee-derdes persent van die redelik vasgestelde waarde van die kollaterale sekuriteit geneem.

47. (1) Alle voorskotte teen sekuriteit van 'n verband op vaste eiendom wat kragtens artikel *nege-en-twintig* deur 'n vereniging toegestaan word, moet berus op 'n waardasie gemaak deur 'n persoon wat die vereniging vir daardie doel aangestel het en wat bedoelde waardasie op 'n persoonlike inspeksie moet grond: Met dien verstande dat so 'n inspeksie nie nodig is in die geval van onbeboude grond waarmee die waardeerder persoonlik vertrouwd is nie.

Waardasie van vaste eiendom.

(2) Every valuation shall be recorded on a prescribed form, shall be signed by the valuator and shall disclose the date of inspection.

(3) In the case of a property (other than vacant land upon which a building is in the course of erection or about to be erected) acquired by purchase not more than six months before the date of valuation, the valuation shall not exceed the true purchase price of such property as declared by the parties concerned for transfer duty purposes, by more than one hundred rand, unless the board of the society resolves that on the information furnished to it a valuation in excess of such purchase price is in its opinion reasonably justified, in which event a true copy of such resolution shall be forwarded to the registrar within thirty days from the date on which the board so resolves.

(4) No person who has any direct or indirect pecuniary interest, otherwise than in respect of fees for professional legal services, in the granting of an advance, or is related within the third degree of consanguinity or affinity to any person having such an interest in the granting of an advance, shall be appointed or act as a valuator in terms of this section.

(5) Every director, local director or member of the local committee of a society who has any interest as aforesaid in the granting of an advance, or who is related as aforesaid to any person having such an interest, shall declare the nature and extent of his interest at any meeting of the directors, local directors or local committee of the society where the granting of such advance or the valuation of any property offered as security for such advance is considered, and no such director, local director or committee member shall participate in the discussion at such meeting relating to any such matter or exercise his vote thereon.

(6) Any person who contravenes any provision of this section or who wilfully or negligently over-values any property under the provisions of this section shall be guilty of an offence.

Societies may recover certain interest not permitted by Act 37 of 1926.

48. (1) In addition to the amounts which in terms of section two of the Usury Act, 1926, a society would be entitled to obtain judgment for and recover under a mortgage of immovable property, or any subsequent written agreement under such mortgage, it may obtain judgment for and recover—

- (a) any amount disbursed by the society on behalf of the borrower in respect of—
 - (i) premiums on insurance policies designed to provide further security for the repayment of the advance;
 - (ii) rates, taxes and licence fees in respect of the immovable property mortgaged;
 - (iii) the maintenance and repair of the said immovable property;
 - (iv) the installation of sewerage on the said immovable property;
 - (v) the provision of light and water on the said immovable property; and
 - (vi) the cost incurred in converting the said immovable property from leasehold to freehold; and
- (b) interest at a rate stipulated in the mortgage bond or any subsequent written agreement under such bond, but not exceeding the rate at which interest is payable on the advance the repayment of which is secured by the bond, on any amount referred to in paragraph (a); and
- (c) legal costs incurred by the society in respect of legal proceedings instituted by it against a borrower for the recovery of any moneys due under the mortgage bond or any subsequent written agreement under such bond resulting from default on the part of the said borrower.

(2) For the purpose of the application of this section the Usury Act, 1926, shall apply to the Territory.

Advances and loans not invalidated by certain irregularities.

49. An advance or loan granted by a society shall not be invalidated by reason of any contravention of this Act in connection with that advance or loan.

(2) Iedere waardasie moet op 'n voorgeskrewe vorm aange-teken en deur die waardeerder onderteken word en die datum van inspeksie aangee.

(3) In die geval van 'n eiendom (behalwe onbeboude grond waarop 'n gebou opgerig word of staan te word) wat hoogstens ses maande voor die datum van waardasie deur aankoop verkry is, mag die waardasie nie die ware koopsom van sodanige eiendom, soos deur die betrokke partye vir die doeleindes van here-regte verklaar, met meer as honderd rand oorskry nie, tensy die raad van die vereniging op grond van die gegewens aan hom verstrekk, besluit dat 'n hoër waardasie as sodanige koopsom volgens sy oordeel redelikerwys geregverdig is, in watter geval 'n juiste afskrif van sodanige besluit binne dertig dae vanaf die datum waarop die raad aldus besluit, aan die registrateur gestuur moet word.

(4) Niemand mag kragtens hierdie artikel as waardeerder aangestel word of optree nie, indien hy enige regstreekse of onregstreekse geldelike belang, behalwe ten opsigte van gelde vir regsbystand deur hom verleen, by die toestaan van 'n voorskot het, of binne die derde graad van bloed- of aanverwantskap verwant is aan enige persoon wat so 'n belang by die toestaan van 'n voorskot het.

(5) Elke direkteur, plaaslike direkteur of lid van die plaaslike komitee van 'n vereniging wat 'n belang soos voormeld by die toekenning van 'n voorskot het, of wat soos voormeld verwant is aan 'n persoon wat so 'n belang het, moet die aard en omvang van sy belang meedeel op enige vergadering van die direkteure, plaaslike direkteure of plaaslike komitee van die vereniging waar die toestaan van dié voorskot of die waardasie van enige eiendom aangebied as sekuriteit vir dié voorskot oorweeg word, en so 'n direkteur, plaaslike direkteur of komiteelid mag nie op so 'n vergadering aan die bespreking van so 'n aangeleentheid deelneem of sy stem daarvoor uitbring nie.

(6) Iemand wat 'n bepaling van hierdie artikel oortree of wat eiendom opsetlik of op nalatige wyse ingevolge die bepalings van hierdie artikel te hoog waardeer, is aan 'n misdryf skuldig.

48. (1) 'n Vereniging kan, benewens die bedrae waarvoor hy kragtens artikel twee van die Woekerwet, 1926, geregtig sou wees om vonnis te verkry en wat hy daarkragtens sou kon verhaal, ingevolge 'n verband op vaste eiendom of 'n latere skriftelike ooreenkoms ingevolge dié verband, vir die volgende vonnis verkry en dit verhaal, te wete—

Verenigings kan sekere rente verhaal wat nie deur Wet 37 van 1926 veroorloof word nie.

(a) enige bedrag deur die vereniging namens die lener uitbetaal ten opsigte van—

- (i) premies op versekeringspolisse bedoel om verdere sekuriteit vir die terugbetaling van die voorskot te verskaf;
- (ii) belastinge en lisensiegelde ten opsigte van die verhipotekeerde vaste eiendom;
- (iii) die instandhouding en herstel van bedoelde vaste eiendom;
- (iv) die aanlê van 'n rioolstelsel op bedoelde vaste eiendom;
- (v) die voorsiening van lig en water op bedoelde vaste eiendom; en
- (vi) die koste aangegaan om bedoelde vaste eiendom van huurbesit na eiendomsbesit om te skep; en

(b) rente teen 'n koers bepaal in die verband of 'n latere skriftelike ooreenkoms ingevolge die verband, maar nie hoër nie as die koers waarteen rente betaalbaar is op die voorskot waarvan die terugbetaling deur die verband verseker word, op enige bedrag in paragraaf (a) bedoel; en

(c) regskoste deur die vereniging aangegaan ten opsigte van geregtelike prosesse deur hom ingestel teen 'n lener vir die verhaal van enige gelde verskuldig ingevolge die verband of 'n latere skriftelike ooreenkoms ingevolge die verband as gevolg van versuim aan die kant van bedoelde lener.

(2) By die toepassing van hierdie artikel is die Woekerwet, 1926, van toepassing op die Gebied.

49. 'n Voorskot of lening wat deur 'n vereniging toegestaan is, word nie ongeldig gemaak op grond van 'n oortreding van hierdie Wet in verband met sodanige voorskot of lening nie.

Voorskotte en lenings nie as gevolg van sekere onreëlmatighede ongeldig nie.

CHAPTER VI.

ENQUIRIES AND INVESTIGATIONS.

Registrar may demand information from any society.

50. For the purpose of carrying out the provisions of this Act the registrar may demand from any society any information or explanation in relation to any matter connected with its business or transactions, and such society shall within fourteen days (or within such further period as the registrar may allow) comply in writing with that demand, and any such information or explanation shall be furnished in such form as the registrar may direct, and shall, if he so directs, be certified by two directors and the secretary of the society.

Powers of inspection.

51. (1) In addition to the powers and duties conferred or imposed upon him by this Act, the registrar shall have all the powers and duties conferred or imposed upon him by the Inspection of Financial Institutions Act, 1962 (Act No. 68 of 1962).

(2) Any reference in this Act to an inspection or investigation made under this section shall be construed as a reference to an inspection made under the Inspection of Financial Institutions Act, 1962.

Appointment of inspector by registrar on application of members.

52. (1) The registrar may on application by not less than one hundred members of a society, or where the membership of the society is less than one thousand, by one-tenth of all the members, or on application by the judicial manager of the society, appoint an inspector to enquire into and report on the affairs of the society in general or upon such part of its affairs as the registrar may direct.

(2) An application under this section shall be supported by such evidence as the registrar may direct for the purpose of showing that the applicants have good reason for requiring the investigation to be made, and that the application is not actuated by malicious motives.

(3) Such notice of the application shall be given to the society as the registrar may direct.

(4) The applicants shall give security for the costs of the proposed investigation before the inspector is appointed.

(5) All expenses of and incidental to the investigation shall be recovered by the registrar from the applicants or from the society or from the members or officers or former members or officers of the society, in such proportions as the registrar may direct.

(6) An inspector appointed under this section may require the production of all or any of the books, accounts, securities and documents of the society, and may examine on oath any person who is or formerly was an officer, auditor, member or agent in relation to its business and may administer an oath accordingly.

(7) The court may, whenever application is made to it for the winding-up of a society or for the placing of a society under judicial management, direct the registrar to exercise the powers given by this section.

(8) An inspector appointed under this section shall report to the registrar who shall transmit copies of the report to the applicants, if any, and to the society.

Investigation by inspector appointed by society.

53. (1) The members of a society may by special resolution appoint an inspector to investigate its affairs.

(2) The inspector so appointed shall have the same powers and be subject to the same duties as an inspector appointed under section *fifty-two* and shall report in such manner and to such persons as the society has by its resolution directed and shall send a copy of his report to the registrar.

Information to be supplied to inspectors.

54. (1) Any person who is or formerly was an officer, auditor, member or agent of a society whose affairs are being investigated under section *fifty-two* or *fifty-three* shall produce to the inspector all the securities, accounts, books and documents in his custody and give all information relating to the society which may be available to him and which the inspector may require.

(2) Any such person who is or formerly was an officer, auditor, member or agent of the society and who refuses to be sworn or to produce any such securities, accounts, books or documents or to answer any question put to him by such

HOOFSTUK VI.

NAVRAE EN ONDERSOEKE.

50. Ten einde die bepalings van hierdie Wet uit te voer, kan die registrateur van 'n vereniging enige inligting of verduideliking eis met betrekking tot enige aangeleentheid wat met sy besigheid of transaksies in verband staan, en so 'n vereniging is verplig om binne veertien dae (of binne die verdere tydperk wat die registrateur toelaat) skriftelik aan so 'n eis te voldoen, en bedoelde inligting of verduideliking moet in die vorm wees wat die registrateur gelas en moet, indien hy dit gelas, deur twee direkteure en die sekretaris van die vereniging gesertifiseer wees.

Registrateur kan inligting van 'n vereniging eis.

51. (1) Benewens die bevoegdhede en pligte by hierdie Wet aan hom verleen of hom opgelê, het die registrateur al die bevoegdhede en pligte aan hom verleen of hom opgelê deur die Wet op Inspeksie van Finansiële Instellings, 1962 (Wet No. 68 van 1962).

Inspeksie-bevoegdhede.

(2) 'n Verwysing in hierdie Wet na 'n inspeksie of ondersoek kragtens hierdie artikel gedoen, word uitgelê as 'n verwysing na 'n inspeksie kragtens die Wet op Inspeksie van Finansiële Instellings, 1962, gedoen.

52. (1) Die registrateur kan op aansoek deur minstens honderd lede van 'n vereniging of, waar die vereniging minder as duisend lede het, van een-tiende van al die lede, of op aansoek van die geregtelike bestuurder van die vereniging, 'n inspekteur aanstel om ondersoek in te stel na en verslag te doen oor die sake van die vereniging in die algemeen of oor so 'n deel daarvan as wat die registrateur gelas.

Aanstelling van inspekteur deur registrateur op aansoek van lede.

(2) 'n Aansoek ingevolge hierdie artikel moet gesteun word deur getuienis wat die registrateur verlang en waaruit blyk dat die aansoekers grondige rede het om te versoek dat die ondersoek plaasvind en dat die aansoek nie op kwaadwillige motiewe berus nie.

(3) Daar moet aan die vereniging sodanige kennis van die aansoek gegee word as wat die registrateur gelas.

(4) Die aansoekers moet voordat die inspekteur aangestel word, vir die koste van die voorgestelde ondersoek sekerheid stel.

(5) Al die uitgawes van en in verband met die ondersoek word deur die registrateur verhaal op die aansoekers of op die vereniging of op die lede of amptenare of voormalige lede of amptenare van die vereniging in die verhoudings wat die registrateur gelas.

(6) 'n Kragtens hierdie artikel aangestelde inspekteur kan die oorlegging van enige van of al die boeke, rekenings, sekuriteite en dokumente van die vereniging vereis, en kan enige persoon wat 'n amptenaar, ouditeur, lid of agent is of dit voorheen was onder eed omtrent die sake van die vereniging ondervra en kan hulle dienooreenkomstig 'n eed oplê.

(7) Die hof kan wanneer by hom aansoek gedoen word om die likwidasie van 'n vereniging of om 'n vereniging onder geregtelike bestuur te plaas, die registrateur gelas om die by hierdie artikel verleende bevoegdhede uit te oefen.

(8) 'n Inspekteur kragtens hierdie artikel aangestel, moet aan die registrateur verslag doen en die registrateur moet afskrifte van die verslag aan die aansoekers (as daar is) en aan die vereniging stuur.

53. (1) Die lede van 'n vereniging kan by spesiale besluit 'n inspekteur aanstel om sy sake te ondersoek.

Ondersoek deur inspekteur deur vereniging aangestel.

(2) Die aldus aangestelde inspekteur het dieselfde bevoegdhede en is onderworpe aan dieselfde pligte as 'n inspekteur ooreenkomstig artikel twee-en-veertig aangestel, en moet op die wyse en aan die persone deur die vereniging in sy besluit bepaal, verslag doen en 'n afskrif van dié verslag aan die registrateur stuur.

54. (1) Enige persoon wat 'n amptenaar, ouditeur, lid of agent van 'n vereniging wie se sake ooreenkomstig artikel twee-en-veertig of drie-en-veertig ondersoek word, is of dit voorheen was, moet aan die inspekteur alle sekuriteite, rekenings, boeke en dokumente in sy bewaring oorlê en aan hom alle inligting aangaande die vereniging verstrek waarvoor so 'n persoon beskik en wat die inspekteur vereis.

Inligting wat aan inspekteurs verstrek moet word.

(2) So 'n persoon wat 'n amptenaar, ouditeur, lid of agent van die vereniging is of dit voorheen was en wat weier om die eed af te lê of om enige sodanige sekuriteite, rekenings, boeke of dokumente oor te lê of om 'n vraag betreffende die sake van

inspector relating to the affairs of the society, shall, whether or not the answer may tend to incriminate him, be guilty of an offence.

(3) Any person who, having been sworn by any such inspector, knowingly makes any false statement in relation to any matter which is the subject of the investigation, shall be guilty of an offence and liable on conviction to the penalties applicable in respect of the crime of perjury.

CHAPTER VII.

AMALGAMATION, WINDING-UP AND DISSOLUTION.

Amalgamation and transfer of assets and liabilities.

55. (1) Two or more societies may with the written approval of the registrar amalgamate and become one society, and a society may with like approval transfer all its assets and liabilities to another society.

(2) The proposed terms and conditions of an amalgamation or transfer in terms of sub-section (1) shall be submitted in advance to the registrar who shall, subject to the provisions of paragraphs (a) and (b) of sub-section (3), approve of the proposal in question as drafted or with such modifications as he may deem necessary.

(3) No transaction involving the amalgamation of societies or the transfer of assets and liabilities from one society to another shall be of any force or effect unless—

- (a) the registrar is satisfied that such transaction will not be detrimental to the public interest or cause undue hardship to the members of any of the societies concerned;
- (b) the agreement specifically provides that there shall be no division of the profits or of any of the reserves of the societies concerned among their members, but nothing in this paragraph shall be construed as preventing the making of reasonable provision out of the profits of a society for compensation to its officers (other than directors, alternate directors, local directors or members of local committees) for any resulting loss of office or for payment in recognition of past services rendered by such officers;
- (c) the provisions of the agreement for the contemplated amalgamation or transfer are confirmed by special resolution by each of the societies concerned.

(4) The notice convening a special general meeting for the confirmation of any such amalgamation or transfer shall contain or have attached to it the complete terms and conditions of the relevant agreement.

(5) Notice of the passing of the special resolution concerning such amalgamation or transfer, together with a copy of such resolution and the full terms and conditions of the proposed amalgamation or transfer duly certified by two directors and the secretary of the society concerned, shall be sent by each of the societies affected to the registrar and shall be registered by him.

(6) The amalgamation or transfer shall take place upon the terms and conditions set forth in such resolution.

(7) Upon registration by the registrar of the appropriate notices—

- (a) of any such amalgamation, the individual societies who were parties to the transaction shall be deemed to be dissolved and the registrar shall cancel their registration and at the same time and in their stead register the new society in terms of this Act;
- (b) of any such transfer, the society whose assets and liabilities are subject to transfer shall be deemed to be dissolved and its registration shall be cancelled by the registrar.

(8) The liquidator of a society which is being wound up voluntarily or by the court or the judicial manager of a society may transfer all the assets and liabilities of the society being wound up or under judicial management to another society: Provided that the provisions of paragraph (c) of sub-section (3) and sub-section (4) shall not apply to a society which is being wound up.

die vereniging te beantwoord, wat deur die inspekteur aan hom gestel word, is, ongeag of die antwoord hom sou kon inkrimineer al dan nie, aan 'n misdryf skuldig.

(3) Iemand wat nadat so 'n inspekteur hom die eed opgelê het, wetens 'n valse verklaring doen betreffende 'n aangeleentheid wat die onderwerp van die ondersoek is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat ten opsigte van die misdaad van meened geld.

HOOFSTUK VII.

SAMESMELTING, LIKWIDASIE EN ONTBINDING.

55. (1) Twee of meer verenigings kan met die skriftelike goedkeuring van die registrateur saamsmelt en een vereniging vorm, en 'n vereniging kan met dergelike goedkeuring al sy bates en laste aan 'n ander vereniging oordra. Samesmelting en oordrag van bates en laste.

(2) Die voorgestelde bedinge en voorwaardes van 'n samesmelting of oordrag ingevolge sub-artikel (1) moet vooraf voorgelê word aan die registrateur wat, met inagneming van die bepalinge van paragrafe (a) en (b) van sub-artikel (3), die betrokke voorstel moet goedkeur soos opgestel of met die wysigings wat hy nodig ag.

(3) Geen transaksie wat die samesmelting van verenigings of die oordrag van bates en laste van een vereniging aan 'n ander behels, is van krag nie, tensy—

- (a) die registrateur oortuig is dat dié transaksie nie die openbare belang nadelig sal raak of buitensporige ontbering vir die lede van enige van die betrokke verenigings sal veroorsaak nie;
- (b) die ooreenkoms uitdruklik bepaal dat daar geen verdeling van die winste of van enige van die reserwes van die betrokke verenigings tussen hulle lede mag plaasvind nie, maar hierdie paragraaf word nie uitgelê asof dit belet dat redelike voorsiening uit die winste van 'n vereniging gemaak word vir vergoeding aan sy amptenare (behalwe direkteure, plaasvervangende direkteure, plaaslike direkteure of lede van plaaslike komitees) vir enige gevolglike ampsverlies of vir betaling ter erkenning van dienste deur sodanige amptenare in die verlede gelewer nie;
- (c) die bepalinge van die ooreenkoms vir die beoogde samesmelting of oordrag deur elkeen van die betrokke verenigings by spesiale besluit bekragtig word.

(4) Die kennisgewing waarby 'n buitengewone algemene vergadering vir die bekragtiging van so 'n samesmelting of oordrag byeengeroep word, moet die volledige bedinge en voorwaardes van die betrokke ooreenkoms bevat of daarby aangeheg wees.

(5) 'n Kennisgewing dat 'n spesiale besluit aangaande sodanige samesmelting of oordrag geneem is, moet deur elkeen van die betrokke verenigings aan die registrateur gestuur word, tesame met 'n afskrif van die besluit en die volledige bedinge en voorwaardes van die voorgestelde samesmelting of oordrag wat behoorlik deur twee direkteure en die sekretaris van die betrokke vereniging gesertifiseer is, en so 'n kennisgewing word deur die registrateur geregistreer.

(6) Die samesmelting of oordrag moet geskied op die bedinge en voorwaardes in sodanige besluit uiteengesit.

(7) By registrasie deur die registrateur van die ter sake dienende kennisgewings—

- (a) van so 'n samesmelting, word die individuele verenigings wat partye by die transaksie was, geag ontbind te wees en word hul registrasie gekanselleer deur die registrateur wat terselfdertyd die nuwe vereniging ingevolge hierdie Wet in hul plek registreer;
- (b) van so 'n oordrag, word die vereniging wie se bates en laste aan oordrag onderworpe is, geag ontbind te wees en word sy registrasie deur die registrateur gekanselleer.

(8) Die likwidateur van 'n vereniging wat vrywilliglik of deur die hof gelikwideer word of die geregtelike bestuurder van 'n vereniging, kan al die bates en laste van die vereniging wat gelikwideer word of onder geregtelike bestuur is, aan 'n ander vereniging oordra: Met dien verstande dat die bepalinge van paragraaf (c) van sub-artikel (3) en sub-artikel (4) nie van toepassing is op 'n vereniging wat gelikwideer word nie.

(9) Upon the registration by the registrar of the notice of the amalgamation of two or more societies or of the transfer of the assets and liabilities of any society to another society, all the assets and liabilities of the societies so amalgamated shall become assets and liabilities of the society registered in their stead, or, as the case may be, all the assets and liabilities of the society transferring its assets and liabilities shall become assets and liabilities of the society to which they are transferred.

(10) The officer in charge of a deeds registry or other office in which is registered any mortgage bond or any immovable property which is transferred in accordance with the provisions of sub-section (9) shall, upon production to him by the society concerned of such bond or of the title deeds of such immovable property and a certificate by the registrar of the registration by him of the notice of amalgamation or transfer, as the case may be, and without payment of transfer or stamp duty or registration fees or charges, make such endorsements upon such bond or title deeds and such entries in his registers as are necessary by reason of such amalgamation or transfer.

(11) The amalgamation of societies or transfer of assets and liabilities of a society under the provisions of this section shall not affect the rights of any creditor of any of the societies concerned.

**Judicial
management.**

56. (1) Subject to the provisions of this Act, the provisions relating to the judicial management of companies contained in the Companies Act, 1926 (Act No. 46 of 1926), shall *mutatis mutandis* apply to a society.

(2) A judicial management order may be granted in respect of a society by the court on the application of the registrar or of the society.

**Winding-up
of section
of terminating
society.**

57. (1) Subject to the provisions of this section, a section of a terminating society shall be wound up when the period (if any) fixed for the duration of the section by the rules expires, or the event (if any) occurs on the occurrence of which the rules provide that the section is to terminate.

(2) The board shall within twenty-eight days after the expiry of the period or the occurrence of the event referred to in sub-section (1) cause to be prepared in triplicate and to be duly signed by two directors and the secretary and certified by the auditor as to their correctness, a revenue and expenditure account, a statement of assets and liabilities of the section as at the commencement of the winding-up and a distribution account showing the manner in which the said assets and liabilities are to be applied and discharged.

(3) Two copies of the accounts shall be lodged with the registrar forthwith and one copy shall be posted for a period determined by the rules, but in no event for less than fourteen days, in the head office or meeting place of the society for inspection by its members.

(4) The board shall simultaneously with the posting of the accounts referred to in sub-section (3) and in the same place also post a notice drawing attention to the accounts and calling upon all persons interested to lodge in writing with the registrar before a stated day, not being earlier than twenty-one days after the date of the notice, any objection to the accounts with the reasons for such objection.

(5) A copy of the notice referred to in sub-section (4) shall at the same time be sent to every member of the section concerned and the registrar.

(6) If the registrar is of opinion that—
(a) any objection lodged with him ought to be sustained; or
(b) any improper charge has been made against the assets or that the accounts are in any respect incorrect,
he may direct the board to amend the accounts or give such other directions as he may deem fit.

(7) When the registrar is satisfied that the distribution of assets should be proceeded with he shall confirm the distribution account.

(8) The board shall immediately after the confirmation of the distribution account by the registrar proceed to distribute the assets in accordance therewith and shall thereafter without delay lodge with the registrar a certificate by the auditor to the effect that he is satisfied that the amounts refundable in cash have been properly repaid and that the society has duly dis-

(9) By die registrasie deur die registrateur van die kennisgewing van die samesmelting van twee of meer verenigings of van die oordrag van die bates en laste van 'n vereniging aan 'n ander vereniging, word al die bates en laste van die verenigings wat aldus saamgesmelt is, bates en laste van die vereniging wat in hul plek geregistreer word, of, na gelang van die geval, word al die bates en laste van die vereniging wat sy bates en laste oordra, bates en laste van die vereniging waaraan die oordrag geskied.

(10) Die beamppte in beheer van 'n registrasiekantoor van aktes of ander kantoor waarin enige verband of enige vaste eiendom geregistreer is wat ooreenkomstig die bepalings van sub-artikel (9) oorgedra word, moet by oorlegging aan hom deur die betrokke vereniging van daardie verband of van die titelbewys van daardie vaste eiendom en 'n sertifikaat deur die registrateur van die registrasie deur hom van die kennisgewing van samesmelting of oordrag, na gelang van die geval, sonder betaling van here- of seëlregte of registrasiegelde of -koste, die endossemente op daardie verband of titelbewys en die inskrywings in sy registers aanbring wat as gevolg van sodanige samesmelting of oordrag nodig is.

(11) Die samesmelting van verenigings of oordrag van bates en laste van 'n vereniging kragtens die bepalings van hierdie artikel raak nie die regte van 'n skuldeiser van enige van die betrokke verenigings nie.

56. (1) Behoudens die bepalings van hierdie Wet, is die bepalings betreffende die geregtelike bestuur van maatskappye vervat in die Maatskappywet, 1926 (Wet No. 46 van 1926), *mutatis mutandis* op 'n vereniging van toepassing. Geregtelike bestuur.

(2) 'n Bevel tot geregtelike bestuur ten opsigte van 'n vereniging kan deur die hof op aansoek van die registrateur of van die vereniging toegestaan word.

57. (1) Behoudens die bepalings van hierdie artikel, word 'n afdeling van 'n tydelike vereniging gelikwideer by verstryking van die tydperk (as daar is) deur die statute vir die duur van die afdeling bepaal, of wanneer die gebeurtenis (as daar is) plaasvind ten opsigte waarvan die statute voorskryf dat die afdeling ten einde loop wanneer dié gebeurtenis plaasvind. Likwidasië van afdeling van tydelike vereniging.

(2) Die raad moet binne agt-en-twintig dae na die verstryking van die in sub-artikel (1) bedoelde tydperk of nadat die in daardie artikel bedoelde gebeurtenis plaasgevind het, 'n inkomste-en-uitgawerekening, 'n staat van bates en laste van die afdeling by die aanvang van die likwidasië en 'n distribusierekening wat die wyse aantoon waarop bedoelde bates en laste aangewend en afgepos gaan word, in triplikaat laat opstel en behoorlik deur twee direkteure en die sekretaris laat onderteken en deur die ouditeur wat betref die juistheid daarvan laat sertifiseer.

(3) Twee afskrifte van die rekenings moet onverwyld by die registrateur ingedien word en een afskrif moet vir 'n tydperk deur die statute bepaal, maar in geen geval vir minder as veertien dae nie, vir insae deur sy lede in die hoofkantoor of vergaderplek van die vereniging aangeplak word.

(4) Die raad moet wanneer die in sub-artikel (3) bedoelde rekenings aangeplak word, terselfdertyd en by dieselfde plek 'n kennisgewing aanplak waarby aandag op die rekenings gevestig word en alle belanghebbende persone aangesê word om voor 'n vermelde dag, wat nie vroeër as een-en-twintig dae na die datum van die kennisgewing is nie, enige beswaar teen die rekenings, met vermelding van die redes vir sodanige beswaar, skriftelik by die registrateur in te dien.

(5) 'n Afskrif van die in sub-artikel (4) bedoelde kennisgewing moet terselfdertyd aan elke lid van die betrokke afdeling en die registrateur gestuur word.

(6) Indien die registrateur van oordeel is dat—

(a) enige beswaar by hom ingedien, gehandhaaf behoort te word; of

(b) enige onbehoorlike las teen die bates ingebring is of dat die rekenings in enige opsig onjuis is,

kan hy die raad gelas om die rekenings te wysig of die ander opdragte gee wat hy goedvind.

(7) Wanneer die registrateur oortuig is dat daar tot die distribusie van die bates oorgegaan behoort te word, bekragtigt hy die distribusierekening.

(8) Die raad moet onmiddellik na die bekragtiging van die distribusierekening deur die registrateur, daartoe oorgaan om die bates daarvolgens te distribueer en moet daarna onverwyld 'n sertifikaat deur die ouditeur ten effekte dat hy oortuig is dat die bedrae wat in kontant terugbetaalbaar was, behoorlik

charged its obligations in accordance with the distribution account, whereupon the section shall be deemed to be dissolved.

(9) The provisions of sub-section (17) of section *fifty-eight* shall *mutatis mutandis* apply in respect of any amount which may remain unclaimed.

(10) For the purpose of this section "accounts" includes the aforesaid revenue and expenditure account, statement of assets and liabilities and distribution account, and any such revenue and expenditure account or statement of assets and liabilities shall be prepared in the same form as in the case of an account or balance sheet submitted to an annual general meeting referred to in section *thirty-five*.

Winding-up of
terminating
society.

58. (1) A terminating society shall be wound up when the period (if any) fixed by its rules for the duration of the society expires or the event (if any) occurs on the occurrence of which the rules provide that the society is to terminate or when not less than two-thirds of the members of each section of the society by resolution vote in favour of such winding-up at a special general meeting of members called for the purpose: Provided that where the members of each section so voting in favour of such resolution do not hold more than two-thirds of the value of shares of such section, the resolution shall not become effective until it has obtained the concurrence in writing of other members of such section whose shares together with the shares of the members who voted in favour of the said resolution exceed in value two-thirds of the total value of shares in such section.

(2) The board or, in the case of a resolution passed by the members of the society in terms of sub-section (1), such members shall appoint a liquidator to conduct the winding-up of the society.

(3) If the board or the members concerned fail to appoint a liquidator the registrar may in his discretion appoint a person as liquidator.

(4) Every appointment of a liquidator under this section shall be subject to the approval of the registrar who may confirm or reject such appointment or withdraw his prior approval without assigning any reason therefor.

(5) If for any reason the person appointed as liquidator ceases to function as such, the registrar shall appoint another person in his stead as liquidator.

(6) Every liquidator shall give security to the satisfaction of the registrar for the proper performance of his duties as liquidator.

(7) Every such winding-up shall, subject to the provisions of this section, take place in the manner prescribed by the rules of the society concerned.

(8) During such winding-up the provisions of this Act shall continue to apply to the society as if the liquidator were the board of the society.

(9) The liquidator shall within twenty-eight days after the expiry of the period or occurrence of the event or adoption of a resolution referred to in sub-section (1) lodge with the registrar in triplicate a revenue and expenditure account, a statement of assets and liabilities of the society at the commencement of the winding-up and a distribution account showing the manner in which the said assets and liabilities are to be applied and discharged, duly certified in each case by the liquidator as correct.

(10) The registrar shall transmit a duplicate of the accounts to the magistrate of the district in which the head office of the society is situated.

(11) The accounts shall lie open at the registrar's office, and the duplicate thereof shall lie open at the office of the magistrate of the said district, for inspection by persons interested, for such reasonable time, not being less than fourteen days, as the registrar may determine.

(12) The registrar shall at the cost of the society cause to be published in the *Gazette* and in one Afrikaans and one English newspaper circulating in the said district a notice stating the period during which and the places at which the accounts will lie open for inspection as aforesaid, and calling upon all persons interested to lodge in writing with the registrar before a stated day, not being earlier than seven days after the close of the said period, any objection to the accounts, with the reasons therefor.

(13) If the registrar is of opinion—

(a) that any objection lodged with him ought to be sustained; or

terugbetaal is en dat die vereniging sy verpligtings volgens die distribusierekening behoorlik nagekom het by die registrateur indien, en daarop word die afdeling geag ontbind te wees.

(9) Die bepalings van sub-artikel (17) van artikel *agt-en-vyftig* is *mutatis mutandis* van toepassing ten opsigte van enige bedrag wat onopgeëis bly.

(10) By die toepassing van hierdie artikel word onder „rekenings” ook voormelde inkomste-en-uitgawerekening, staat van bates en laste en distribusierekening verstaan, en word so ’n inkomste-en-uitgawerekening of staat van bates en laste opgestel in dieselfde vorm as in die geval van ’n rekening of balansstaat wat ingevolge artikel *vyf-en-dertig* aan ’n jaarlikse algemene vergadering voorgelê word.

58. (1) ’n Tydelike vereniging word gelikwadeer by verstryking van die tydperk (as daar is) deur sy statute vir die duur van die vereniging bepaal, of wanneer die gebeurtenis (as daar is) plaasvind ten opsigte waarvan die statute voorskryf dat die vereniging ten einde loop wanneer dié gebeurtenis plaasvind, of wanneer minstens twee-derdes van die lede van elke afdeling van die vereniging by besluit op ’n buitengewone algemene vergadering van lede wat vir die doel belê is, ten gunste van die likwidasië stem: Met dien verstande dat waar die lede van elke afdeling wat aldus ten gunste van so ’n besluit stem, nie meer as twee-derdes van die waarde van aandele van daardie afdeling besit nie, die besluit nie van krag word nie totdat dit skriftelik goedgekeur is deur ander lede van daardie afdeling wie se aandele tesame met die aandele van die lede wat ten gunste van bedoelde besluit gestem het, twee-derdes van die totale waarde van aandele in daardie afdeling oorskry.

Likwidasië van tydelike vereniging.

(2) Die raad of, in die geval van ’n besluit ingevolge sub-artikel (1) deur die lede van die vereniging geneem, sodanige lede moet ’n likwidateur aanstel om die likwidasië van die vereniging te behartig.

(3) Indien die raad of die betrokke lede versuim om ’n likwidateur aan te stel, kan die registrateur na goeddunke iemand as likwidateur aanstel.

(4) Elke aanstelling van ’n likwidateur kragtens hierdie artikel is onderworpe aan die goedkeuring van die registrateur wat so ’n aanstelling kan bekragtig of verwerp of sy vorige goedkeuring sonder aangifte van redes kan terugtrek.

(5) Indien die persoon wat as likwidateur aangestel is om enige rede ophou om as sodanig te funksioneer, stel die registrateur iemand anders in sy plek as likwidateur aan.

(6) Elke likwidateur moet tot bevrediging van die registrateur sekerheid stel vir die behoorlike verrigting van sy pligte as likwidateur.

(7) Elke sodanige likwidasië vind, behoudens die bepalings van hierdie artikel, plaas op die wyse by die statute van die betrokke vereniging voorgeskryf.

(8) Gedurende sodanige likwidasië bly die bepalings van hierdie Wet op die vereniging van toepassing asof die likwidateur die raad van die vereniging is.

(9) Die likwidateur moet binne agt-en-twintig dae na die verstryking van die in sub-artikel (1) bedoelde tydperk of nadat die daarin bedoelde gebeurtenis plaasgevind het of ’n daarin bedoelde besluit geneem is, ’n inkomste-en-uitgawerekening, ’n staat van bates en laste van die vereniging by die aanvang van die likwidasië en ’n distribusierekening wat die wyse aantoon waarop bedoelde bates en laste aangewend en afgepos gaan word, wat in elke geval behoorlik deur die likwidateur as juis gesertifiseer is, in tripikaat by die registrateur indien.

(10) Die registrateur stuur ’n duplikaat van die rekenings aan die landdros van die distrik waarin die hoofkantoor van die vereniging geleë is.

(11) Die rekenings moet by die kantoor van die registrateur ter insae lê, en die duplikaat daarvan moet by die kantoor van die landdros van bedoelde distrik ter insae lê van belanghebbendes vir ’n redelike tydperk van minstens veertien dae, wat die registrateur bepaal.

(12) Die registrateur laat op koste van die vereniging in die *Staatskoerant* en in een Afrikaanse en een Engelse koerant in omloop in bedoelde distrik, ’n kennisgewing publiseer waarin aangedui word vir watter tydperk en op watter plekke die rekenings soos voormeld ter insae sal lê, en waarin alle belanghebbendes aangesê word om voor ’n vermeldde dag, minstens sewe dae na die verstryking van bedoelde tydperk, enige beswaar teen die rekenings met vermelding van die redes daarvoor skriftelik by die registrateur in te dien.

(13) Indien die registrateur van oordeel is—

(a) dat enige beswaar by hom ingedien, gehandhaaf behoort te word; of

(b) even though no objection has been lodged with him, that any improper charge has been made against the assets, or that the accounts are in any respect incorrect and should be amended, he may direct the liquidator to amend the accounts or give such other directions as he may deem fit.

(14) When any direction given in terms of sub-section (13) affects the interests of a person who has not lodged an objection with the registrar, the accounts as amended in terms of that direction shall again lie open for inspection and be advertised in the manner hereinbefore prescribed, unless the person affected as aforesaid consents in writing to the immediate confirmation of the distribution account.

(15) After the accounts have been open to inspection as hereinbefore prescribed, the registrar shall, if he is satisfied that the accounts are correct, and that his directions, in so far as they have not been set aside or varied by the court, have been given effect to, confirm the distribution account.

(16) The liquidator shall immediately after the confirmation of any distribution account proceed to distribute the assets in accordance therewith and shall without delay lodge with the registrar receipts for any payments in pursuance of the distribution.

(17) If any amount payable in terms of the distribution account remains unclaimed for a period of two months after the confirmation of the distribution account, the liquidator shall immediately pay such amount into the Guardian's Fund and submit proof of such payment to the registrar.

(18) The liquidator of a society which is being wound up under this section may transfer all the assets and liabilities of such society to another terminating society in which event the provisions of section *fifty-five* shall *mutatis mutandis* apply.

(19) If the registrar is satisfied that the winding-up is complete, he shall cancel the registration of the society and thereupon the society shall be dissolved.

(20) For the purposes of this section "accounts" includes the aforesaid revenue and expenditure account, any statement of assets and liabilities and any distribution account, and any such revenue and expenditure account or statement of assets and liabilities shall be prepared in the same form as in the case of the account and balance sheet which is submitted to an annual general meeting referred to in section *thirty-five*.

Voluntary winding-up of permanent society.

59. (1) A permanent society may be wound up voluntarily if the members so decide by special resolution.

(2) Subject to the provisions of this section the provisions of the Companies Act, 1926 (Act No. 46 of 1926), relating to the voluntary winding-up of companies shall *mutatis mutandis* apply to any permanent society.

(3) In the application of the said provisions in terms of sub-section (2), sub-section (2) of section *one hundred and sixty-three* of the said Act shall be construed as if after the word "Registrar" there were inserted the words "to the Registrar of Building Societies".

(4) The liquidator in a voluntary winding-up of a permanent society shall, until the society is dissolved, send to the registrar each year an account, balance sheet and annexure and subsidiary statements such as are by section *thirty-five* required to be sent to him by a society.

(5) The liquidator of the society shall forward to the registrar a copy of every notice or account which in terms of the provisions of the Companies Act, 1926, he is required to furnish to the Master of the Supreme Court.

Winding-up by the court.

60. (1) Subject to the provisions of this section, the provisions of the Companies Act, 1926 (Act No. 46 of 1926), relating to the winding-up of companies by the court, shall *mutatis mutandis* apply to every society.

(2) An order for the winding-up of a society may be granted by the court on the application of any creditor or of the registrar or of the judicial manager of the society.

(3) The court may give to the liquidator any directions which to it may appear to be suitable in the circumstances, due regard being had to the interests of members and creditors of the society.

(4) An order for the winding-up of a society by the court shall not be made unless the court is satisfied that it is not desirable that the society be placed under judicial management.

(5) The provisions of sub-sections (3), (4) and (5) of section *fifty-nine* shall *mutatis mutandis* apply in the case of the winding-up of a society by the court.

(b) al is geen beswaar by hom ingedien nie, dat 'n onbehoorlike las teen die bates ingebring is of dat die rekenings in enige opsig onjuis is en gewysig behoort te word, kan hy die likwidateur gelas om die rekenings te wysig of die ander opdragte gee wat hy goedvind.

(14) Wanneer 'n opdrag ingevolge sub-artikel (13) gegee die belange raak van iemand wat nie 'n beswaar by die registrateur ingedien het nie, moet die rekenings soos ooreenkomstig daardie opdrag gewysig, weer op die hierbo voorgeskrewe wyse ter insae lê en geadverteer word, tensy die persoon wat soos voormeld geraak word, skriftelik tot die onmiddellike bekragtiging van die distribusierekening toestem.

(15) Nadat die rekenings soos hierbo voorgeskryf ter insae gelê het, bekragtig die registrateur die distribusierekening indien hy oortuig is dat die rekenings juis is, en dat aan sy opdragte gevolg gegee is vir sover hulle nie deur die hof tersyde gestel of gewysig is nie.

(16) Die likwidateur moet onmiddellik na die bekragtiging van 'n distribusierekening daartoe oorgaan om die bates daarvolgens te distribueer en moet onverwyld kwitansies vir betalings ingevolge die distribusie gedoen, by die registrateur indien.

(17) Indien enige bedrag wat volgens die distribusierekening betaalbaar is, vir 'n tydperk van twee maande na die bekragtiging van die distribusierekening onopgeëis bly, moet die likwidateur daardie bedrag onmiddellik in die Voogdyfonds stort en bewys van die storting aan die registrateur voorlê.

(18) Die likwidateur van 'n vereniging wat kragtens hierdie artikel gelikwideer word, kan al die bates en laste van daardie vereniging oordra aan 'n ander tydelike vereniging, en in so 'n geval is die bepalings van artikel *vyf-en-vyftig mutatis mutandis* van toepassing.

(19) Indien die registrateur oortuig is dat die likwidasië afgehandel is, kanselleer hy die registrasie van die vereniging en daarop is die vereniging ontbind.

(20) By die toepassing van hierdie artikel word onder „rekenings” ook die voormelde inkomste-en-uitgawerekening, 'n staat van bates en laste en 'n distribusierekening verstaan, en word so 'n inkomste-en-uitgawerekening of staat van bates en laste opgestel in dieselfde vorm as in die geval van 'n rekening en balansstaat wat ingevolge artikel *vyf-en-dertig* aan 'n jaarlikse algemene vergadering voorgelê word.

59. (1) 'n Permanente vereniging kan by spesiale besluit te dien effekte vrywilliglik deur sy lede gelikwideer word. Vrywillige likwidasië van permanente vereniging.

(2) Behoudens die bepalings van hierdie artikel is die bepalings van die Maatskappywet, 1926 (Wet No. 46 van 1926), met betrekking tot die vrywillige likwidasië van maatskappye, *mutatis mutandis* op 'n permanente vereniging van toepassing.

(3) By die toepassing van bedoelde bepalings ingevolge sub-artikel (2), word sub-artikel (2) van artikel *honderd drie-en-sestig* van bedoelde Wet uitgelê asof daar na die woord „Registrateur” die woorde „die Registrateur van Bouverenigings” ingevoeg is.

(4) Die likwidateur by 'n vrywillige likwidasië van 'n permanente vereniging moet, totdat die vereniging ontbind is, elke jaar aan die registrateur 'n rekening, balansstaat, bylae en bykomende state stuur wat volgens voorskrif van artikel *vyf-en-dertig* deur 'n vereniging aan hom gestuur moet word.

(5) Die likwidateur van die vereniging moet 'n afskrif van elke kennisgewing of rekening wat hy ingevolge die bepalings van die Maatskappywet, 1926, verplig is om aan die Meester van die Hooggeregshof te verstrek, aan die registrateur stuur.

60. (1) Behoudens die bepalings van hierdie artikel, is die bepalings van die Maatskappywet, 1926 (Wet No. 46 van 1926), met betrekking tot die likwidasië van maatskappye deur die hof *mutatis mutandis* op elke vereniging van toepassing. Likwidasië deur die hof.

(2) 'n Bevel vir die likwidasië van 'n vereniging kan op aansoek van 'n skuldeiser of van die registrateur of van die geregtelike bestuurder van die vereniging deur die hof toegestaan word.

(3) Die hof kan aan die likwidateur die opdragte gee wat hy in die omstandighede en met inagneming van die belange van lede en skuldeisers van die vereniging gepas vind.

(4) 'n Bevel vir die likwidasië van 'n vereniging deur die hof word nie gegee nie tensy die hof oortuig is dat dit nie gewens is om die vereniging onder geregtelike bestuur te plaas nie.

(5) Die bepalings van sub-artikels (3), (4), en (5) van artikel *nege-en-vyftig* is *mutatis mutandis* van toepassing in die geval van die likwidasië van 'n vereniging deur die hof.

Appointment of judicial manager and liquidator.

61. Notwithstanding the provisions of the Companies Act, 1926 (Act No. 46 of 1926), as applied by sections *fifty-six* and *sixty* of this Act, no person other than a person recommended by the registrar shall be appointed by the Master of the Supreme Court as judicial manager, provisional judicial manager, liquidator or provisional liquidator of a building society.

Dissolution of society.

62. Immediately after the confirmation of the final account in the winding-up of a society which is wound up under the provisions of the Companies Act, 1926 (Act No. 46 of 1926), as modified and applied by sections *fifty-nine* and *sixty* of this Act, the Master of the Supreme Court shall give notice thereof to the registrar, who shall register it and cancel the registration of the society and thereupon the society shall be dissolved.

Limitation of liability of members.

63. When a society is being wound up the liability of any member in respect of any share shall be limited to the amount in arrear on such share at the commencement of such winding-up: Provided that no member shall be entitled to claim repayment of any amount actually paid on any such share unless the claims of all creditors of the society have been paid in full: Provided further that if a member has received any advance or loan from the society, he shall be liable to repay the full amount owing by him in respect of such advance or loan.

Liability of borrowers in winding-up.

64. When a society is being wound up, a member or other person to whom an advance or a loan has been made under any mortgage or other security or under the rules of the society shall not be liable to pay the amount payable under such mortgage or security or rules except at the time or times and subject to the conditions therein expressed or agreed upon.

Application of certain provisions of Act 46 of 1926, to the Territory.

65. For the purposes of the application of sections *fifty-six*, *fifty-nine* and *sixty*, the Companies Act, 1926, shall *mutatis mutandis* apply to the Territory, and in so applying the said Act—

- (a) the Territory shall be deemed to be a province of the Republic, except that any reference in the said Act to the Consolidated Revenue Fund shall be construed as a reference to the Territory Revenue Fund; and
- (b) any reference to the *Gazette* shall in the case of a society which has its head office in the Territory be construed as including the *Official Gazette* of the Territory.

CHAPTER VIII.

GENERAL PROVISIONS.

Societies to provide against loss through negligence or dishonesty of their officers and agents.

66. (1) A society shall either maintain a fund which in the opinion of the registrar is adequate and which is reserved exclusively for the purpose of making good any loss resulting from the negligence or dishonesty of any of its officers or agents, or shall insure itself against such loss to an amount which is not less than an amount which the registrar deems adequate, with a person approved of by the registrar carrying on insurance business or the business of guaranteeing employers against any such loss.

(2) The assets of any fund maintained in terms of this section may be invested in deposits with the society but shall not in any other way be merged with the assets of the society.

Auditors of society.

67. (1) (a) Every society shall have one or more auditors.
- (b) Any such auditor shall be an accountant and auditor registered under the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), who is engaged in public practice, and no officer of a society and no firm of which such an officer is a member or employee, shall be appointed as an auditor of that society.

(2) The board shall within thirty days from the date of registration of the society appoint one or more auditors who shall retire at the conclusion of the society's first annual general meeting following his appointment unless previously removed from office by a resolution of the members of the society at a general meeting or unless he is re-appointed.

61. Ondanks die bepalinge van die Maatskappywet, 1926 (Wet No. 46 van 1926), soos by artikels *ses-en-vyftig* en *sestig* van hierdie Wet toegepas, stel 'n Meester van die Hooggeregshof niemand anders as 'n persoon deur die registrateur aanbeveel as geregtelike bestuurder, voorlopige geregtelike bestuurder, likwateur of voorlopige likwateur van 'n bouvereniging aan nie.

Aanstelling van geregtelike bestuurder en likwateur.

62. Onmiddellik na die bekragtiging van die finale rekening by die likwatasie van 'n vereniging wat gelikwideer word kragtens die bepalinge van die Maatskappywet, 1926 (Wet No. 46 van 1926), soos by artikels *nege-en-vyftig* en *sestig* van hierdie Wet aangepas en toegepas, gee die Meester van die Hooggeregshof daarvan kennis aan die registrateur wat dit registreer en die registrasie van die vereniging kanselleer, en daarop is die vereniging ontbind.

Ontbinding van 'n vereniging.

63. Wanneer 'n vereniging gelikwideer word, is die aanspreeklikheid van 'n lid ten opsigte van enige aandeel beperk tot die bedrag wat by die aanvang van die likwatasie op daardie aandeel agterstallig is: Met dien verstande dat 'n lid nie geregtig is om terugbetaling van enige bedrag werklik op so 'n aandeel betaal, te eis nie, tensy die eise van alle skuldeisers van die vereniging ten volle betaal is: Met dien verstande voorts dat indien 'n lid enige voorskot of lening van die vereniging ontvang het, hy die volle bedrag ten opsigte van sodanige voorskot of lening deur hom verskuldig, moet terugbetaal.

Beperking van aanspreeklikheid van lede.

64. Wanneer 'n vereniging gelikwideer word, is 'n lid of ander persoon aan wie 'n voorskot of 'n lening kragtens 'n verband of ander sekuriteit of kragtens die statute van die vereniging verstrekkend is, nie aanspreeklik om die bedrag kragtens so 'n verband, sekuriteit of statute betaalbaar, te betaal nie, behalwe op die tyd of tye en onderworpe aan die voorwaardes wat daarin uiteengesit is of waarop ooreengekom is.

Aanspreeklikheid van leners by likwatasie.

65. By die toepassing van artikels *ses-en-vyftig*, *nege-en-vyftig* en *sestig* is die Maatskappywet, 1926, *mutatis mutandis* van toepassing op die Gebied, en by so 'n toepassing van bedoelde Wet—

Toepassing van sekere bepalinge van Wet 46 van 1926 op Gebied.

- (a) word die Gebied geag 'n provinsie van die Republiek te wees, behalwe dat 'n verwysing in daardie Wet na die Gekonsolideerde Inkomstefonds as 'n verwysing na die Inkomstefonds van die Gebied uitgelê word; en
- (b) word 'n verwysing na die *Staatkoerant*, in die geval van 'n vereniging wat sy hoofkantoor in die Gebied het, ook as 'n verwysing na die *Offisiële Koerant* van die Gebied uitgelê.

HOOFSTUK VIII.

ALGEMENE BEPALINGS.

66. (1) 'n Vereniging moet of 'n fonds in stand hou wat volgens die oordeel van die registrateur voldoende is en wat gereserveer is uitsluitend om enige verlies wat voortspruit uit die nalatigheid of oneerlikheid van een of meer van sy amptenare of agente te vergoed of hom vir 'n bedrag wat nie minder is nie as 'n bedrag wat die registrateur voldoende ag, teen sodanige verlies verseker by 'n deur die registrateur goedgekeurde persoon wat versekeringsbesigheid dryf of die besigheid om werkgewers teen sodanige verlies te garandeer.

Verenigings moet voorsiening maak teen verlies weens nalatigheid of oneerlikheid van hul amptenare en agente.

(2) Die bates van enige fonds wat ingevolge hierdie artikel in stand gehou word, kan in deposito's by die vereniging belê word, maar mag op geen ander manier met die bates van die vereniging saamgesmelt word nie.

67. (1) (a) Elke vereniging moet een of meer ouditeure hê.
- (b) So 'n ouditeur moet 'n rekenmeester en ouditeur wees wat kragtens die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), geregistreer is en wat 'n openbare praktyk beoefen, en geen amptenaar van 'n vereniging en geen firma waarvan so 'n amptenaar 'n lid of 'n werknemer is, mag as 'n ouditeur van daardie vereniging aangestel word nie.

Ouditeure van vereniging.

(2) Die raad stel binne dertig dae vanaf die datum van registrasie van die vereniging een of meer ouditeure aan wat aftree aan die end van die vereniging se eerste jaarlikse algemene vergadering na sy aanstelling, tensy hy eerder by besluit van die lede van die vereniging op 'n algemene vergadering van sy amp onthef word, of tensy hy weer aangestel word.

(3) The board or the main auditors acting with the consent of the board shall appoint a branch auditor to any branch of the society who shall retire at the conclusion of the society's first annual general meeting following his appointment unless previously removed from office by a resolution of the members of the society at a general meeting or unless he is re-appointed.

(4) Every auditor, however appointed, shall, if not previously removed from office by a resolution of the members of the society at a general meeting, be deemed to be re-appointed at the annual general meeting following his appointment or re-appointment until the conclusion of the next annual general meeting without any resolution being passed to that end, unless—

- (a) he is not qualified for re-appointment; or
- (b) a resolution is passed at the first-mentioned meeting appointing somebody else in his place or providing expressly that he is not being re-appointed; or
- (c) he has given the society notice in writing of his unwillingness to be re-appointed:

Provided that where notice is given of an intended resolution to appoint some person or persons in the place of a retiring auditor, and by reason of the death, incapacity or disqualification of that person or of all those persons, as the case may be, the resolution cannot be proceeded with, such retiring auditor shall not be deemed to be automatically re-appointed by virtue of this sub-section.

(5) The members of a society may at any general meeting remove from office any auditor appointed or re-appointed under this section and appoint another auditor in his place, and the auditor so appointed shall, subject to the provisions of sub-section (4), retire at the conclusion of the society's first annual general meeting following his appointment.

(6) A resolution at any general meeting—

- (a) appointing as auditor a person other than a retiring auditor; or
- (b) providing expressly that a retiring auditor shall not be re-appointed; or
- (c) removing an auditor from office in terms of sub-section (5),

shall not be effective unless notice of intention to move such a resolution has been given to the society not less than fourteen days before the meeting at which it is moved.

(7) A society shall give notice to its members of such intended resolution at the same time and in the same manner as it gives notice of the meeting, or if that is not practicable, shall give them notice at least seven days before the date of the general meeting either by advertisement in one or more newspapers circulating in the place where the head office of the society is situated and in such other centres as the board may deem desirable, or in any other appropriate manner.

(8) On receipt of the notice of an intended resolution referred to in sub-section (6) the board shall forthwith send a copy thereof to the retiring auditor or the auditor whom it is intended to remove from office, as the case may be.

(9) Whenever for any reason other than that referred to in sub-section (5) an auditor vacates his office prior to the expiration of the period for which he has been appointed, the board shall within thirty days appoint or cause to be appointed in his place another auditor who shall, subject to the provisions of sub-section (4), retire at the conclusion of the society's first annual general meeting following his appointment.

(10) Where the auditor of a society is a partnership the appointment of such auditor shall not lapse by reason of a change in the composition of the partnership as long as not less than half the persons who were partners as at the date when the partnership was last appointed continue to be partners therein.

(11) If a society or its board fails to appoint any auditor required to be appointed in terms of this section, the registrar shall make such appointment, and the auditor so appointed shall, subject to the provisions of sub-section (4), retire at the conclusion of the society's first annual general meeting following his appointment.

(12) In the event of an appointment in terms of sub-section (11) the registrar shall, in consultation with the auditor, determine the remuneration to be paid to the auditor by the society for his services, and if the society fails to pay the remuneration

(3) Die raad of die hoofouditeure handelende met die toestemming van die raad moet 'n takouditeur vir enige tak van die vereniging aanstel wat aftree by afsluiting van die vereniging se eerste jaarlikse algemene vergadering na sy aanstelling, tensy hy eerder by besluit van die lede van die vereniging op 'n algemene vergadering van sy amp onthef word, of tensy hy weer aangestel word.

(4) Elke ouditeur, hoe ook al aangestel, word, indien hy nie eerder by besluit van die lede van die vereniging op 'n algemene vergadering van sy amp onthef word nie, geag weer aangestel te wees op die jaarlikse algemene vergadering wat volg op sy aanstelling of heraanstelling tot aan die end van die volgende jaarlikse algemene vergadering, sonder dat 'n besluit te dien einde geneem word, tensy—

- (a) hy nie vir heraanstelling bevoeg is nie; of
- (b) 'n besluit op eersgenoemde vergadering geneem word waarby iemand anders in sy plek aangestel word of uitdruklik bepaal word dat hy nie heraanstelling word nie; of
- (c) hy die vereniging skriftelik in kennis gestel het dat hy nie bereid is om heraanstelling te aanvaar nie:

Met dien verstande dat, indien kennis gegee word van 'n voorgenome besluit om die een of ander persoon of persone in die plek van 'n aftredende ouditeur aan te stel, en daar weens die dood, onbevoegdheid of diskwalifikasie van daardie persoon of van al daardie persone, na gelang van die geval, nie met die besluit voortgegaan kan word nie, sodanige aftredende ouditeur nie outomaties uit hoofde van hierdie sub-artikel geag word heraanstelling te wees nie.

(5) Die lede van 'n vereniging kan op 'n algemene vergadering 'n kragtens hierdie artikel aangestelde of heraanstellingde ouditeur van sy amp onthef en 'n ander ouditeur in sy plek aanstel, en die aldus aangestelde ouditeur tree, behoudens die bepalings van sub-artikel (4), af aan die end van die vereniging se eerste jaarlikse algemene vergadering na sy aanstelling.

(6) 'n Besluit op 'n algemene vergadering—

- (a) wat iemand anders as 'n aftredende ouditeur as ouditeur aanstel; of
- (b) wat uitdruklik bepaal dat 'n aftredende ouditeur nie heraanstelling word nie; of
- (c) wat 'n ouditeur kragtens sub-artikel (5) van sy amp onthef,

is nie van krag nie tensy kennis van die voorneme om so 'n besluit voor te stel aan die vereniging gegee is nie minder nie as veertien dae voor die vergadering waarop dit voorgestel word.

(7) 'n Vereniging moet aan sy lede van so 'n voorgenome besluit kennis gee op dieselfde tyd en wyse as wat hy van die vergadering kennis gee, of, indien dit nie doenlik is nie, ten minste sewe dae voor die datum van die algemene vergadering, en wel of deur advertensie in een of meer nuusblaaie in omloop in die plek waar die hoofkantoor van die vereniging geleë is en in die ander sentrums wat die raad wenslik ag of op 'n ander gepaste wyse.

(8) By ontvangs van die kennisgewing van 'n in sub-artikel (6) bedoelde voorgenome besluit, stuur die raad onverwyld 'n afskrif daarvan aan die aftredende ouditeur of, na gelang van die geval, aan die ouditeur wat van sy amp onthef staan te word.

(9) Wanneer 'n ouditeur om 'n ander rede as dié in sub-artikel (5) vermeld sy amp ontruim voor die verstryking van die tydperk waarvoor hy aangestel is, moet die raad binne dertig dae 'n ander ouditeur in sy plek aanstel of laat aanstel wat, behoudens die bepalings van sub-artikel (4), by afsluiting van die vereniging se eerste jaarlikse algemene vergadering na sy aanstelling aftree.

(10) Waar die ouditeur van 'n vereniging 'n vennootskap is, vervall die aanstelling van die ouditeur nie op grond van 'n verandering in die samestelling van die vennootskap nie solank minstens die helfte van die persone wat op die datum van die vennootskap se jongste aanstelling vennote daarin was, nog vennote daarin bly.

(11) Indien 'n vereniging of sy raad versuim om 'n ouditeur aan te stel wat ingevolge hierdie artikel aangestel moet word, doen die registrateur so 'n aanstelling, en die aldus aangestelde ouditeur tree, behoudens die bepalings van sub-artikel (4), af aan die end van die vereniging se eerste jaarlikse algemene vergadering na sy aanstelling.

(12) In die geval van 'n aanstelling ingevolge sub-artikel (11), bepaal die registrateur in oorleg met die ouditeur die besoldiging wat deur die vereniging aan die ouditeur vir sy dienste betaal moet word, en indien die vereniging versuim om die besoldiging

the Minister shall pay such remuneration out of public funds and the registrar shall recover from the society an amount equal to that remuneration.

(13) Every auditor appointed under this section shall have a right of access to the securities, books, accounts and vouchers of the society and may require from its officers and agents such information as may be necessary for the performance of his duties as auditor: Provided that in the case of a branch auditor the aforementioned provisions shall apply only in respect of matters pertaining to the branch of which he has been appointed auditor.

(14) Every auditor of a society shall report to the board of that society any material irregularity or undesirable practice in the conduct of the business of that society which has come to his notice, and if that irregularity or undesirable practice is not rectified or discontinued within a period of one month from the date upon which it was reported to the board, the auditor shall report it to the registrar.

(15) Every branch auditor shall report to the board on the returns made up annually by the branch in respect of which he has been appointed auditor and shall state in his report whether or not in his opinion the returns contain the necessary information relating to the operations of the branch to enable the main auditors of the society to report in terms of sub-section (17).

(16) A copy of every report submitted to the board by a branch auditor, whether dealing with an irregularity or undesirable practice or with any other matter, shall be transmitted forthwith by such auditor to the main auditors of the society.

(17) The main auditors shall report to the members on any revenue and expenditure account and balance sheet of the society prepared in terms of sub-section (2) of section *thirty-five* and shall state whether in their opinion the account and balance sheet are properly drawn up so as to exhibit a true and fair view of the revenue and expenditure and financial position, respectively, of the society.

(18) Any auditor of a society, however appointed, shall be entitled to attend any meeting of members of such society and to make thereat any statement that he desires to make in relation to any return, account or balance sheet examined by him or report made by him or to make representations in relation to any matter affecting his appointment, removal or remuneration.

(19) A society shall within fourteen days of appointment of any auditor under this section apply to the registrar for his approval of the appointment.

(20) The registrar may without assigning any reason therefor, refuse to approve of any such appointment or withdraw his prior approval and thereupon the auditor concerned shall vacate his office as auditor.

(21) When the registrar has refused to approve or has withdrawn his approval of the appointment of an auditor in terms of sub-section (20), the board shall appoint or cause steps to be taken for the appointment of some other person as auditor, but again subject to the approval of the registrar.

(22) For the purpose of the exercise of his powers under sub-sections (19), (20) and (21), the registrar may call for such information as he may deem necessary in regard to the experience or qualifications of an auditor, and such information shall be furnished by such auditor in such form as the registrar may direct.

(23) If a society or its board fails to comply with any requirements of this section it shall be guilty of an offence.

Minors and
married women.

68. (1) Unless otherwise provided by the rules of the society, a minor over the age of sixteen years or a married woman, whether under marital power or not, may be a member or depositor with any society and may without the consent or assistance of his guardian or her husband, as the case may be, execute all necessary documents, give all necessary acquittances and cede, pledge, borrow against and generally deal with his or her share or deposit as he or she thinks fit, and shall enjoy all the privileges (except that a minor shall not hold office) and be liable to all the obligations attaching to members or depositors.

te betaal, word sodanige besoldiging deur die Minister uit Staatsgeld betaal en word 'n bedrag gelykstaande met daardie besoldiging deur die registrateur op die vereniging verhaal.

(13) Elke ouditeur kragtens hierdie artikel aangestel, het 'n reg van toegang tot die sekuriteite, boeke, rekenings en bewysstukke van die vereniging en kan van die vereniging se amptenare en agente die inligting vereis wat vir die verrigting van sy pligte as ouditeur nodig is: Met dien verstande dat in die geval van 'n takouditeur voormelde bepalings slegs van toepassing is ten opsigte van aangeleenthede wat betrekking het op die tak waarvan hy as ouditeur aangestel is.

(14) Elke ouditeur van 'n vereniging moet aan die raad van daardie vereniging enige wesentlike onreëlmatigheid of ongewenste praktyk by die uitoefening van die bedryf van daardie vereniging rapporteer wat onder sy aandag gekom het, en as daardie onreëlmatigheid of ongewenste praktyk nie binne 'n tydperk van een maand vanaf die datum waarop dit aan die raad gerapporteer is, uit die weg geruim of gestaak word nie, moet die ouditeur dit aan die registrateur rapporteer.

(15) Elke takouditeur moet aan die raad verslag doen oor die opgewas jaarliks opgemaak deur die tak ten opsigte waarvan hy as ouditeur aangestel is en moet in sy verslag meld of die opgewas na sy oordeel die nodige inligting aangaande die werksaamhede van die tak bevat al dan nie ten einde die hoofouditeure van die vereniging in staat te stel om ingevolge sub-artikel (17) te rapporteer.

(16) 'n Afskrif van elke verslag deur 'n takouditeur aan die raad verstrek, moet, ongeag of dit oor 'n onreëlmatigheid of ongewenste praktyk of oor enige ander aangeleentheid handel, onverwyld deur sodanige ouditeur aan die hoofouditeure van die vereniging deurgestuur word.

(17) Die hoofouditeure moet aan die lede verslag doen oor enige inkomste-en-uitgawerekening en balansstaat van die vereniging ingevolge sub-artikel (2) van artikel vyf-en-dertig opgemaak en moet meld of die rekening en balansstaat na hul mening behoorlik opgemaak is ten einde 'n getroue en billike oorsig onderskeidelik van die inkomste en uitgawes en die finansiële toestand van die vereniging te toon.

(18) 'n Ouditeur van 'n vereniging, hoe ook al aangestel, is geregtig om enige vergadering van lede van dié vereniging by te woon en om aldaar enige verklaring te doen wat hy verlang om te doen met betrekking tot enige opgaawe, rekening of balansstaat deur hom nagesien of verslag deur hom gedoen of om met betrekking tot enige aangeleentheid rakende sy aanstelling, ontheffing of besoldiging vertoë te rig.

(19) 'n Vereniging moet binne veertien dae vanaf die aanstelling van 'n ouditeur kragtens hierdie artikel, by die registrateur om sy goedkeuring van die aanstelling aansoek doen.

(20) Die registrateur kan sonder aangifte van redes weier om so 'n aanstelling goed te keur of sy vorige goedkeuring terugtrek en daarop moet die betrokke ouditeur sy amp as ouditeur ontruim.

(21) Wanneer die registrateur ingevolge sub-artikel (20) geweier het om die aanstelling van 'n ouditeur goed te keur of sy goedkeuring van die aanstelling van 'n ouditeur teruggetrek het, moet die raad 'n ander persoon as ouditeur aanstel of stappe met die oog op so 'n aanstelling laat doen, maar weer eens onderworpe aan die goedkeuring van die registrateur.

(22) Ten einde sy bevoegdhede kragtens sub-artikels (19), (20) en (21) uit te oefen, kan die registrateur die inligting aanvra wat hy nodig ag aangaande die ondervinding of kwalifikasies van 'n ouditeur, en sodanige inligting moet deur dié ouditeur verstrek word in die vorm wat die registrateur gelas.

(23) Indien 'n vereniging of sy raad versuim om aan enige vereistes van hierdie artikel te voldoen, is hy aan 'n misdryf skuldig.

68. (1) Tensy die statute van die vereniging anders bepaal, kan 'n minderjarige bo die ouderdom van sestien jaar of 'n getroude vrou, hetsy onder maritale mag al dan nie, lid wees van of deposant wees by 'n vereniging en sonder die toestemming of bystand van sy voog of haar eggenoot, na gelang van die geval, alle nodige dokumente verly, alle nodige kwitansies gee, sy of haar aandeel of deposito sedeer of verpand, teen sy of haar aandeel of deposito leen en in die algemeen met sy of haar aandeel of deposito handel soos hy of sy goetvind, en geniet hy of sy al die voorregte (behalwe dat 'n minderjarige nie 'n amp kan beklee nie) en is hy of sy onderworpe aan al die verpligtings wat vir lede of deposante geld.

Minderjariges
en getroude vroue.

(2) Save with her written consent, the husband of a married woman who has become a member of or depositor with a society in terms of sub-section (1), shall not be entitled to demand from the society particulars concerning the shares she holds in or deposits she has with that society.

(3) Any married or unmarried woman who borrows money from any society or guarantees or stands surety for or takes over or assumes responsibility for the payment of the debt of any person to any society shall be deemed to have renounced the benefits of the *Senatusconsultum Velleianum* and the *Authentica si qua mulier*, in so far as they would but for the renunciation have applied.

Application
for shares
or for leave
to make deposits.

69. (1) No person shall be permitted to become a member of or a depositor with a society unless he has signed a form applying for shares in the society or applying to be allowed to make deposits with the society, as the case may be.

(2) Every person signing any such form shall upon request be furnished by the society with a copy thereof.

(3) Every such form shall have printed or written thereon the whole of section *sixty-three*.

Share certificates,
pass books and
fixed deposit
receipts.

70. (1) Every person to whom a share is allotted by a permanent society or who is allowed to make deposits with such a society shall receive a share certificate, subscription share pass book, savings deposit pass book, fixed deposit receipt or other form of record, as the case may be, duly signed in the manner provided by the rules of the society.

(2) If any share certificate, subscription share pass book, savings deposit pass book, fixed deposit receipt or other form of record issued by a permanent society is lost or destroyed, the society may, upon such evidence and subject to such terms and conditions as are set out in the rules of the society and after the loss or destruction of such certificate, pass book, receipt or other form of record has been duly advertised once in the *Gazette* and once in a newspaper circulating in the town or district in which the member or depositor concerned resides, issue a certified copy of such certificate, pass book, receipt or other form of record.

(3) Notwithstanding the provisions of sub-section (2), the board may in its discretion authorize the issue of such a certified copy without requiring the loss to be advertised.

(4) A certified copy issued in terms of this section shall for all purposes take the place of the certificate, pass book, receipt or other form of record lost or destroyed and be the sole evidence thereof.

Prospectuses
and other
publications
and forms to
be previously
approved by
the registrar.

71. (1) A society shall not, whether before or after registration, issue any prospectus or other publication setting forth the terms on which it is issuing or will issue shares or accepts or will accept deposits or lends or will lend money or borrows or will borrow money, or setting forth generally the terms on which it transacts or intends to transact business, or issue any form of a contractual nature used in connection with shares, deposits or advances, unless such prospectus, publication or form has been approved of by the registrar.

(2) A society shall not issue any publication referring to the rate of interest on its advances unless such publication contains a clear statement as to whether such interest is calculated on a monthly, quarterly, half-yearly or annual balance.

(3) The registrar may on such conditions as he may determine exempt any particular type of publication from the provisions of this section.

(4) The provisions of sub-section (1) shall not apply to a mortgage bond form used by a society, but the registrar may at any time in writing direct a society to delete or amend any clause in any of its mortgage bonds which in his opinion is undesirable.

(5) Any society which fails to comply with a written direction of the registrar under sub-section (4) within a period of sixty days from the date thereof or within such further period as the registrar may in writing allow, shall be guilty of an offence.

(6) For the purposes of this section "publication" includes any advertisement or any other medium or manner whereby any such terms as aforesaid are brought to the notice of the public.

(2) Behalwe met haar skriftelike toestemming, is die eggenoot van 'n getroude vrou wat ingevolge sub-artikel (1) 'n lid van of deposant by 'n vereniging geword het, nie geregtig om van die vereniging besonderhede te eis aangaande die aandele wat sy besit in of deposito's wat sy het by daardie vereniging nie.

(3) 'n Getroude of ongetroude vrou wat geld by 'n vereniging leen of die skuld van enige persoon by 'n vereniging waarborg of daarvoor borgstaan of dit oorneem of aanspreeklikheid vir die betaling daarvan aanvaar, word geag van die voordele van die *Senatusconsultum Velleianum* en die *Authentica si qua mulier* afstand te gedoen het vir sover hulle by ontstentenis van die afstanddoening sou gegeld het.

69. (1) Niemand word toegelaat om lid van 'n vereniging of 'n deposant daarby te word nie tensy hy 'n vorm onderteken het waarby om aandele in die vereniging of, na gelang van die geval, om vergunning om deposito's by die vereniging te stort, aansoek gedoen word.

Aansoek om aandele of om toestemming om deposito's te stort.

(2) Elke persoon wat so 'n vorm onderteken, word op versoek deur die vereniging van 'n afskrif daarvan voorsien.

(3) Op so 'n vorm moet artikel *drie-en-sestig* in sy geheel gedruk of geskryf wees.

70. (1) Elke persoon aan wie 'n aandeel deur 'n permanente vereniging toegewys word of wat toegelaat word om deposito's by so 'n vereniging te stort, ontvang 'n aandelesertifikaat, subskripsie-aandeelboekie, spaardepositoboekie, vastedeposito-kwitansie of ander vorm van bewys, na gelang van die geval, wat behoorlik onderteken is op die wyse deur die statute van die vereniging voorgeskryf.

Aandelesertifikaat, depositoboekies en vastedeposito-kwitansies.

(2) Indien 'n aandelesertifikaat, subskripsie-aandeelboekie, spaardepositoboekie, vastedeposito-kwitansie of ander vorm van bewys uitgereik deur 'n permanente vereniging verlore raak of vernietig word, kan die vereniging by verstrekking van die bewyse en onderworpe aan die bedinge en voorwaardes wat in die statute van die vereniging uiteengesit word en nadat die verlies of vernietiging van bedoelde sertifikaat, boekie, kwitansie of ander vorm van bewys een maal in die *Staatskoerant* en een maal in 'n koerant in omloop in die dorp of distrik waarin die betrokke lid of deposant woon, behoorlik geadverteer is, 'n gesertifiseerde afskrif van dié sertifikaat, boekie, kwitansie of ander vorm van bewys uitreik.

(3) Die raad kan, ondanks die bepalinge van sub-artikel (2), na goeddunke die uitreiking van so 'n gesertifiseerde afskrif magtig sonder om te vereis dat die verlies geadverteer word.

(4) 'n Gesertifiseerde afskrif wat ingevolge hierdie artikel uitgereik word, vervang vir alle doeleindes die verlore of vernietigde sertifikaat, boekie, kwitansie of ander vorm van bewys en is die enigste bewys daarvan.

71. (1) 'n Vereniging mag nie, hetsy voor of na registrasie, 'n prospektus of ander publikasie waarin die voorwaardes uiteengesit word waarop hy aandele uitreik of sal uitreik of deposito's aanneem of sal aanneem of geld uitleen of sal uitleen of geld opneem of sal opneem, of wat in die algemeen die bedinge uiteensit waarop hy sake doen of voornemens is om sake te doen, of enige vorm van 'n kontraktuele aard wat in verband met aandele, deposito's of voorskotte gebruik word, uitreik nie, tensy sodanige prospektus, publikasie of vorm deur die registrateur goedgekeur is.

Prospektusse en ander publikasies en vorms moet vooraf deur die registrateur goedgekeur word.

(2) 'n Vereniging mag nie 'n publikasie wat die rentekoers op sy voorskotte meld, uitreik nie, tensy daar op duidelike wyse in die publikasie vermeld word of rente op maandelikse, kwartaallikse, halfjaarlikse of jaarlikse saldo's bereken word.

(3) Die registrateur kan op die voorwaardes wat hy bepaal enige bepaalde soort publikasie van die bepalinge van hierdie artikel vrystel.

(4) Die bepalinge van sub-artikel (1) is nie op 'n verbandvorm wat deur 'n vereniging gebruik word van toepassing nie, maar die registrateur kan te eniger tyd 'n vereniging skriftelik gelas om enige klousule in enige van sy verbandaktes wat na sy oordeel ongewens is, te skrap of te wysig.

(5) 'n Vereniging wat versuim om aan 'n skriftelike lasgewing van die registrateur ingevolge sub-artikel (4) te voldoen binne 'n tydperk van sestig dae vanaf die datum daarvan of binne die verdere tydperk wat die registrateur skriftelik toelaat, is aan 'n misdryf skuldig.

(6) By die toepassing van hierdie artikel word onder „publikasie” ook 'n advertensie of ander middel of manier verstaan waarby voormelde bedinge tot die kennis van die publiek gebring word.

Admissibility
in evidence
of certified
documents.

72. Every document purporting to be certified by the registrar to be a document deposited at his office under the provisions of this Act shall, in the absence of proof to the contrary, be deemed to be such document, and every document purporting to be similarly certified to be a copy of such document, shall be deemed to be a true copy thereof, and shall be received in evidence as if it were the original document, unless some variation between it and the original document is proved.

Inspection of
documents.

73. Upon payment of the prescribed fees any person may obtain from the registrar a certificate of the registration of any society or a certified copy thereof and may inspect and make or obtain a copy or extract of the undermentioned documents lodged with the registrar by any society, but of no other documents, namely—

- (a) the monthly return referred to in section *thirty-four*;
- (b) the annual account, balance sheet and subsidiary statements referred to in sub-sections (9) and (10) of section *thirty-five*;
- (c) the rules of a society; and
- (d) the names and addresses of the directors of a society.

Carrying on
business by un-
registered
society and
use of designation
"building society".

74. (1) (a) No person shall carry on the business of a building society or apply to his business a name which includes the words "building society" or any other name which is calculated to indicate that he carries on the business of a building society, unless such business is registered as a building society under this Act.

(b) Any person who contravenes the provisions of paragraph (a) shall be guilty of an offence.

(2) Where an association of persons is in the course of forming a building society, such association shall not be deemed to be carrying on business by reason only of the issue by such association of shares for the purposes of the deposit referred to in section *nine*, provided the terms on which such shares are offered have previously been approved of by the registrar.

Only a society
may claim to
be successor of
or to be connected
with a building
society.

75. A person other than a society or agent of a society who in any letter, account or other document or by advertisement or in any other medium or manner of announcement to the public states that he is the successor of or has or had any connection with any building society, shall be guilty of an offence.

Acceptance
of benefits.

76. (1) No officer of a society shall receive from any person and no person shall offer or give to any such officer any benefit whatsoever for or in connection with any advance made by the society.

(2) No officer of a society or firm in which such officer has a direct interest shall purchase or be interested in the purchase of any property owned by or mortgaged to the society and sold by or at the instance of the society, unless the property is purchased at a duly advertised public sale or the sale is approved by the registrar.

(3) Any person who contravenes any provision of sub-section (1) or (2) shall be guilty of an offence.

(4) Any person who accepts any such benefit shall, if the court by which he is convicted so directs, pay over to the society the amount or value of such benefit, and any person who fails to obey any such direction of the court shall be guilty of an offence.

Withholding
money or
other effects
of a society.

77. (1) Any person not entitled thereto who has in his possession any moneys, securities, books, papers or other effects of a society and who withholds or misapplies the same or wilfully applies the same or any part thereof to purposes other than those expressed in the rules of the society and authorized by this Act, shall be guilty of an offence.

(2) Any such person shall, if directed to do so by the court by which he is convicted, deliver up to the society all such moneys, securities, books, papers or other effects and repay the amount of money or the value of other effects applied to an unauthorized purpose, and shall, if he fails to obey any such direction of the court, be guilty of an offence.

72. Elke geskrif wat volgens die sertifikaat van die registrateur 'n dokument heet te wees wat kragtens die bepalings van hierdie Wet in sy kantoor bewaar word, word by ontstentenis van bewys tot die teendeel, geag bedoelde dokument te wees, en elke geskrif wat volgens so 'n sertifikaat 'n afskrif van so 'n dokument heet te wees, word geag 'n ware afskrif daarvan te wees en word as bewys toegelaat asof daardie geskrif die oorspronklike dokument is, tensy bewys word dat daar 'n verskil tussen daardie geskrif en die oorspronklike dokument bestaan.

Toelaatbaarheid van gesertifiseerde dokumente as getuienis.

73. Iedereen kan teen betaling van die voorgeskrewe gelde van die registrateur 'n sertifikaat van die registrasie van enige vereniging of 'n gesertifiseerde afskrif daarvan verkry en kan ondervermelde dokumente wat deur 'n vereniging by die registrateur ingedien is, maar geen ander dokumente nie, insien en 'n afskrif daarvan of uittreksel daaruit maak of verkry, te wete—

Insaie in dokumente.

- (a) die maandelikse opgawe in artikel vier-en-dertig bedoel;
- (b) die jaarlikse rekening, balansstaat en bykomende state in sub-artikels (9) en (10) van artikel vyf-en-dertig bedoel;
- (c) die statute van 'n vereniging; en
- (d) die name en adresse van die direkteure van 'n vereniging.

74. (1) (a) Niemand mag as 'n bouvereniging sake doen of op sy besigheid 'n naam toepas wat die woord „bouvereniging” insluit of enige ander naam wat daarop bereken is om aan te dui dat hy as 'n bouvereniging sake doen nie, tensy sodanige besigheid kragtens hierdie Wet as 'n bouvereniging geregistreer is.

Dryf van besigheid deur ongeregistreerde vereniging en gebruik van benaming „bouvereniging”.

- (b) Iemand wat die bepalings van paragraaf (a) oortree, is aan 'n misdryf skuldig.

(2) Waar 'n assosiasie van persone besig is om 'n bouvereniging op te rig word dié assosiasie nie geag sake te doen bloot op grond daarvan dat hy vir die doeleindes van die in artikel nege bedoelde deposito aandele uitreik nie, mits die bedinge waarop sodanige aandele aangebied word vooraf deur die registrateur goedgekeur is.

75. Iemand anders as 'n vereniging of agent van 'n vereniging, wat in 'n brief, rekening of ander dokument of by advertensie of deur enige ander middel of op enige ander wyse van bekendmaking aan die publiek verklaar dat hy die opvolger is van of 'n verband het of gehad het met 'n bouvereniging, is aan 'n misdryf skuldig.

Slegs 'n vereniging kan daarop aanspraak maak 'n opvolger van of verbonde aan 'n bouvereniging te wees.

76. (1) Geen amptenaar van 'n vereniging mag 'n voordeel van enige persoon aanneem en niemand mag aan 'n amptenaar van 'n vereniging enige voordeel hoegenaamd aanbied of toestaan vir of in verband met enige voorskot wat deur die vereniging verleen word nie.

Aanname van voordele.

(2) Geen amptenaar van 'n vereniging of firma waarin so 'n amptenaar 'n regstreekse belang het, mag eiendom wat aan die vereniging behoort of verhipotekeer is en deur of in opdrag van die vereniging verkoop word, koop of by die aankoop daarvan betrokke wees nie, tensy die eiendom op 'n behoorlik geadverteerde openbare verkoping gekoop word of die verkoop deur die registrateur goedgekeur word.

(3) Iemand wat 'n bepaling van sub-artikel (1) of (2) oortree, is aan 'n misdryf skuldig.

(4) Iemand wat so 'n voordeel aanneem, moet, indien die hof wat hom veroordeel dit gelas, aan die vereniging die bedrag of waarde van dié voordeel betaal, en iemand wat in gebreke bly om aan so 'n bevel van die hof te voldoen, is aan 'n misdryf skuldig.

77. (1) Iemand wat nie daarop geregtig is nie en wat gelde, sekuriteite, boeke, dokumente of ander eiendom van 'n vereniging in sy besit, weerhou of misbruik of opsetlik aanwend of 'n deel daarvan opsetlik aanwend vir 'n ander doel as wat in die statute van die vereniging vermeld en deur hierdie Wet gemagtig word, is aan 'n misdryf skuldig.

Terughou van geld of ander bates van 'n vereniging.

(2) So iemand moet, indien die hof wat hom veroordeel dit gelas, al die betrokke gelde, sekuriteite, boeke, dokumente of ander goedere aan die vereniging oorhandig en die bedrag geld of die waarde van ander eiendom wat hy vir 'n ongeoorloofde doel aangewend het, terugbetaal, en is, indien hy in gebreke bly om aan so 'n bevel van die hof te voldoen, aan 'n misdryf skuldig.

Default in rendering accounts, furnishing information and giving notice.

78. (1) Any society or any association of persons referred to in section *ten* which fails—

- (a) to render to the registrar within the period fixed by or under this Act any account, balance sheet, statement or other document required by this Act to be rendered by it to the registrar; or
- (b) to amend or complete any document referred to in paragraph (a), when required by the registrar to do so; or
- (c) to furnish to the registrar upon demand by him any information required by him for the purposes of this Act; or
- (d) to lodge or send any notice or perform any act which the society is by this Act required to lodge, send or perform,

shall be guilty of an offence.

(2) Any person who prevents the registrar or any inspector appointed under section *fifty-two* or *fifty-three* or any auditor appointed in terms of section *sixty-seven* or any person deputed by the registrar or any such inspector or auditor from performing his functions as registrar or as such an inspector or auditor, or hinders the registrar or such an inspector or auditor or any person so deputed in the performance of any of those functions, shall be guilty of an offence.

(3) Any person who signs any statement, return or report or makes, orders or allows to be made any statement or gives any information, whether oral or in writing, for which provision is made in this Act, with the knowledge that the statement, return, report or information in question is false or incorrect, shall be guilty of an offence.

(4) Any person who contravenes or fails to comply with any provision of this Act applicable to him, the contravention of or failure to comply with which is not elsewhere in this Act declared to be an offence, shall be guilty of an offence.

(5) Whenever any person has been convicted of any offence under this Act, every continuation after his conviction of the contravention of which he was convicted, shall constitute a fresh offence.

Default in maintaining prescribed ratio or proportion.

79. (1) If at any time a permanent society fails to maintain any ratio or proportion prescribed by this Act, such society shall report the fact of such failure in writing to the registrar within a period of twenty-one days after the close of the calendar month during which such failure first occurred.

(2) The registrar shall direct the society to take such steps as will within a period fixed by him correct such deficiency or excess, and may from time to time for good cause shown extend the period so fixed.

(3) The society shall notify the registrar as soon as any such deficiency or excess has been corrected, and the fact that it has been corrected shall within a period of forty days after the date on which it was corrected be substantiated by statements certified by the auditors of the society.

Penalties.

80. (1) Every person convicted of an offence—

- (a) under sub-section (1) of section *nine*, sub-section (6) of section *forty-seven* or sub-section (1) of section *seventy-four* shall be liable to a fine not exceeding one thousand rand;
- (b) under sub-section (4) of section *seventy-six* or sub-section (2) of section *seventy-seven* shall be liable to imprisonment for a period not exceeding six months;
- (c) under any other provision of this Act shall be liable to a fine not exceeding two hundred rand.

(2) Any society or any association of persons referred to in section *ten* which contravenes the provisions of paragraph (a) of sub-section (1) of section *seventy-eight* shall, whether or not it has been convicted of such a contravention, and in addition to any punishment that may be or may have been imposed under sub-section (1) of this section, be liable to a penalty of twenty rand for every day during which the contravention continues, and the registrar may recover such penalty or such portion thereof as in his opinion he is in the circumstances justified in recovering from such society or association by action in any competent court.

(3) Whenever the registrar is satisfied that a failure referred to in sub-section (1) of section *seventy-nine* has taken place, he may, unless it is proved to his satisfaction that the failure took

78. (1) 'n Vereniging of 'n assosiasie van persone in artikel *tien* bedoel wat in gebreke bly—
- (a) om binne die tydperk deur of ingevolge hierdie Wet vasgestel enige rekening, balansstaat, staat of ander dokument aan die registrateur te verstrek wat volgens voorskrif van hierdie Wet deur hom aan die registrateur verstrek moet word; of
- (b) om enige in paragraaf (a) bedoelde dokument op versoek van die registrateur te wysig of te voltooi; of
- (c) om die inligting wat die registrateur by die toepassing van hierdie Wet nodig vind, op sy versoek aan hom te verstrek; of
- (d) om enige kennisgewing in te dien of te stuur of enige handeling te verrig wat die vereniging volgens hierdie Wet verplig is om in te dien, te stuur of te verrig, is aan 'n misdryf skuldig.
- (2) Iemand wat die registrateur, of 'n kragtens artikel *twee-en-vyftig* of *drie-en-vyftig* aangestelde inspekteur of 'n ingevolge artikel *sewe-en-sestig* aangestelde ouditeur of 'n deur die registrateur of so 'n inspekteur of ouditeur gemagtigde persoon verhinder om sy werksaamhede as registrateur of as so 'n inspekteur of ouditeur te verrig, of die registrateur of so 'n inspekteur of ouditeur of 'n aldus gemagtigde persoon by die verrigting van enige van bedoelde werksaamhede hinder, is aan 'n misdryf skuldig.
- (3) Iemand wat 'n staat, opgawe of verslag onderteken of 'n verklaring doen of beveel of toelaat dat 'n verklaring gedoen word of inligting verstrek, hetsy mondeling of skriftelik, waarvoor in hierdie Wet voorsiening gemaak word, met die wete dat so 'n staat, verklaring, opgawe, verslag of inligting vals of onjuis is, is aan 'n misdryf skuldig.
- (4) Iemand wat 'n bepaling van hierdie Wet wat op hom van toepassing is, oortree of versuim om daaraan te voldoen, ten opsigte waarvan daar nie elders in hierdie Wet bepaal word dat die oortreding of versuim 'n misdryf is nie, is aan misdryf skuldig.
- (5) Wanneer iemand weens 'n misdryf ingevolge hierdie Wet skuldig bevind is, maak elke voortsetting na sy skuldigbevinding van die oortreding waaraan hy skuldig bevind is, 'n nuwe misdryf uit.

Versuim om rekenings voor te lê, inligting te verstrek en kennis te gee.

79. (1) Indien 'n permanente vereniging te eniger tyd versuim om 'n by hierdie Wet voorgeskrewe verhouding of proporsie in stand te hou, moet dié vereniging die registrateur binne 'n tydperk van een-en-twintig dae na die einde van die kalendermaand waarin die versuim die eerste maal plaasgevind het, skriftelik van die versuim in kennis stel.
- (2) Die registrateur gelas die vereniging om die stappe te doen wat die tekort of oorskryding binne 'n deur hom bepaalde tydperk sal aansuiwer, en kan die aldus bepaalde tydperk van tyd tot tyd verleng waar grondige redes daarvoor aangevoer word.
- (3) Sodra so 'n tekort of oorskryding aangesuiwer is, moet die vereniging die registrateur daarvan in kennis stel, en die feit dat sodanige aansuiwering geskied het, moet binne 'n tydperk van veertig dae na die datum waarop dit geskied het deur state gesertifiseer deur die ouditeure van die vereniging, gestaaf word.

Versuim om voorgeskrewe verhouding of proporsie in stand te hou.

80. (1) Iemand wat skuldig bevind word weens 'n misdryf—
- (a) ingevolge sub-artikel (1) van artikel *nege*, sub-artikel (6) van artikel *sewe-en-veertig* of sub-artikel (1) van artikel *vier-en-sewentig*, is strafbaar met 'n boete van hoogstens duisend rand;
- (b) ingevolge sub-artikel (4) van artikel *ses-en-sewentig* of sub-artikel (2) van artikel *sewe-en-sewentig*, is strafbaar met gevangenisstraf vir 'n tydperk van hoogstens ses maande;
- (c) ingevolge enige ander bepaling van hierdie Wet, is strafbaar met 'n boete van hoogstens tweehonderd rand.
- (2) 'n Vereniging of 'n assosiasie van persone in artikel *tien* bedoel wat die bepalings van paragraaf (a) van sub-artikel (1) van artikel *agt-en-sewentig* oortree, staan, hetsy hy aan so 'n oortreding skuldig bevind is al dan nie, en benewens enige straf wat ingevolge sub-artikel (1) van hierdie artikel opgelê kan word of opgelê is, bloot aan 'n pene van twintig rand vir elke dag waarop die oortreding voortduur, en die registrateur kan so 'n pene of so 'n gedeelte daarvan as wat hy onder die omstandighede geregverdig ag om te vorder, by aksie in 'n bevoegde hof op die vereniging of assosiasie verhaal.
- (3) Wanneer die registrateur oortuig is dat 'n versuim bedoel in sub-artikel (1) van artikel *nege-en-sewentig* plaasgevind het, kan hy, tensy daar tot sy oortuiging bewys word dat die versuim

Strafbepalings.

place as a result of circumstances beyond the control of the board of the society concerned, impose upon the society a penalty not exceeding one-tenth of one per cent of the aggregate of the deficiencies or excesses that existed on every day that the society was in default.

(4) Whenever the registrar is satisfied that any society after receiving directions from him in terms of sub-section (2) of section *seventy-nine*, has failed to correct the deficiency or excess in question within the period fixed by him, as extended from time to time, he may impose upon the society a penalty not exceeding one-tenth of one per cent of the aggregate of the deficiencies or excesses that existed on every day after the expiration of that period as so extended.

(5) Any penalty referred to in sub-section (3) or (4) of this section may be recovered by the registrar by action in any competent court from the society or from one or more or all of the directors in such shares as he may fix: Provided that the registrar shall not recover from any director any portion of any such penalty if he is satisfied that the failure by reason of which the penalty was imposed did not take place with the permission or connivance of such director and that such director took all such steps as he could reasonably have been expected to take to prevent the said failure.

(6) A director from whom any amount has been recovered in terms of sub-section (5) shall not be entitled to recover the whole or any portion of that amount from the society or any other director.

(7) All penalties recovered under this section shall be paid into the Consolidated Revenue Fund or, in the case of a society or an association of persons whose head office or principal place of business is in the Territory, into the Territory Revenue Fund.

Prescribed fees.

81. (1) There shall be paid in respect of the several matters mentioned in the First Schedule to this Act, or in that Schedule as altered or added to in terms of sub-section (2), the several fees specified in that Schedule as so altered or added to.

(2) The Minister may from time to time alter or add further matters to the said Schedule and specify the fees payable in respect of any matter so added.

(3) Every alteration or addition made in terms of sub-section (2) shall be published in the *Gazette* and thereupon shall have the same force and effect as if it were contained in the said Schedule, and shall be laid on the Table in the Senate and in the House of Assembly within fourteen days after its publication in the *Gazette*, if Parliament is then in session, or, if Parliament is not then in session, within fourteen days after the commencement of its next ensuing session.

Annual licence.

82. (1) Every society other than a terminating society shall obtain from the receiver of revenue of the district in which its head office is situated a building society licence in respect of each and every year.

(2) For that licence there shall be paid to the receiver of revenue concerned a duty equivalent to one per cent of the net profit made by the society during the financial year which closed during the year preceding the year or portion of a year for which the licence is taken out, with a minimum of fifty cents and a maximum of forty rand: Provided that—

(a) in the case of a society that commences business after the commencement of this Act the duty payable for the licence for the first year or portion of a year during which it carries on business shall be two rand;

(b) in the case of a society which at the commencement of this Act is carrying on business and which is registered on or after the first day of July in any year, the duty payable for the licence for the remainder of that year shall be one-half per cent of the net profit made by the society during the financial year which closed during the year preceding the year in which the society is registered, with a minimum of twenty-five cents and a maximum of twenty rand.

(3) Every society which is liable for the payment of any duty under this section shall make an application in the prescribed form to the receiver of revenue by whom the licence is issuable.

(4) Every society which fails to take out the licence as required by this section on or before the thirty-first day of January in any

weens omstandighede buite die beheer van die raad van die betrokke vereniging plaasgevind het, die vereniging 'n pene oplê van hoogstens een-tiende van een persent van die totaal van die tekorte of oorskrydings wat bestaan het op elke dag wat die vereniging in gebreke gebly het.

(4) Wanneer die registrateur oortuig is dat 'n vereniging na ontvangs van 'n opdrag van die registrateur ingevolge sub-artikel (2) van artikel *nege-en-sewentig*, in gebreke gebly het om die betrokke tekort of oorskryding binne die deur die registrateur bepaalde tyd, soos van tyd tot tyd verleng, aan te suiwer, kan hy die vereniging 'n pene oplê van hoogstens een-tiende van een persent van die totaal van die tekorte of oorskrydings wat bestaan het op elke dag na die verstryking van daardie tyd soos aldus verleng.

(5) Elke pene in sub-artikel (3) of (4) van hierdie artikel bedoel, kan deur die registrateur by aksie in 'n bevoegde hof verhaal word op die vereniging of op een of meer van of al die direkteure in die verhoudings wat hy vasstel: Met dien verstande dat die registrateur geen gedeelte van so 'n pene op 'n direkteur verhaal nie indien hy oortuig is dat die versuim as gevolg waarvan die pene opgelê is, nie met die verlof of oogluikende toelating van daardie direkteur plaasgevind het nie en dat daardie direkteur al die stappe gedoen het wat redelikerwys van hom verwag kon word om bedoelde versuim te voorkom.

(6) 'n Direkteur op wie 'n bedrag ooreenkomstig sub-artikel (5) verhaal is, is nie geregtig om daardie bedrag in geheel of ten dele op die vereniging of 'n ander direkteur te verhaal nie.

(7) Alle penes wat ingevolge hierdie artikel verhaal word, word in die Gekonsolideerde Inkomstefonds of, in die geval van 'n vereniging of assosiasie van persone wie se hoofkantoor of hoofbesigheidsplek in die Gebied is, in die Inkomstefonds van die Gebied gestort.

81. (1) Daar moet ten opsigte van die onderskeie aangeleenthede vermeld in die Eerste Bylae by hierdie Wet of in daardie Bylae soos ooreenkomstig sub-artikel (2) gewysig of aangevul, die onderskeie gelde uiteengesit in daardie Bylae, soos aldus gewysig of aangevul, betaal word. Voorgeskrewe gelde.

(2) Die Minister kan van tyd tot tyd bedoelde Bylae wysig of ander aangeleenthede daarby voeg en die gelde betaalbaar ten opsigte van 'n aldus bygevoegde aangeleentheid vasstel.

(3) Elke wysiging of aanvulling wat kragtens sub-artikel (2) aangebring word, word in die *Staatskoerant* gepubliseer en het daarna dieselfde krag en uitwerking asof dit in daardie Bylae opgeneem is, en moet in die Senaat en in die Volksraad ter Tafel gelê word binne veertien dae na die publikasie daarvan in die *Staatskoerant*, as die Parlement dan in sessie is, of, as die Parlement nie dan in sessie is nie, binne veertien dae na die begin van sy eersvolgende sitting.

82. (1) Elke vereniging behalwe 'n tydelike vereniging moet van die ontvanger van inkomste van die distrik waarin sy hoofkantoor geleë is 'n bouverenigingslisensie ten opsigte van elke jaar verkry. Jaarlikse lisensie.

(2) Vir so 'n lisensie moet aan die betrokke ontvanger van inkomste 'n belasting betaal word van een persent van die netto wins deur die vereniging behaal in die loop van die boekjaar wat geëindig het gedurende die jaar voorafgaande aan die jaar of gedeelte van 'n jaar waarvoor die lisensie uitgeneem word, met 'n minimum van vyftig sent en 'n maksimum van veertig rand: Met dien verstande dat—

(a) in die geval van 'n vereniging wat na die inwerking-treding van hierdie Wet sake begin doen, die belasting vir die lisensie vir die eerste jaar of gedeelte van 'n jaar wat hy sake doen twee rand bedra;

(b) in die geval van 'n vereniging wat by die inwerking-treding van hierdie Wet sake doen, en wat op of na die eerste dag van Julie in enige jaar geregistreer word, die belasting vir die lisensie vir die orige deel van die jaar 'n half persent bedra van die netto wins deur die vereniging behaal in die loop van die boekjaar wat geëindig het gedurende die jaar voorafgaande aan die jaar waarin die vereniging geregistreer word, met 'n minimum van vyf-en-twintig sent en 'n maksimum van twintig rand.

(3) Elke vereniging wat vir die betaling van belasting ingevolge hierdie artikel aanspreeklik is, moet op die voorgeskrewe vorm aansoek doen by die ontvanger van inkomste deur wie die lisensie uitgereik moet word.

(4) Elke vereniging wat versuim om die by hierdie artikel vereiste lisensie uit te neem voor of op die een-en-dertigste dag

year in which the liability for such licence commenced on the first day of January in that year, or within one month of the day upon which the society was registered in any year in which the liability for such licence commenced on a date other than the first day of January, shall pay as additional duty a further sum equal to ten per cent of the amount of duty payable for each month or part of a month, reckoned from the day upon which the liability for the duty commenced, during which the duty remains unpaid: Provided that the additional duty thus payable shall not be more than the amount of duty payable.

(5) All moneys due under this section shall be a debt to the Government of the Republic or, in the case of a society whose head office is in the Territory, to the Administration of the Territory, and shall be recoverable by action in any competent court by the Secretary for Inland Revenue or by the Secretary for the Territory according to the circumstances.

(6) For the purposes of this section "year" means a year ending on the thirty-first day of December.

Annual report
by registrar.

83. The registrar shall annually submit to the Minister a report on the working of all societies and on matters relating to such societies which have been dealt with by him during the year, and the Minister shall lay the report on the Table in the Senate and in the House of Assembly.

Regulations.

84. The Minister may make regulations—

- (a) in regard to all matters which by this Act are required or permitted to be prescribed by regulation;
- (b) prescribing the form of any document referred to in this Act for which provision is not otherwise made in this Act, or prescribing alterations or additions to any such form;
- (c) generally, as to all matters which he considers it necessary or expedient to prescribe in order that the objects of this Act may be achieved.

Application
to South-
West Africa.

85. This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951).

Periodic
review of Act.

86. Before 1st January, 1971, and thereafter from time to time at intervals of not more than ten years, the Minister shall appoint a committee to enquire into and report to him on amendments to this Act which in the opinion of the committee have become desirable by virtue of changed circumstances or which the administration of this Act has shown to be desirable.

Repeal and
amendment
of laws.

87. (1) Subject to the provisions of sub-sections (2) and (3), the laws mentioned in the Second Schedule to this Act are hereby repealed to the extent set forth in the fourth column of that Schedule.

(2) Any appointment made under any law repealed by sub-section (1) shall be deemed to have been made under this Act.

(3) Any regulation made or anything done under any provision of any law repealed by sub-section (1) shall be deemed to have been made or done under the corresponding provisions of this Act.

(4) The provisions of the Companies' and Associations' Trustees Act, 1873 (Act No. 3 of 1873), of the Cape of Good Hope, shall not apply to any registered society.

Short title.

88. This Act shall be called the Building Societies Act, 1965.

van Januarie in enige jaar waarin die aanspreeklikheid vir sodanige lisensie op die eerste dag van Januarie in daardie jaar begin het, of binne een maand vanaf die dag waarop die vereniging geregistreer is in enige jaar waarin die aanspreeklikheid vir sodanige lisensie op 'n ander datum as die eerste dag van Januarie begin het, moet by wyse van addisionele belasting 'n verdere som betaal gelyk aan tien persent van die bedrag van belasting betaalbaar vir elke maand of gedeelte van 'n maand, gereken vanaf die dag waarop die aanspreeklikheid vir die belasting begin het, waartydens die belasting onbetaald gebly het: Met dien verstande dat die aldus betaalbare addisionele belasting nie die bedrag van belasting wat betaalbaar is, oorskry nie.

(5) Alle gelde ingevolge hierdie artikel betaalbaar, is 'n skuld verskuldig aan die Regering van die Republiek of, in die geval van 'n vereniging wie se hoofkantoor in die Gebied is, aan die Administrasie van die Gebied, en is na gelang van die omstandighede deur die Sekretaris van Binnelandse Inkomste of deur die Sekretaris vir die Gebied by aksie in 'n bevoegde hof verhaalbaar.

(6) By die toepassing van hierdie artikel beteken „jaar” 'n jaar wat op die een-en-dertigste dag van Desember eindig.

83. Die registrateur dien elke jaar by die Minister 'n verslag in oor die werksaamhede van alle verenigings en oor aangeleenthede in verband met sodanige verenigings waarmee hy gedurende die jaar gehandel het, en die Minister lê die verslag ter Tafel in die Senaat en in die Volksraad. Jaarverslag deur registrateur.

84. Die Minister kan regulasies uitvaardig—

Regulasies.

- (a) met betrekking tot alle aangeleenthede wat kragtens hierdie Wet by regulasie voorgeskryf moet of kan word;
- (b) wat die vorm voorskryf van enige dokument waarna in hierdie Wet verwys word en waarvoor daar nie ander voorsiening in hierdie Wet gemaak word nie, of wat veranderings aan of byvoegings tot so 'n vorm voorskryf;
- (c) in die algemeen, betreffende alle aangeleenthede wat hy nodig of dienstig ag om voor te skryf ten einde die oogmerke van hierdie Wet te verwesenlik.

85. Hierdie Wet en enige wysiging daarvan is ook van toepassing in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel waarna in artikel drie van die Wysigingswet op Aangeleenthede van Suidwes-Afrika, 1951 (Wet No. 55 van 1951), verwys word. Toepassing in Suidwes-Afrika.

86. Die Minister benoem voor 1 Januarie 1971 en daarna van tyd tot tyd met tussenpose van hoogstens tien jaar 'n komitee om ondersoek in te stel na en aan hom verslag te doen oor wysigings van hierdie Wet wat na die komitee se oordeel op grond van veranderde omstandighede wenslik geword het of wat uit die administrasie van hierdie Wet wenslik geblyk het. Periodieke hersiening van Wet.

87. (1) Behoudens die bepalings van sub-artikels (2) en (3), word die wette genoem in die Tweede Bylae by hierdie Wet, hierby herroep vir sover in die vierde kolom van daardie Bylae aangedui. Herroeping en wysiging van wette.

(2) Enige aanstelling kragtens 'n by sub-artikel (1) herroepe Wet gedoen, word geag kragtens hierdie Wet gedoen te wees.

(3) Enige regulasie uitgevaardig of enigiets gedoen kragtens 'n bepaling van 'n by sub-artikel (1) herroepe Wet word geag uitgevaardig of gedoen te wees kragtens die ooreenstemmende bepalings van hierdie Wet.

(4) Die bepalings van die „Companies and Associations' Trustees Act, 1873” (Wet No. 3 van 1873), van die Kaap die Goeie Hoop, is nie op 'n geregistreerde vereniging van toepassing nie.

88. Hierdie Wet heet die Bouverenigingswet, 1965.

Kort titel.

First Schedule.

PREScribed FEES.

For the certificate of registration of a society	R10.00
For the certificate of provisional registration of a society	R10.00
For the certificate of alteration of rules	R1.00
For the certificate of registration of a change of name	R5.00
For the certificate of registration of notice of an amalgamation or transfer of assets and liabilities	R1.00
For a copy of any of the aforementioned certificates	R0.25
For every document required to be authenticated by the registrar, and not chargeable with any other fee	R1.00
For every inspection of documents (whether one or more) referred to in section <i>seventy-three</i> of the Act, relating to one and the same society	R0.50
For any photostatic or double-spaced typewritten copy or extract made by the registrar from any of the documents referred to in section <i>seventy-three</i> of the Act	R0.50
	per single foolscap page or portion of a foolscap page.

For the examination of every copy certified as a true copy of a document in the custody of the registrar when the copy so certified is not made by the registrar (in addition to the fee for the signature of the registrar) R1.00

No fee is payable for any document or copy of a document supplied to a public department.

The registrar may dispense with the fee in cases where he is satisfied that the inspection, copy or extract in question is desired for the purpose of furthering some public interest.

Second Schedule.

LAWS REPEALED.

No. and year of Law.	Title of Act.	Extent of repeal.
Act No. 62 of 1934.	Building Societies Act, 1934.	The whole.
Act No. 19 of 1935.	Building Societies (Amendment) Act, 1935.	The whole.
Act No. 56 of 1937.	Building Societies Amendment Act, 1937.	The whole.
Act No. 39 of 1941.	Building Societies (Amendment) Act, 1941.	The whole.
Act No. 24 of 1942.	Building Societies (Amendment) Act, 1942.	The whole.
Act No. 28 of 1943.	Building Societies Amendment Act, 1943.	The whole.
Act No. 33 of 1946.	Building Societies Amendment Act, 1946.	The whole.
Act No. 33 of 1949.	National Finance Corporation Act, 1949.	Section <i>twenty-one</i> .
Act No. 28 of 1955.	Building Societies Amendment Act, 1955.	The whole.
Act No. 47 of 1960.	Building Societies Amendment Act, 1960.	The whole.
Act No. 77 of 1961.	Building Societies Amendment Act, 1961.	The whole.
Act No. 68 of 1962.	Inspection of Financial Institutions Act, 1962.	Section <i>eleven</i> , in so far as it amends the Building Societies Act, 1934.
Act No. 69 of 1963.	Building Societies Amendment Act, 1963.	The whole.
Act No. 62 of 1964.	Building Societies Amendment Act, 1964.	The whole.

Eerste Bylae.

VOORGESKREWE GELDE.

Vir die sertifikaat van registrasie van 'n vereniging	R10.00
Vir die sertifikaat van voorlopige registrasie van 'n vereniging	R10.00
Vir die sertifikaat van wysiging van statute	R1.00
Vir die sertifikaat van registrasie van 'n naamsverandering	R5.00
Vir die sertifikaat van registrasie van 'n kennisgewing van saamsmelting of van oordrag van bates en laste	R1.00
Vir 'n afskrif van enige van voormelde sertifikate	R0.25
Vir elke dokument wat deur die registrateur gewaarmerk moet word en waarvoor geen ander gelde betaalbaar is nie	R1.00
Vir elke besigtiging van dokumente (hetsy een of meer) in artikel drie-en-sewentig van die Wet vermeld, met betrekking tot een en dieselfde vereniging	R0.50
Vir enige fotostatiese of met dubbelspasiëring getikte afskrif of uittreksel deur die registrateur gemaak van enige van die dokumente in artikel drie-en-sewentig van die Wet vermeld	R0.50
	per enkel foliobladsy of deel van 'n foliobladsy.

Vir die ondersoek van elke afskrif gesertifiseer as 'n ware afskrif van 'n dokument in die bewaring van die registrateur wanneer die aldus gesertifiseerde afskrif nie deur die registrateur gemaak word nie (benewens die gelde vir die handtekening van die registrateur) R1.00

Geen gelde is betaalbaar vir enige dokument of afskrif van 'n dokument wat aan 'n Staatsdepartement verskaf word nie.

Die registrateur kan afsien van die gelde in gevalle waar hy oortuig is dat die betrokke besigtiging, afskrif of uittreksel ter bevordering van die een of ander openbare belang verlang word.

Tweede Bylae.

WETTE HERROEP.

No. en Jaar van Wet.	Titel van Wet.	In hoeverre herroep.
Wet No. 62 van 1934.	Bouverenigingswet, 1934.	Die geheel.
Wet No. 19 van 1935.	Bouverenigings-Wysigingswet, 1935.	Die geheel.
Wet No. 56 van 1937.	Wysigingswet op Bouverenigings, 1937.	Die geheel.
Wet No. 39 van 1941.	Bouverenigings-wysigingswet, 1941.	Die geheel.
Wet No. 24 van 1942.	Wysigingswet op Bouverenigings, 1942.	Die geheel.
Wet No. 28 van 1943.	Wysigingswet op Bouverenigings, 1943.	Die geheel.
Wet No. 33 van 1946.	Wysigingswet op Bouverenigings, 1946.	Die geheel.
Wet No. 33 van 1949.	Wet op die Nasionale Finansiële Korporasie, 1949.	Artikel een-en-twintig.
Wet No. 28 van 1955.	Wysigingswet op Bouverenigings, 1955.	Die geheel.
Wet No. 47 van 1960.	Wysigingswet op Bouverenigings, 1960.	Die geheel.
Wet No. 77 van 1961.	Wysigingswet op Bouverenigings, 1961.	Die geheel.
Wet No. 68 van 1962.	Wet op Inspeksie van Finansiële Instellings, 1962.	Artikel elf vir sover dit die Bouverenigingswet, 1934, wysig.
Wet No. 69 van 1963.	Wysigingswet op Bouverenigings, 1963.	Die geheel.
Wet No. 62 van 1964.	Wysigingswet op Bouverenigings, 1964.	Die geheel.

ACT

To state the law of evidence in regard to civil proceedings, to repeal the Ordinance for altering, amending, and declaring in certain respects, the Law of Evidence within this Colony, 1830 (Cape), the Ordinance for improving the Law of Evidence, 1846 (Cape), the Bankers' Books Evidence Act, 1877 (Cape), the Oaths and Declarations Act, 1891 (Cape), the Law to regulate the Law of Evidence in the Colony of Natal, 1859 (Natal), the Law to amend the Law of Evidence, 1870 (Natal), the Law to provide for the production in evidence of Copies, instead of Originals, of Public Documents, 1884 (Natal) and the Presumption of Death of Soldiers Act, 1952, to amend the Law of Evidence Amendment Act, 1861 (Cape), the Law to make further provision in respect of the substitution, in certain cases, of Declarations for Oaths, 1862 (Natal), the Law of Evidence Ordinance, 1902 (Orange Free State), the Law of Evidence Proclamation, 1902 (Transvaal), the Administration of Justice Proclamation, 1919 (South-West Africa), the Further Administration of Justice Proclamation, 1920 (South-West Africa), the Procedure and Evidence Proclamation, 1938 (South-West Africa), the General Law Amendment Act, 1935, the General Law Amendment Act, 1952, the Criminal Procedure Act 1955, and the Evidence Act, 1962, and to provide for other incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 15th March, 1965.)

ARRANGEMENT OF CONTENTS.

PART I.	
Admissibility of Evidence	Sections two to seven.
PART II.	
Competency of Witnesses	Sections eight to fourteen.
PART III.	
Sufficiency of Evidence	Sections fifteen and sixteen.
PART IV.	
Documentary Evidence (General Provisions)	Sections seventeen to twenty-six.
PART V.	
Documentary Evidence (Special Provisions as to Bankers' Books)	Sections twenty-seven to thirty-two.
PART VI.	
Documentary Evidence (Miscellaneous Provisions)	Sections thirty-three to thirty-eight.
PART VII.	
Oaths and Affirmations	Sections thirty-nine to forty-one.
PART VIII.	
General	Sections forty-two to forty-five.

WET

Om met betrekking tot siviele sake die bewysleer uiteen te sit, om die „Ordinance for altering, amending, and declaring in certain respects, the Law of Evidence within this Colony, 1830” (Kaap), die „Ordinance for improving the Law of Evidence, 1846” (Kaap), die „Bankers’ Books Evidence Act, 1877” (Kaap), die „Oaths and Declarations Act, 1891” (Kaap), die „Law to regulate the Law of Evidence in the Colony of Natal, 1859” (Natal), die „Law to amend the Law of Evidence, 1870” (Natal), die „Law to provide for the production in evidence of Copies, instead of Originals, of Public Documents, 1884” (Natal) en die Wet op die Presump-sie van Dood van Soldate, 1952, te herroep, om die „Law of Evidence Amendment Act, 1861” (Kaap), die „Law to make further provision in respect of the substitution, in certain cases, of Declarations for Oaths, 1862” (Natal), die „Law of Evidence Ordinance, 1902” (Oranje-Vrystaat), die „Law of Evidence Proclamation, 1902” (Transvaal), die „Administration of Justice Proclamation, 1919” (Suidwes-Afrika), die „Further Administration of Justice Proclama-tion, 1920” (Suidwes-Afrika), die Proklamasie op Prosedure en Bewyslewing, 1938 (Suidwes-Afrika), die Algemene Regswysigingswet, 1935, die Algemene Regswysigingswet, 1952, die Strafproseswet, 1955, en die Wet op Bewyslewing, 1962, te wysig en om vir ander aangeleenthede wat daarmee in verband staan, voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 15 Maart 1965.)

INDELING VAN INHOUD.

DEEL I.

Toelaatbaarheid van Getuienis .. Artikels twee tot sewe.

DEEL II.

Bevoegdheid van Getuies Artikels agt tot veer-tien.

DEEL III.

Genoegsaamheid van Bewys Artikels vyftien en ses-tien.

DEEL IV.

Dokumentêre Bewys (Algemene Be-palings) Artikels sewentien tot ses-en-twintig.

DEEL V.

Dokumentêre Bewys (Spesiale Bepa-lings met betrekking tot Bankiers-boeke) Artikels sewe-en-twintig tot twee-en-dertig.

DEEL VI.

Dokumentêre Bewys (Diverse Bepa-lings) Artikels drie-en-dertig tot agt-en-dertig.

DEEL VII.

Eedaflegging en Bevestiging van Ge-tuienis Artikels nege-en-dertig tot een-en-veertig.

DEEL VIII.

Algemeen Artikels twee-en-veertig tot vyf-en-veertig.

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

Definitions.

1. In this Act, unless the context otherwise indicates—
“Minister” means the Minister of Justice;
“Republic” includes the territory of South-West Africa.

PART I.

ADMISSIBILITY OF EVIDENCE.

Evidence as to irrelevant matters.

2. No evidence as to any fact, matter or thing which is irrelevant or immaterial and cannot conduce to prove or disprove any point or fact in issue shall be admissible.

Evidence of non-access by husband and wife.

3. For the purposes of rebutting the presumption that a child to which a married woman has given birth is the offspring of her husband, she or her husband or both of them may give evidence that they had no sexual intercourse with each other during the period when the child was conceived.

Evidence of genuineness of disputed writings.

4. Comparison of a disputed writing with any writing proved to be genuine may be made by witnesses, and such writings and the evidence of any witness with respect thereto may be submitted as evidence of the genuineness or otherwise of the writing in dispute.

Proof of law or anything published in official publications.

5. (1) Judicial notice shall be taken of any law or government notice, or of any other matter which has been published in the *Gazette* or in the Official Gazette of the territory of South-West Africa.

(2) A copy of the *Gazette* or of the said Official Gazette, or a copy of such law, notice or other matter purporting to be printed under the superintendence or authority of the Government printer, shall, on its mere production, be evidence of the contents of such law, notice or other matter, as the case may be.

Proof of signature of public officer.

6. Any document purporting to bear the signature of any person holding a public office and bearing a seal or stamp which purports to be the seal or stamp of the department, office or institution to which such person is attached, shall, on its mere production, be *prima facie* proof that such person signed such document.

Proof by party calling witness, of previous inconsistent statement of such witness.

7. Any party who has called a witness who has given evidence in any civil proceedings (whether that witness is or is not, in the opinion of the person presiding at such proceedings, adverse to the party calling him) may, after the said party or the person so presiding has asked the witness whether he has or has not previously made a statement with which his evidence in the said proceedings is inconsistent, and after sufficient particulars of the alleged previous statement to designate the occasion when it was made, have been mentioned to the witness, prove that he previously made a statement with which his said evidence is inconsistent.

PART II.

COMPETENCY OF WITNESSES.

Save as otherwise provided, every person competent and compellable to give evidence.

8. Save in so far as this Act or any other law otherwise provides, every person shall be competent and compellable to give evidence in any civil proceedings.

Incompetency from insanity or intoxication.

9. No person appearing or proved to be afflicted with idiocy, lunacy or insanity, or to be labouring under any imbecility of mind arising from intoxication or otherwise, whereby he is deprived of the proper use of reason, shall be competent to give evidence while so afflicted or disabled.

Husband and wife not compellable to disclose communications between them.

10. No husband shall be compelled to disclose any communication made to him by his wife during the marriage and no wife shall be compelled to disclose any communication made to her by her husband during the marriage.

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

1. In hierdie Wet, tensy uit die samehang anders blyk, **Woordomskriving.**
beteken—

„Minister” die Minister van Justisie;
„Republiek” ook die gebied Suidwes-Afrika.

DEEL I.

TOELAATBAARHEID VAN GETUIENIS.

2. Geen getuienis met betrekking tot enige feit, aangeleentheid of saak wat nie ter sake of van geen wesentlike belang is nie en wat nie tot bewys of weerlegging van enige punt of feit in geskil strek nie, is toelaatbaar nie. **Getuienis met betrekking tot aangeleenthede wat nie ter sake is nie.**

3. Tot weerlegging van die vermoede dat 'n kind wat uit 'n getroude vrou gebore is, deur haar man verwek is, kan sy of haar man of albei getuienis aflê dat hulle gedurende die tydperk toe die kind verwek is, geen geslagsgemeenskap met mekaar gehad het nie. **Getuienis van geen toegang deur man en vrou.**

4. Vergelyking van 'n betwiste geskrif met 'n geskrif wat as eg bewys is, kan deur getuies gedoen word, en sodanige geskrifte en die getuienis van 'n getuie met betrekking daartoe kan as bewys van die egtheid of andersins van die betwiste geskrif aangebied word. **Bewys van egtheid van betwiste geskrifte.**

5. (1) Geregtelike kennisname geskied van enige wet of goewermenskennisgewing, of van enige ander aangeleentheid wat in die *Staatskoerant* of die *Offisiële Koerant* van die gebied Suidwes-Afrika afgekondig is. **Bewys van wet of enigiets afgekondig in amp telike publikasies.**

(2) 'n Kopie van die *Staatskoerant* of van bedoelde *Offisiële Koerant*, of 'n kopie van so 'n wet, kennisgewing of ander aangeleentheid wat onder toesig of op las van die Staatsdrukker gedruk heet te wees, is by blote oorlegging daarvan bewys van die inhoud van so 'n wet, kennisgewing of ander aangeleentheid, na gelang van die geval.

6. 'n Dokument waarop die handtekening heet voor te kom van 'n persoon wat 'n openbare amp beklee en waarop 'n seël of stempel voorkom wat die seël of stempel heet te wees van die departement, kantoor of inrigting waaraan daardie persoon verbonde is, is by blote oorlegging daarvan *prima facie*-bewys dat daardie persoon bedoelde dokument onderteken het. **Bewys van handtekening van 'n openbare beampte.**

7. 'n Party wat 'n getuie geroep het wat in 'n siviele saak getuienis afgelê het (hetsy bedoelde getuie na die oordeel van die persoon wat by bedoelde saak voorsit, teenoor die party wat hom roep, vyandig gesind is al dan nie), kan, nadat bedoelde party of die persoon wat aldus voorsit die getuie gevra het of hy voorheen 'n verklaring afgelê het al dan nie, waarmee sy getuienis in bedoelde saak strydig is, en nadat voldoende besonderhede van die beweerde vorige verklaring om die geleentheid waarop dit afgelê was, te bepaal, aan die getuie genoem is, bewys dat hy voorheen 'n verklaring afgelê het waarmee sy bedoelde getuienis strydig is. **Bewys deur party wat getuie roep, van vorige teenstrydige verklaring van daardie getuie.**

DEEL II.

BEVOEGDHEID VAN GETUIES.

8. Behoudens andersluidende bepalinge van hierdie Wet of enige ander wet, is elke persoon bevoeg en verplig om in 'n siviele saak getuienis af te lê. **Behoudens andersluidende bepalinge, is elke persoon bevoeg en verplig om getuienis af te lê.**

9. Niemand wat skynbaar of volgens bewys ly aan stompsinnigheid of kranksinnigheid, of aan verstandverbystering voortspruitende uit dronkenskap of andersins, waardeur hy van sy sinne beroof word, is, terwyl hy aldus aangetas of onbekwaam is, bevoeg om getuienis af te lê nie. **Onbevoegdheid weens kranksinnigheid of dronkenskap.**

10. Geen man is verplig om 'n mededeling aan hom deur sy vrou tydens die huwelik gedoen, te openbaar nie en geen vrou is verplig om 'n mededeling aan haar deur haar man tydens die huwelik gedoen, te openbaar nie. **Man en vrou nie verplig om mededelings tussen hulle te openbaar nie.**

Dissolution of marriage does not affect privilege which existed during marriage.

11. No person whose marriage has been dissolved or annulled shall be compelled to give evidence as to any fact, matter or thing which occurred during the subsistence of the marriage or supposed marriage, and as to which he or she could not have been compelled to give evidence if the marriage were subsisting.

No witness compellable to testify if husband or wife not compellable.

12. No person shall be compelled to answer any question or to give any evidence which the husband or wife of such person, if under examination as a witness, could not be compelled to answer or give.

When evidence of communication alleging commission of an offence is admissible.

13. Notwithstanding anything contained in any legal provisions in terms of which a witness shall not be compellable or permitted to give evidence in respect of certain matters on grounds of public policy or from regard to public interest, it shall be competent for any person in any civil proceedings to adduce evidence of any communication alleging the commission of an offence, if the making of that communication *prima facie* constitutes an offence, and it shall be competent for the person presiding at such proceedings to determine whether the making of such communication *prima facie* does or does not constitute an offence, and such determination shall, for the purposes of those proceedings, be final.

Witness not excused from answering question by reason that the answer would establish a civil claim against him.

14. A witness may not refuse to answer a question relevant to the issue, the answering of which has no tendency to incriminate himself, or to expose him to penalty or forfeiture of any nature whatsoever, by reason only or on the sole ground that the answering of such question may establish or tend to establish that he owes a debt or is otherwise subject to a civil suit.

PART III.

SUFFICIENCY OF EVIDENCE.

Admissions on record.

15. It shall not be necessary for any party in any civil proceedings to prove nor shall it be competent for any such party to disprove any fact admitted on the record of such proceedings.

Sufficiency of evidence of one witness.

16. Judgment may be given in any civil proceedings on the evidence of any single competent and credible witness.

PART IV.

DOCUMENTARY EVIDENCE (GENERAL PROVISIONS).

Proof of trial and conviction or acquittal of any person.

17. The trial and conviction or acquittal of any person may be proved by the production of a document certified or purporting to be certified by the registrar or clerk of the court or other officer having the custody of the records of the court where such conviction or acquittal took place, or by the deputy of such registrar, clerk or other officer, to be a copy of the record of the charge and of the trial, conviction and judgment or acquittal, as the case may be, omitting the formal parts thereof.

Certified copies of or extracts from public documents admissible in evidence.

18. (1) Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from proper custody, any copy thereof or extract therefrom proved to be an examined copy or extract or purporting to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted, shall be admissible in evidence.

(2) Such officer shall furnish such certified copy or extract to any person applying therefor, upon payment of an amount in accordance with the tariff of fees prescribed by or under any law or, if no such tariff has been so prescribed, an amount in accordance with such tariff of fees as the Minister in consultation with the Minister of Finance may from time to time determine.

Production of official documents.

19. (1) No original document in the custody or under the control of any State official by virtue of his office, shall be produced in evidence in any civil proceedings except upon the order of the head of the department in whose custody or under whose control such document is or of any officer in the service of the State authorized by such head.

11. Niemand wie se huwelik ontbind of nietig verklaar is, is verplig om getuienis af te lê met betrekking tot enige feit, aangeleentheid of saak wat tydens die bestaan van die huwelik of vermeende huwelik plaasgevind het nie en met betrekking waartoe hy of sy nie verplig sou kon word om getuienis af te lê indien die huwelik nog bestaan het nie.

Ontbinding van huwelik raak nie privilegie wat tydens huwelik bestaan het nie.

12. Niemand is verplig om 'n vraag te beantwoord of om getuienis af te lê nie wat die man of vrou van so iemand, indien as getuie ondervra, nie verplig sou kon word om te beantwoord of af te lê nie.

Geen getuie verplig om te getuig indien man of vrou nie verplig nie.

13. Ondanks andersluidende regsbepalings uit hoofde waarvan 'n getuie op grond van openbare beleid of met die oog op die openbare belang nie verplig is of toegelaat word om ten opsigte van sekere aangeleenthede getuienis af te lê nie, kan 'n persoon in 'n siviele saak bewys aanvoer van 'n mededeling waarvolgens 'n misdryf gepleeg heet te gewees het, indien die doen van daardie mededeling *prima facie* 'n misdryf uitmaak, en die persoon wat by die saak voorsit, is bevoeg om te beslis of die doen van bedoelde mededeling *prima facie* 'n misdryf uitmaak al dan nie, en bedoelde beslissing is vir die doeleindes van daardie saak afdoende.

Wanneer bewys van mededeling omtrent pleeg van misdryf toelaatbaar is.

14. 'n Getuie kan nie weier om 'n vraag wat die geskilpunt raak en waarvan die beantwoording nie die strekking het om hom te inkrimineer of aan enige straf of verbeurdverklaring van watter aard ook al bloot te stel, te beantwoord nie, slegs omdat of op grond daarvan dat die antwoord op daardie vraag aan die lig kan bring of die strekking kan hê om aan die lig te bring dat hy iets skuld of andersins aan 'n siviele eis blootgestel is.

Getuie nie van verpligting om vraag te beantwoord onthef op grond daarvan dat antwoord hom aan 'n siviele eis sou blootstel nie.

DEEL III.

GENOEGSAAMHEID VAN BEWYS.

15. Dit is onnodig vir 'n party in 'n siviele saak om 'n feit wat in die prosesstukke in verband met die saak erken word, te bewys en so 'n party word nie toegelaat om so 'n feit te weerlê nie.

Erkennings in prosesstukke.

16. Uitspraak kan in 'n siviele saak op die getuienis van 'n enkele bevoegde en geloofwaardige getuie gedoen word.

Genoegsaamheid van getuienis van een getuie.

DEEL IV.

DOKUMENTÊRE BEWYS (ALGEMENE BEPALINGS).

17. Die verhoor en skuldigbevinding of vryspraak van 'n persoon kan bewys word deur die oorlegging van 'n dokument wat deur die griffier of klerk van die hof of ander beamppte belas met die bewaring van die prosesstukke van die hof waar die skuldigbevinding of vryspraak plaasgevind het, of deur die adjunk van bedoelde griffier, klerk of ander beamppte gewaarmerk is of heet te wees as 'n afskrif van die relaas van die aanklag en van die verhoor, skuldigbevinding en vonnis of vryspraak, na gelang van die geval, met weglating van die formele dele daarvan.

Bewys van verhoor en skuldigbevinding of vryspraak van 'n persoon.

18. (1) Wanneer 'n boek of ander dokument van so 'n openbare aard is dat dit as bewys toelaatbaar is by blote oorlegging deur die bevoegde bewaarder, is 'n afskrif daarvan of uittreksel daaruit as bewys toelaatbaar mits daar bewys word dat dit 'n nagesiene afskrif of uittreksel is of mits dit onderteken en as 'n ware afskrif of uittreksel gewaarmerk heet te wees deur 'n beamppte aan wie se bewaring die oorspronklike toevertrou is.

Gewaarmerkte afskrifte van of uittreksels uit openbare dokumente as bewys toelaatbaar.

(2) Bedoelde beamppte verstrek so 'n gewaarmerkte afskrif of uittreksel aan enige persoon wat daarom aansoek doen, teen betaling van 'n bedrag ooreenkomstig die tarief van gelde deur of kragtens 'n wet voorgeskryf of, indien geen sodanige tarief aldus voorgeskryf is nie, 'n bedrag ooreenkomstig die tarief van gelde wat die Minister van tyd tot tyd in oorleg met die Minister van Finansies bepaal.

19. (1) Geen oorspronklike dokument, in die bewaring of onder die beheer van 'n beamppte van die Staat uit hoofde van sy amp, word in 'n siviele saak as bewys oorgelê behalwe op las van die hoof van die departement in wie se bewaring of onder wie se beheer daardie dokument is of van 'n beamppte in diens van die Staat deur bedoelde hoof daartoe gemagtig.

Oorlegging van amptelike dokumente.

(2) Any such document may be produced in evidence by any person authorized by the person ordering the production thereof.

Certified copies of or extracts from official documents sufficient.

20. (1) Except when the original is ordered to be produced any copy of or extract from any document in the custody or under the control of any State official by virtue of his office, certified as a true copy or extract by the head of the department in whose custody or under whose control such document is or by any officer in the service of the State authorized by such head, shall be admissible in evidence and be of the same force and effect as the original document.

(2) Any such copy or extract may be handed in by any party who desires to avail himself thereof.

(3) No such copy or extract shall be furnished to any person except upon payment of an amount in accordance with the tariff of fees prescribed by or under any law or, if no such tariff has been so prescribed, an amount in accordance with such tariff of fees as the Minister in consultation with the Minister of Finance may from time to time determine.

Penalty for issue of false certificate.

21. Any person who wilfully certifies any document admissible in evidence under this Act, as being a true copy or extract, knowing that it is not a true copy or extract, shall be guilty of an offence and liable upon conviction to imprisonment for a period not exceeding two years.

Proof of certain facts by affidavit.

22. (1) Whenever any fact ascertained by any examination or process requiring any skill in bacteriology, biology, chemistry, physics, astronomy, anatomy or pathology is or may become relevant to the issue in any civil proceedings, a document purporting to be an affidavit made by a person who in that affidavit alleges that he is in the service of the Republic or of a province (including the Administration of South-West Africa) or in the service of or attached to the South African Institute for Medical Research or any university in the Republic or any other institution designated by the State President for the purposes of this section by proclamation in the *Gazette*, and that he has ascertained such fact by means of such examination or process, shall, subject to the provisions of sub-sections (2) and (3), on its mere production by any party in such proceedings be admissible in evidence to prove that fact.

(2) No such affidavit shall be so admissible unless a copy thereof has been delivered by the party desiring to avail himself thereof to every other party to the proceedings at least seven days before the date of production thereof.

(3) The person presiding at such proceedings may, upon the application of any party thereto, order that the person who made such affidavit be called to give oral evidence in the proceedings or that written interrogatories be submitted to him, and any such interrogatories and any reply thereto purporting to be a reply from such person, given on affidavit, shall likewise be admissible in evidence in such proceedings.

Preserving testimony.

23. (1) Any person who will, under the circumstances alleged by him to exist, become entitled, upon the happening of any future event, to any interest in any asset the right or claim to which cannot be brought to trial by him before the happening of such event, may, after notice to every other person who may have an interest in such asset, apply to any division of the Supreme Court of South Africa having jurisdiction, for an order allowing any evidence which may be material for establishing such right or claim, to be taken before a commission appointed by the said division, and the said division may refuse the application or grant it on such conditions as it may think fit to impose.

(2) If the said division grants the application, the rules of such division relating to the taking of evidence on commission in trial actions shall *mutatis mutandis* apply to the taking of such evidence.

(3) Any evidence taken in terms of this section which would be admissible if given in a court of law, shall be admissible in any civil proceedings brought after the happening of the future event to which the application for leave to take such evidence relates, if the parties to such proceedings are the same as the parties to such application or are the legal representatives or successors in title to the parties to such application: Provided that if the person who gave such evidence is available as a witness, the person presiding at such proceedings may refuse to admit such evidence.

(2) So 'n dokument kan as bewys oorgelê word deur enige persoon daartoe gemagtig deur die persoon wat die oorlegging daarvan gelas.

20. (1) Behalwe wanneer die oorlegging van die oorspronklike gelas word, is 'n afskrif van of uittreksel uit 'n dokument in die bewaring of onder die beheer van 'n beamppte van die Staat uit hoofde van sy amp, deur die hoof van die departement in wie se bewaring of onder wie se beheer bedoelde dokument is of deur 'n beamppte in diens van die Staat deur bedoelde hoof daartoe gemagtig, as 'n juiste afskrif of uittreksel gewaarmerk, as bewys toelaatbaar en het dit dieselfde regsrag en uitwerking as die oorspronklike dokument.

Gewaarmerkte afskrifte van of uittreksels uit amptelike dokumente voldoende.

(2) So 'n afskrif of uittreksel kan deur enige party wat daarvan gebruik wil maak, ingelewer word.

(3) Geen sodanige afskrif of uittreksel word aan 'n persoon verstrek nie anders as teen betaling van 'n bedrag ooreenkomstig die tarief van gelde deur of kragtens 'n wet voorgeskryf of, indien geen sodanige tarief aldus voorgeskryf is nie, 'n bedrag ooreenkomstig die tarief van gelde wat die Minister van tyd tot tyd in oorleg met die Minister van Finansies bepaal.

21. 'n Persoon wat opsetlik 'n kragtens hierdie Wet as bewys toelaatbare dokument as 'n juiste afskrif of uittreksel waarmerk, met die wete dat dit nie 'n juiste afskrif of uittreksel is nie, is aan 'n misdryf skuldig en by skuldigbevinding met gevangenisstraf vir 'n tydperk van hoogstens twee jaar strafbaar.

Straf vir uitreiking van valse sertifikaat.

22. (1) Wanneer 'n feit wat vasgestel is deur 'n ondersoek of proses wat bedreweheid in bakteriologie, biologie, skeikunde, natuurkunde, sterrekunde, anatomie of patologie vereis in 'n siviele saak die geskilpunt raak of kan raak, is behoudens die bepalinge van sub-artikels (2) en (3), 'n dokument wat 'n beëdigde verklaring heet te wees van 'n persoon wat in daardie beëdigde verklaring beweer dat hy in diens is van die Republiek of van 'n provinsie (met inbegrip van die Administrasie van Suidwes-Afrika) of in diens is van of verbonde is aan die Suid-Afrikaanse Instituut vir Mediese Navorsing of 'n universiteit in die Republiek of 'n ander inrigting deur die Staatspresident vir die doeleindes van hierdie artikel by proklamasie in die *Staatskoerant* aangewys, en dat hy bedoelde feit deur middel van so 'n ondersoek of proses vasgestel het, by blote oorlegging deur enige party in so 'n saak, as bewys toelaatbaar om daardie feit te bewys.

Bewys van sekere feite deur middel van beëdigde verklaringe.

(2) Geen sodanige beëdigde verklaring is aldus toelaatbaar nie tensy 'n afskrif daarvan ten minste sewe dae voor die datum van oorlegging daarvan deur die party wat daarvan gebruik wil maak aan elke ander party by die saak gelewer is.

(3) Die persoon wat by bedoelde saak voorsit, kan op aansoek van enige party daarby, beveel dat die persoon wat bedoelde beëdigde verklaring afgelê het, geroep word om mondelinge getuieis in die saak af te lê of dat skriftelike vraagpunte aan hom voorgelê word en bedoelde vraagpunte en enige antwoord daarop wat 'n beëdigde antwoord van bedoelde persoon heet te wees, is insgelyks as bewys in bedoelde saak toelaatbaar.

23. (1) 'n Persoon wat, onder die omstandighede wat volgens sy bewering bestaan, by die plaasvind van 'n toekomstige gebeurtenis geregtig sal word op 'n belang in enige bate ten opsigte waarvan hy sy reg of aanspraak nie voordat bedoelde gebeurtenis plaasvind, kan laat bereg nie, kan na kennisgewing aan elke ander persoon wat 'n belang in daardie bate het, by 'n bevoegde afdeling van die Hooggeregshof van Suid-Afrika aansoek doen om 'n bevel tot die aanstelling van 'n kommissie deur bedoelde afdeling, met die bevoegdheid om getuieis af te neem wat ter stawing van bedoelde reg of aanspraak ter sake is, en bedoelde afdeling kan die aansoek van die hand wys of dit toestaan op die voorwaardes wat hy na goeie dunnepaal.

Bewaring van getuieis.

(2) Indien bedoelde afdeling die aansoek toestaan, geld *mutatis mutandis* met betrekking tot die afneem van bedoelde getuieis die reëls van daardie afdeling met betrekking tot die afneem van getuieis op kommissie in verhoorsake.

(3) Getuieis ingevolge hierdie artikel afgeneem wat toelaatbaar sou wees indien in 'n gereghof afgelê, is toelaatbaar in 'n siviele saak ingestel nadat die toekomstige gebeurtenis waarop die aansoek om verlop om bedoelde getuieis af te neem betrekking het, plaasgevind het, indien die partye by die saak dieselfde is as die partye by bedoelde aansoek of die regsvertegenwoordigers of regsopvolgers is van die partye by die aansoek: Met dien verstande dat indien die persoon wat bedoelde getuieis afgelê het as getuie beskikbaar is, die persoon wat by bedoelde saak voorsit, kan weier om bedoelde getuieis toe te laat.

Depositions of witnesses taken on commission.

24. Nothing in this Act contained shall be construed as rendering inadmissible the depositions of witnesses taken on commission in terms of any law.

Official reports as evidence in applications for orders presuming death of soldiers.

25. (1) In any proceedings in a court in which application is made for an order that the death of any soldier be presumed, any official report shall, notwithstanding anything to the contrary in any other law contained, on its mere production by any person be admissible in proof of the facts stated therein, provided such report is accompanied by an affidavit by the Secretary for Defence in which he certifies—

- (a) that the person to whose alleged death the proceedings relate was a soldier on active service at the time when, as far as is known, he was last seen alive;
- (b) that the said official report was received by him through the normal official channels, and that he has no reason to believe that the allegations of fact contained therein were not made in the course of the official duty of the person purporting to have made them;
- (c) that the person to whose alleged death the proceedings relate has been posted by the appropriate military authorities as "missing"; and
- (d) that no information is available in the records of the Department of Defence tending to show that the said person is still alive.

(2) Nothing in this section contained shall affect the admissibility of any other evidence, or the right of a court to require, in the exercise of its discretion, any person to appear as a witness, or to give evidence on affidavit (whether or not the official report purports to contain the statement of that person), before the court would be prepared to grant the order requested.

(3) In this section, unless the context otherwise indicates—

"active service" means service in the military, air or naval forces of the Republic at any place beyond the boundaries of the Republic;

"court" means any division of the Supreme Court of South Africa or any judge thereof;

"official report" means any document which forms part of the official records of the Department of Defence relating to the circumstances of the disappearance of a soldier on active service, or leading up to such disappearance, or to any action taken to ascertain whether he is alive or dead;

"soldier" means a member of the South African Defence Force.

Evidence of times of sunrise and sunset.

26. (1) The Minister may from time to time by notice in the *Gazette* approve of tables prepared at any official observatory in the Republic of the times of sunrise and sunset on particular days at particular places in the Republic or any portion thereof and appearing in any publication specified in the notice, and thereupon, until the notice is withdrawn, such tables shall on their mere production in any civil proceedings by any party thereto be admissible as evidence of such times.

(2) Any tables in force immediately prior to the commencement of this Act by virtue of the provisions of section *twenty-six* of the General Law Amendment Act, 1952 (Act No. 32 of 1952), shall be deemed to be tables approved of under sub-section (1) of this section.

PART V.

DOCUMENTARY EVIDENCE (SPECIAL PROVISIONS AS TO BANKERS' BOOKS).

Definition of "bank".

27. In this Part "bank" means a "banking institution" as defined in the Banks Act, 1965, and includes the Land and Agricultural Bank of South Africa, the Land and Agricultural Bank of South-West Africa and a building society.

Entries in bankers' books admissible in certain cases.

28. The entries in ledgers, day-books, cash-books and other account books of any bank, shall be admissible as *prima facie* evidence of the matters, transactions and accounts therein recorded, on proof being given by affidavit in writing of a director, manager or officer of such bank, or by other evidence, that such ledgers, day-books, cash-books or other account books are or have been the ordinary books of such bank, and that the said entries have been made in the usual and ordinary course of business, and that such books are in or come immediately from the custody or control of such bank.

24. Hierdie Wet word nie so uitgelê dat dit die verklarings van getuies op kommissie ingevolge 'n wet afgeneem, ontoelaatbaar maak nie.

Verklarings van getuies op kommissie afgeneem.

25. (1) Ondanks andersluidende wetsbepalings, is, in enige saak in 'n hof waarin aansoek gedoen word om 'n bevel dat die dood van 'n soldaat vermoed word, 'n amptelike verslag by blote oorlegging deur enige persoon toelaatbaar as bewys van die daarin vermelde feite, mits daar by die verslag 'n beëdigde verklaring deur die Sekretaris van Verdediging is waarin hy sertifiseer—

Amptelike verslag as bewys by aansoek om bevel dat die dood van soldate vermoed word.

- (a) dat die persoon op wie se beweerde dood die saak betrekking het, 'n soldaat in aktiewe diens was toe hy, seker bekend, laas in lewe gesien is;
- (b) dat bedoelde amptelike verslag deur hom deur die normale amptelike kanale ontvang is en dat hy geen rede het om te glo dat die feitebewerings daarin vervat nie in die loop van die amptelike plig van die persoon wat dit heet te gedoen het, gedoen is nie;
- (c) dat die persoon op wie se beweerde dood die saak betrekking het deur die betrokke militêre gesag as „vermis” verklaar is; en
- (d) dat geen inligting in die stukke van die Departement van Verdediging voorhande is wat daarop dui dat bedoelde persoon nog in lewe is nie.

(2) Die bepalinge van hierdie artikel raak nie die toelaatbaarheid van enige ander bewys, of die bevoegdheid van 'n hof om by die uitoefening van sy diskresie te verlang dat 'n persoon as getuie moet verskyn, of by wyse van beëdigde verklaring getuie is moet aflê nie (hetsy die amptelike verslag die verklaring van daardie persoon heet te bevat al dan nie), voordat die hof bereid sou wees om die aangevraagde bevel toe te staan.

(3) In hierdie artikel, tensy uit die samehang anders blyk, beteken—

- „aktiewe diens” diens in die militêre, lug- of seemagte van die Republiek op enige plek buite die grense van die Republiek;
- „amptelike verslag” 'n dokument wat deel uitmaak van die amptelike stukke van die Departement van Verdediging met betrekking tot die omstandighede waaronder 'n soldaat in aktiewe diens verdwyn het, of wat tot sy verdwyning gelei het, of tot enige stappe gedoen om vas te stel of hy lewe en of hy dood is;
- „hof” 'n afdeling van die Hooggeregshof van Suid-Afrika of 'n regter daarvan;
- „soldaat” 'n lid van die Suid-Afrikaanse Weermag.

26. (1) Die Minister kan van tyd tot tyd by kennisgewing in die *Staatskoerant* sy goedkeuring heg aan by 'n amptelike sterrewag in die Republiek opgestelde tabelle van die tye van sonsopgang en sonsondergang op bepaalde dae op bepaalde plekke in die Republiek of 'n deel daarvan, wat in 'n in die kennisgewing vermelde publikasie verskyn, en daarna, totdat die kennisgewing ingetrek word, is bedoelde tabelle by blote oorlegging daarvan in 'n siviele saak deur enige party daarby as bewys van bedoelde tye toelaatbaar.

Bewys van tye van sonsopgang en sonsondergang.

(2) Enige tabelle wat onmiddellik voor die inwerkingtreding van hierdie Wet uit hoofde van die bepalinge van artikel *ses-en-twintig* van die Algemene Regswysigingswet, 1952 (Wet No. 32 van 1952), van krag was, word geag kragtens sub-artikel (1) van hierdie artikel goedgekeurde tabelle te wees.

DEEL V.

DOKUMENTÊRE BEWYS (SPESIALE BEPALINGS MET BETREKKING TOT BANKIERSBOEKE).

27. In hierdie Deel beteken „bank” 'n „bankinstelling” soos omskryf in die Bankwet, 1965, en ook die Land- en Landbou-bank van Suid-Afrika, die Land- en Landbou-bank van Suidwes-Afrika en 'n bouvereniging.

Omskrywing van „bank”.

28. Poste in grootboeke, dagboeke, kasboeke en ander rekeningboeke van enige bank, is toelaatbaar as *prima facie*-bewys van die aangeleentheid, transaksies en rekeninge daarin opgeteken, by bewys deur die skriftelike beëdigde verklaring van 'n direkteur, bestuurder of beampde van daardie bank, of deur ander bewys, dat bedoelde grootboeke, dagboeke, kasboeke of ander rekeningboeke die gewone boeke van bedoelde bank is of was, en dat bedoelde poste in die gebruikelike en gewone loop van besigheid aangebring is, en dat bedoelde boeke in die bewaring of onder die beheer van bedoelde bank is of onmiddellik daaruit kom.

Poste in bankiersboeke toelaatbaar in sekere gevalle.

Examined copies of entries in bankers' books admissible.

29. Copies of all entries in ledgers, day-books, cash-books or other account books used by any bank, may be proved as evidence of such entries without production of the originals, by means of the affidavit of a person who has examined the same, stating the fact of the examination and that the copies sought to be put in evidence are correct.

Notice of intention to adduce evidence relating to entries in bankers' books.

30. (1) No ledger, day-book, cash-book or other account book of any bank, and no copies of entries therein contained, shall be adduced or received in evidence under this Part, unless at least ten days' notice in writing, or such other notice as may be ordered by the person presiding at the proceedings concerned, containing a copy of the entries proposed to be adduced in evidence, has been given by the party proposing to adduce the same in evidence to the other party.

(2) On the application of any party who has received such notice, the person presiding at the proceedings may order that such party be at liberty to inspect and take copies of any entry in the ledgers, day-books, cash-books or other account books of the bank concerned, relating to the matters in question, and such order may be made in the discretion of the person so presiding, either with or without summoning before him such bank or the other party, and shall be intimated to such bank at least three days before such copies are required.

(3) On the application of any party who has received such notice, the person presiding at the proceedings may order that the entries and copies mentioned in the notice shall not be admissible as evidence of the matters, transactions and accounts recorded in such ledgers, day-books, cash-books or other account books.

Bank not compelled to produce books unless ordered to do so.

31. No bank shall be compelled to produce its ledgers, day-books, cash-books or other account books in any civil proceedings unless the person presiding at such proceedings orders that they shall be so produced.

This Part not to apply to proceedings to which bank is a party.

32. Nothing in this Part contained shall apply to any civil proceedings to which any bank whose ledgers, day-books, cash-books or other account books are required to be produced in evidence, is a party.

PART VI.

DOCUMENTARY EVIDENCE (MISCELLANEOUS PROVISIONS).

Definitions.

33. In this Part, unless the context otherwise indicates—
“document” includes any book, map, plan, drawing or photograph;
“statement” includes any representation of fact, whether made in words or otherwise.

Admissibility of documentary evidence as to facts in issue.

34. (1) In any civil proceedings where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall on production of the original document be admissible as evidence of that fact, provided—

(a) the person who made the statement either—

(i) had personal knowledge of the matters dealt with in the statement; or

(ii) where the document in question is or forms part of a record purporting to be a continuous record, made the statement (in so far as the matters dealt with therein are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had or might reasonably have been supposed to have personal knowledge of those matters; and

(b) the person who made the statement is called as a witness in the proceedings unless he is dead or unfit by reason of his bodily or mental condition to attend as a witness or is outside the Republic, and it is not reasonably practicable to secure his attendance or all reasonable efforts to find him have been made without success.

29. Afskrifte van alle poste in grootboeke, dagboeke, kasboeke of ander rekeningboeke gebruik deur 'n bank, kan sonder oorlegging van die oorspronklike boeke, tot bewys van bedoelde poste dien deur middel van die beëdigde verklaring van 'n persoon wat dit nagesien het, waarin vermeld word dat dit nagesien is en dat die afskrifte wat as bewys aangebied word, juis is.

Nagesiene afskrifte van poste in bankiersboeke toelaatbaar.

30. (1) Geen grootboek, dagboek, kasboek of ander rekeningboek van 'n bank, en geen afskrifte van poste daarin bevat, word as bewys kragtens hierdie Deel aangevoer of toegelaat nie, tensy minstens tien dae skriftelike kennisgewing, of sodanige ander kennisgewing as wat deur die persoon wat by die betrokke saak voorsit, gelas word, wat 'n afskrif bevat van die poste wat dit die voorneme is om as bewys aan te voer, deur die party wat voornemens is om dit as bewys aan te voer, aan die ander party gegee is.

Kennisgewing van voorneme om bewys met betrekking tot poste in bankiersboeke aan te voer.

(2) Die persoon wat by die saak voorsit, kan op aansoek van enige party wat bedoelde kennisgewing ontvang het, beveel dat bedoelde party vry insae kry in en afskrifte kan maak van enige pos in die grootboeke, dagboeke, kasboeke of ander rekeningboeke van die betrokke bank wat op die aangeleenthede wat ter sprake is, betrekking het, en so 'n bevel kan na goeddunke van die persoon wat aldus voorsit, uitgevaardig word, nadat of sonder dat hy bedoelde bank of die ander party voor hom gedagvaar het, en word aan bedoelde bank meegedeel minstens drie dae voordat bedoelde afskrifte vereis word.

(3) Die persoon wat by die saak voorsit, kan op aansoek van enige party wat bedoelde kennisgewing ontvang het, beveel dat die poste en afskrifte in die kennisgewing vermeld, nie toelaatbaar is as bewys van die aangeleenthede, transaksies en rekeninge wat in bedoelde grootboeke, dagboeke, kasboeke of ander rekeningboeke opgeteken is nie.

31. Geen bank is verplig om sy grootboeke, dagboeke, kasboeke of ander rekeningboeke in 'n siviele saak oor te lê nie tensy die persoon wat by die saak voorsit, beveel dat die boeke aldus oorgelê word.

Bank nie verplig om boeke oor te lê nie, tensy daartoe beveel.

32. Geen bepaling van hierdie Deel is van toepassing op 'n siviele saak waarby 'n bank wie se grootboeke, dagboeke, kasboeke of ander rekeningboeke as bewys oorgelê moet word, 'n party is nie.

Hierdie Deel nie van toepassing op sake waarby die bank 'n party is nie.

DEEL VI.

DOKUMENTÊRE BEWYS (DIVERSE BEPALINGS).

33. In hierdie Deel, tensy uit die samehang anders blyk, beteken—

- „dokument” ook enige boek, kaart, plan, tekening of portret;
- „verklaring” ook enige feitevoorstelling, hetsy in woorde of andersins gedoen.

34. (1) By 'n siviele saak waar regstreekse mondelinge getuie van 'n feit toelaatbaar sou wees, is enige verklaring wat deur 'n persoon in 'n dokument gedoen is en wat tot staving van daardie feit strek, by oorlegging van die oorspronklike dokument as bewys van daardie feit toelaatbaar, mits—

Toelaatbaarheid van dokumentêre bewys met betrekking tot feite in geskil.

- (a) die persoon wat die verklaring gedoen het, òf—
 - (i) persoonlike kennis gedra het van die aangeleenthede waarvoor die verklaring gaan; òf
 - (ii) waar die betrokke dokument 'n aantekening is of deel van 'n aantekening uitmaak wat 'n lopende aantekening heet te wees, die verklaring (vir sover die aangeleenthede waarvoor dit gaan nie binne sy persoonlike kennis val nie) gedoen het by die uitvoering van 'n plig om inligting op te teken wat aan hom verstrekk is deur iemand wat persoonlik kennis van daardie aangeleenthede gedra het of redelikerwys veronderstel kon geword het persoonlik daarvan kennis te dra; en
- (b) die persoon wat die verklaring gedoen het as 'n getuie in die saak geroep word, tensy hy oorlede is of vanweë sy liggaamlike of geestestoestand onbekwaam is om as getuie te verskyn of buite die Republiek is en dit nie redelikerwys doenlik is om sy verskyning te bewerkstellig nie of alle redelike pogings om hom te vind vrugtelos aangewend is.

(2) The person presiding at the proceedings may, if having regard to all the circumstances of the case he is satisfied that undue delay or expense would otherwise be caused, admit such a statement as is referred to in sub-section (1) as evidence in those proceedings—

- (a) notwithstanding that the person who made the statement is available but is not called as a witness;
- (b) notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of the material part thereof proved to be a true copy.

(3) Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish.

(4) A statement in a document shall not for the purposes of this section be deemed to have been made by a person unless the document or the material part thereof was written, made or produced by him with his own hand, or was signed or initialled by him or otherwise recognized by him in writing as one for the accuracy of which he is responsible.

(5) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of the provisions of this section, any reasonable inference may be drawn from the form or contents of the document in which the statement is contained or from any other circumstances, and a certificate of a registered medical practitioner may be acted upon in deciding whether or not a person is fit to attend as a witness.

Weight to be attached to evidence admissible under this Part.

35. (1) In estimating the weight, if any, to be attached to a statement admissible as evidence under this Part, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the person who made the statement had any incentive to conceal or misrepresent facts.

(2) A statement admissible as evidence under this Part shall not, for the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, be treated as corroboration of evidence given by the person who made the statement.

Proof of instrument to validity of which attestation is necessary.

36. In any civil proceedings an instrument to the validity of which attestation is requisite may, instead of being proved by an attesting witness, be proved in the manner in which it might be proved if no attesting witness were alive: Provided that nothing in this section contained shall apply to the proof of wills or other testamentary writings.

Presumptions as to documents twenty years old.

37. There shall in any civil proceedings, in the case of a document proved or purporting to be not less than twenty years old, be made any presumption which on the fifteenth day of March, 1962, would have been made in the case of a document of like character proved or which purported to be not less than thirty years old.

Savings.

38. Nothing in this Part shall—

- (a) prejudice the admissibility of any evidence which would apart from the provisions of this Part be admissible; or
- (b) render admissible documentary evidence as to any declaration relating to a matter of pedigree, if that declaration would not have been admissible as evidence if this Part had not been enacted.

PART VII.

OATHS AND AFFIRMATIONS.

Oaths.

39. (1) No person other than a person referred to in section *forty* or *forty-one* shall be examined as a witness otherwise than upon oath.

(2) Die persoon wat by die saak voorsit, kan, indien hy met inagneming van al die omstandighede van die geval oortuig is dat daar anders buitensporige verdragting of onkoste veroorsaak sou word, 'n verklaring soos in sub-artikel (1) bedoel as bewys by daardie saak toelaat—

- (a) ondanks die feit dat die persoon wat die verklaring gedoen het, beskikbaar is maar nie as getuie geroep word nie;
- (b) al word die oorspronklike dokument nie oorgelê nie indien in plaas daarvan 'n juis bewese afskrif van die oorspronklike dokument of van die deel daarvan wat ter sake is, oorgelê word.

(3) Geen bepaling van hierdie artikel maak 'n verklaring as bewys toelaatbaar wat deur 'n belanghebbende persoon gedoen is op 'n tydstip toe 'n saak hangende of verwag was met betrekking tot 'n geskil oor enige feit tot staving waarvan die verklaring sou kon strek nie.

(4) 'n Verklaring in 'n dokument word nie by die toepassing van hierdie artikel geag deur 'n persoon gedoen te gewees het nie, tensy die dokument of die deel daarvan wat ter sake is deur hom eiehandig geskryf, gemaak of daargestel is of deur hom onderteken of geparafeer is of andersins skriftelik deur hom erken is as een vir die juistheid waarvan hy verantwoordelik is.

(5) Ten einde te beslis of 'n verklaring uit hoofde van die bepalings van hierdie artikel as bewys toelaatbaar is al dan nie, kan enige redelike afleiding gemaak word van die vorm of inhoud van die dokument waarin die verklaring vervat is of van enige ander omstandighede, en kan daar op grond van 'n sertifikaat van 'n geregistreerde geneesheer gehandel word by 'n beslissing oor die vraag of 'n persoon in staat is om as getuie te verskyn al dan nie.

35. (1) Ten einde die bewyskrag (as daar is) te bepaal wat toegewys moet word aan 'n verklaring wat ingevolge hierdie Deel as bewys toelaatbaar is, moet rekening gehou word met al die omstandighede waaruit redelikerwys enige afleiding gemaak kan word met betrekking tot die juistheid van die verklaring of andersins, en insonderheid met die vraag of die verklaring ten tyde van die gebeurtenis of bestaan van die aangegeve feite gedoen is al dan nie, en met die vraag of daar by die persoon wat die verklaring gedoen het enige dryfveer bestaan het om feite te verberg of verkeerd voor te stel al dan nie.

Waarde wat aan ingevolge hierdie Deel toelaatbare bewys geheg moet word.

(2) 'n Verklaring wat ingevolge hierdie Deel as bewys toelaatbaar is, word nie vir die doeleindes van enige regsreël of reël van die regspraktyk wat die staving van getuienis vereis of die wyse bepaal waarop in verband met ongestaafde getuienis gehandel moet word, beskou as staving van getuienis afgeleë deur die persoon wat die verklaring gedoen het nie.

36. By 'n siviele saak kan 'n instrument vir die geldigheid waarvan attestasie vereis word, in plaas van deur 'n attesterende getuie bewys te word, op die wyse bewys word waarop dit bewys sou kon word indien geen attesterende getuie in lewe was nie: Met dien verstande dat die bepalings van hierdie artikel nie op die bewys van testamente of ander testamentêre geskrifte van toepassing is nie.

Bewys van instrument vir geldigheid waarvan attestasie vereis word.

37. By 'n siviele saak word in die geval van 'n dokument wat volgens bewys minstens twintig jaar oud is of wat so oud heet te wees, enigiets vermoed wat op die vyftiende dag van Maart 1962 vermoed sou gewees het in die geval van 'n dokument van soortgelyke aard wat volgens bewys minstens dertig jaar oud was of wat geheet het so oud te wees.

Vermoedens met betrekking tot dokumente wat twintig jaar oud is.

38. Geen bepaling van hierdie Deel—

Voorbehoude.

- (a) maak inbreuk op die toelaatbaarheid van getuienis wat afgesien van die bepalings van hierdie Deel toelaatbaar sou gewees het nie; of
- (b) maak dokumentêre bewys met betrekking tot enige verklaring omtrent afstamming toelaatbaar nie, indien daardie verklaring nie as bewys toelaatbaar sou gewees het indien hierdie Deel nie verorden was nie.

DEEL VII.

EEDAFLEGGING EN BEVESTIGING VAN GETUIENIS.

39. (1) Geen ander persoon as 'n in artikel veertig Ede. of een-en-veertig bedoelde persoon word anders as onder eed as getuie ondervra nie.

(2) The oath to be administered to any person as a witness shall be administered in the form which most clearly conveys to him the meaning of the oath and which he considers to be binding on his conscience.

Affirmations in lieu of oaths.

40. (1) In any case where any person who is or may be required to take an oath objects to do so, it shall be lawful for such person to make an affirmation in the words following:

"I do truly affirm and declare that"

(here insert the matter to be affirmed or declared).

(2) Any person authorized, required or qualified by law to take or administer an oath shall accept, in lieu thereof, an affirmation or declaration as aforesaid.

(3) Such affirmation or declaration shall be of the same force and effect as if the person who made it had taken such oath, and the same penalties and disabilities which are respectively in force in respect of and are attached to any false or corrupt taking and subscribing of any oath administered in accordance with section *thirty-nine*, and any neglect or refusal in regard thereto, shall apply and attach in like manner in respect of the false or corrupt making or subscribing respectively, of any such affirmation or declaration as in this section mentioned and any neglect or refusal in regard thereto.

When unsworn or unaffirmed testimony admissible.

41. (1) Any person who, from ignorance arising from youth, defective education or other cause, is found not to understand the nature or to recognize the religious obligation of an oath or affirmation, may be permitted to give evidence in any civil proceedings without being upon oath or affirmation, if, before any such person proceeds to give evidence, the person presiding at the proceedings in which he is called as a witness, admonishes him to speak the truth, the whole truth and nothing but the truth and administers or causes to be administered to him any form of admonition which appears, either from his own statement or from any other source of information, to be calculated to impress his mind and bind his conscience, and which is not, as being of an inhuman, immoral or irreligious nature, obviously unfit to be administered.

(2) Any person to whom an admonition has been administered as aforesaid, who in evidence wilfully and falsely states anything which, if sworn, would have amounted to the offence of perjury or any statutory offence punishable as perjury, shall be deemed to have committed that offence, and shall upon conviction be liable to such punishment as is by law provided as a punishment for that offence.

PART VIII.

GENERAL.

Cases not otherwise provided for.

42. The law of evidence including the law relating to the competency, compellability, examination and cross-examination of witnesses which was in force in respect of civil proceedings on the thirtieth day of May, 1961, shall apply in any case not provided for by this Act or any other law.

Application of Act to South-West Africa.

43. This Act and any amendment thereof which may be made from time to time shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951).

Repeal and amendment of laws.

44. The laws mentioned in the Schedule are hereby repealed or amended to the extent set out in the fourth column thereof.

Short title and date of commencement.

45. This Act shall be called the Civil Proceedings Evidence Act, 1965, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

(2) Die eed wat 'n persoon as getuie opgelê word, word opgelê in die vorm wat aan hom die betekenis van die eed die duidelikste aandui, en wat hy vir sy gewete bindend ag.

40. (1) In 'n geval waar 'n persoon van wie dit verlang word of kan word om 'n eed af te lê, daarteen beswaar maak, kan daardie persoon 'n bevestiging in die volgende bewoording doen: „Ek bevestig en verklaar opreg dat” (*voeg hier in wat bevestig of verklaar moet word*). Bevestiging in plaas van eed.

(2) 'n Persoon wat regtens gemagtig, verplig of bevoeg is om 'n eed af te neem of op te lê, aanvaar in plaas daarvan 'n bevestiging of verklaring soos voormeld.

(3) So 'n bevestiging of verklaring het dieselfde krag en uitwerking asof die persoon wat dit gedoen het bedoelde eed afgelê het en dieselfde strawwe en regsonbevoegdhede wat onderskeidelik geld ten opsigte van en verbonde is aan 'n valse of korrupte aflegging of ondertekening van 'n eed wat ooreenkomstig artikel *nege-en-dertig* opgelê is, en enige versuim of weiering in verband daarmee, is op dieselfde wyse van toepassing op, en is op dieselfde wyse verbonde aan, onderskeidelik die valse of korrupte doen of ondertekening van 'n in hierdie artikel bedoelde bevestiging of verklaring, en 'n versuim of weiering in verband daarmee.

41. (1) 'n Persoon wat weens onkunde wat voortspruit uit sy jeugdige leeftyd, gebrekkige opvoeding of ander rede, bevind word nie die aard van 'n eed of bevestiging te begryp nie of die gebondenheid daaraan op grond van godsdienstige oortuiging te besef nie, kan toegelaat word om in 'n siviele saak getuienis af te lê sonder om dit onder eed te doen of dit te bevestig, indien, voordat bedoelde persoon getuienis aflê, die persoon wat voorsit by die saak waarin hy as getuie geroep word, hom waarsku om die waarheid, die algehele waarheid en niks anders as die waarheid te praat nie en aan hom 'n waarskuwing rig of laat rig in enige vorm wat volgens of sy eie verklaring of 'n ander bron van inligting blyk daarop bereken te wees om 'n indruk op sy verstand te maak en sy gewete te bind en wat nie klaarblyklik ongeskik is om aan hom gerig te word nie omdat dit onmenslik, immoreel of ongodsdienstig van aard is nie. Wanneer onbeëdigde of onbevestigde getuienis toegelaatbaar is.

(2) 'n Persoon aan wie 'n waarskuwing gerig is soos voormeld, wat in sy getuienis opsetlik en valslik enigiets verklaar wat, indien dit beëdig was, die misdryf van meened of 'n wetteregtelike misdryf wat as meened strafbaar is, sou uitge-
maak het, word geag daardie misdryf te gepleeg het en is by skuldigbevinding strafbaar met die straf wat regtens as straf vir daardie misdryf bepaal word.

DEEL VIII.

ALGEMEEN.

42. Die bewysleer, met inbegrip van die reg met betrekking tot die bevoegdheid, verpligting, ondervraging en kruisvra van getuies, wat op die dertigste dag van Mei 1961 ten opsigte van siviele sake gegeld het, is van toepassing op enige geval waarvoor hierdie Wet of 'n ander wet nie voorsiening maak nie. Gevalle waarvoor ander voorsiening nie gemaak word nie.

43. Hierdie Wet en enige wysiging daarvan wat van tyd tot tyd aangebring mag word, is ook van toepassing in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel vermeld in artikel *drie* van die Wysigingswet op Aangeleenthede van Suidwes-Afrika, 1951 (Wet No. 55 van 1951). Toepassing van Wet op Suidwes-Afrika.

44. Die wette in die Bylae vermeld, word hierby herroep of gewysig in die mate in die vierde kolom daarvan uiteengesit. Herroeping en wysiging van wette.

45. Hierdie Wet heet die Wet op Bewysleer in Siviele Sake, 1965, en tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal. Kort titel en datum van inwerkingtreding.

Schedule.

LAWS AMENDED OR REPEALED.

Province, Territory or Republic.	No. and year of Law.	Title or subject matter.	Extent of amendment or repeal.
Cape.	Ordinance No. 72 of 1830.	Ordinance for altering, amending, and declaring in certain respects, the Law of Evidence within this Colony.	The whole repealed.
	Ordinance No. 14 of 1846.	Ordinance for improving the Law of Evidence.	The whole repealed.
	Act No. 4 of 1861.	The Law of Evidence Amendment Act, 1861.	The whole except sections <i>eight</i> and <i>nine</i> repealed.
	Act No. 21 of 1877.	Bankers' Books Evidence Act, 1877.	The whole repealed.
	Act No. 18 of 1891.	The Oaths and Declarations Act, 1891.	The whole repealed.
Natal.	Law No. 17 of 1859.	To regulate the Law of Evi- dence in the Colony of Natal.	The whole repealed.
	Law No. 13 of 1862.	To make further provision in respect of the substitut- ion, in certain cases, of Declarations for Oaths.	The whole repealed except section <i>four</i> .
	Law No. 5 of 1870.	To amend the Law of Evi- dence.	The whole repealed.
	Law No. 6 of 1884.	To provide for the produc- tion in evidence of Copies, instead of Origi- nals, of Public Docu- ments.	The whole repealed.
Orange Free State.	Ordinance No. 11 of 1902.	Law of Evidence Ordinance, 1902.	The whole except sections <i>sixty</i> and <i>sixty-one</i> re- pealed.
Transvaal.	Proclamation No. 16 of 1902.	The Law of Evidence Pro- clamation, 1902.	The whole except sections <i>forty-nine</i> and <i>fifty</i> re- pealed.
South-West Africa.	Proclamation No. 21 of 1919.	Administration of Justice Proclamation, 1919.	Section <i>three</i> amended by the deletion in sub-section (6) of the words "and evi- dence".
	Proclamation No. 38 of 1920.	Further Administration of Justice Proclamation, 1920.	Section <i>eleven</i> amended by the deletion of the words "and evidence".
	Proclamation No. 8 of 1938.	Procedure and Evidence Proclamation, 1938.	Sections <i>one</i> , <i>two</i> , <i>three</i> and <i>five</i> repealed.
Republic.	Act No. 46 of 1935.	General Law Amendment Act, 1935.	1. Section <i>one hundred and one</i> amended— (a) by the deletion of sub- sections (1) and (2); (b) by the substitution in sub-section (3) for the words "proceedings, whether civil or criminal" of the words "criminal proceed- ings". 2. Section <i>one hundred and three</i> repealed.
	Act No. 32 of 1952.	General Law Amendment Act, 1952.	Section <i>twenty-six</i> in so far as it relates to civil pro- ceedings repealed.
	Act No. 42 of 1952.	Presumption of Death of Soldiers Act, 1952.	The whole repealed.

Bylae.

WETTE GEWYSIG OF HERROEP.

Provinsie, Gebied of Republiek.	No. en jaar van Wet.	Titel of onderwerp.	In watter mate gewysig of herroep.
Kaap.	Ordonnansie No. 72 van 1830.	„Ordinance for altering, amending, and declaring in certain respects, the Law of Evidence within this Colony”.	Die geheel herroep.
	Ordonnansie No. 14 van 1846.	„Ordinance for Improving the Law of Evidence”.	Die geheel herroep.
	Wet No. 4 van 1861.	„The Law of Evidence Amendment Act, 1861”.	Die geheel behalwe artikels <i>agt</i> en <i>nege</i> herroep.
	Wet No. 21 van 1877.	„Bankers' Books Evidence Act, 1877”.	Die geheel herroep.
	Wet No. 18 van 1891.	„The Oaths and Declarations Act, 1891”.	Die geheel herroep.
Natal.	Wet No. 17 van 1859.	„To regulate the Law of Evidence in the Colony of Natal”.	Die geheel herroep.
	Wet No. 13 van 1862.	„To make further provision in respect of the substitution, in certain cases, of Declarations for Oaths”.	Die geheel behalwe artikel <i>vier</i> herroep.
	Wet No. 5 van 1870.	„To amend the Law of Evidence”.	Die geheel herroep.
	Wet No. 6 van 1884.	„To provide for the production in evidence of Copies, instead of Originals, of Public Documents”.	Die geheel herroep.
Oranje-Vrystaat.	Ordonnansie No. 11 van 1902.	„Law of Evidence Ordinance, 1902”.	Die geheel behalwe artikels <i>sestig</i> en <i>een-en-sestig</i> herroep.
Transvaal.	Proklamasie No. 16 van 1902.	„The Law of Evidence Proclamation, 1902”.	Die geheel behalwe artikels <i>nege-en-veertig</i> en <i>vyftig</i> herroep.
Suidwes-Afrika.	Proklamasie No. 21 van 1919.	„Administration of Justice Proclamation, 1919”.	Artikel <i>drie</i> gewysig deur in sub-artikel (6) die woorde „and evidence” te skrap.
	Proklamasie No. 38 van 1920.	„Further Administration of Justice Proclamation, 1920”.	Artikel <i>elf</i> gewysig deur die woorde „and evidence” te skrap.
	Proklamasie No. 8 van 1938.	Proklamasie op Prosedure en Bewyslewering, 1938.	Artikels <i>een</i> , <i>twee</i> , <i>drie</i> en <i>vyf</i> herroep.
Republiek.	Wet No. 46 van 1935.	Algemene Regswysigingswet, 1935.	1. Artikel <i>honderd-en-een</i> gewysig: (a) deur sub-artikels (1) en (2) te skrap: (b) deur in sub-artikel (3) die woorde „gedinge, hetsy sivil of krimineel” deur die woord „strafsake” te vervang. 2. Artikel <i>honderd-en-drie</i> herroep.
	Wet No. 32 van 1952.	Algemene Regswysigingswet, 1952.	Artikel <i>ses-en-twintig</i> herroep vir sover dit op siviele gedinge betrekking het.
	Wet No. 42 van 1952.	Wet op die Presumpsie van Dood van Soldate, 1952.	Die geheel herroep.

Province, Territory or Republic.	No. and year of Law.	Title or subject matter.	Extent of amendment or repeal.
Republic.	Act No. 56 of 1955.	Criminal Procedure Act, 1955.	Section <i>two hundred and sixty-one</i> amended by the substitution for the words "a reasonable sum therefor not exceeding one shilling for every hundred words" of the words "an amount in accordance with the tariff of fees prescribed by or under any law or, if no such tariff has been so prescribed, an amount in accordance with such tariff of fees as the Minister in consultation with the Minister of Finance may from time to time determine".
	Act No. 14 of 1962.	Evidence Act, 1962.	1. Section <i>one</i> amended by the deletion of the definition of "Republic". 2. Section <i>two</i> repealed. 3. Section <i>four</i> amended by the substitution for the word "legal" of the word "criminal". 4. Section <i>five</i> amended by the substitution for the word "legal" of the word "criminal".

Provinsie, Gebied of Republiek.	No. en jaar van Wet.	Titel of onderwerp.	In watter mate gewysig of herroep.
Republiek.	Wet No. 56 van 1955.	Strafproseswet, 1955.	Artikel tweehonderd een-en-sestig gewysig deur die woorde „redelike bedrag daarvoor van hoogstens een sjielingvirelkehonderd woorde” deur die woorde „bedrag ooreenkomstig die tarief van gelde deur of kragtens 'n wet voorgeskryf of, indien geen sodanige tarief aldus voorgeskryf is nie, 'n bedrag ooreenkomstig die tarief van gelde wat die Minister in oorleg met die Minister van Finansies van tyd tot tyd bepaal” te vervang.
	Wet No. 14 van 1962.	Wet op Bewyslewering, 1962.	1. Artikel een gewysig deur die omskrywing van „Republiek” te skrap. 2. Artikel twee herroep. 3. Artikel vier gewysig deur die woord „regsgeding” deur die woord „strafsaak” te vervang. 4. Artikel vyf gewysig deur die woord „regsgeding” deur die woord „strafsaak” te vervang.

No. 26, 1965.]

ACT

To amend the Attorneys, Notaries and Conveyancers Admission Act, 1934, the Incorporated Law Society Ordinance, 1903 (of the Orange Free State), the Constitution of the Incorporated Law Society of the Transvaal Ordinance, 1905, the Incorporated Law Society of Natal Act, 1907, and the Law Society (Cape of Good Hope) Private Act, 1916, and to provide for matters incidental thereto.

(English text signed by the State President.)
(Assented to 15th March, 1965.)

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

Amendment of section 2 of Act 23 of 1934, as amended by section 1 of Act 63 of 1964.

1. Section *two* of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of “court” of the following definition:
“‘court’ means a court of a provincial division;”; and
- (b) by the insertion after the definition of “law society” of the following definition:
“‘provincial division’ means a provincial division as defined in the Supreme Court Act, 1959 (Act No. 59 of 1959).”.

Substitution of section 4 of Act 23 of 1934, as substituted by section 2 of Act 63 of 1964.

2. The following section is hereby substituted for section *four* of the principal Act:

“Admission of Attorneys. 4. Any fit and proper person, of or above the age of twenty-one years, who has passed, or is, in terms of the provisions of this Act, exempted from any of the examinations referred to in section *ten* and who has complied with the provisions of this Act in regard to service under articles, may, within a period of three years from the date of the completion of such articles or within the further period allowed by the court in terms of sub-section (3) of section *nineteen* apply, in the manner prescribed by this Act, to the court to be admitted and enrolled as an attorney, and thereupon the court shall, subject to the provisions of any law, admit and enrol such person as an attorney unless cause to the contrary is shown to its satisfaction: Provided that no person shall be so admitted and enrolled unless the court is satisfied that he is a South African citizen or a person who has been lawfully admitted to the Republic for permanent residence therein and is ordinarily resident in the Republic.”.

Substitution of section 10 of Act 23 of 1934, as substituted by section 3 of Act 18 of 1956, as amended by section 11 of Act 82 of 1959 and section 7 of Act 63 of 1964.

3. The following section is hereby substituted for section *ten* of the principal Act:

“Examinations. 10. Subject to the provisions of this part of this Act, no person shall be admitted as an attorney unless he has—
(a) (i) passed the examination in law, known as the Attorneys’ Admission Examination, conducted and controlled by the Joint Committee referred to in sub-section (4) of

No. 26, 1965.]

WET

Tot wysiging van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934, die „Incorporated Law Society Ordinance, 1903” (van die Oranje-Vrystaat), die „Constitution of the Incorporated Law Society of the Transvaal Ordinance, 1905”, die „Incorporated Law Society of Natal Act, 1907”, en die „Wetsgenootschap (Kaap de Goede Hoop) Private Wet, 1916”, en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 15 Maart 1965.)

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

1. Artikel twee van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934 (hieronder die Hoofwet genoem), word hierby gewysig—
 - (a) deur die omskrywing van „hof” deur die volgende omskrywing te vervang:
„hof” beteken 'n hof van 'n provinsiale afdeling;”;
en
 - (b) deur na die omskrywing van „wetsgenootskap” die volgende omskrywing in te voeg:
„provinsiale afdeling” beteken 'n provinsiale afdeling soos omskryf in die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959).”.
2. Artikel vier van die Hoofwet word hierby deur die volgende artikel vervang:

„Toelating van prokureurs. 4. Enige geskikte en gepaste persoon van of bo die ouderdom van een-en-twintig jaar wat geslaag het in, of, ingevolge die bepalings van hierdie Wet, vrygestel is van enige van die eksamens bedoel in artikel tien en wat voldoen het aan die bepalings van hierdie Wet met betrekking tot diens onder leerkontrak kan, binne 'n tydperk van drie jaar vanaf die datum van voltooiing van so 'n leerkontrak of binne die verdere tydperk deur die hof ingevolge sub-artikel (3) van artikel negentien toegelaat, op die in hierdie Wet voorgeskrewe manier, by die hof aansoek doen om as prokureur toegelaat en ingeskryf te word, en, behoudens die bepalings van enige wet, laat die hof dan sodanige persoon as prokureur toe en skryf hom in tensy gronde tot bevrediging van die hof daarteen aangevoer word: Met dien verstande dat niemand aldus toegelaat en ingeskryf word nie tensy die hof oortuig is dat hy 'n Suid-Afrikaanse burger is of 'n persoon is wat wettiglik tot die Republiek vir permanente verblyf daarin toegelaat is en gewoonlik in die Republiek woonagtig is.”.
3. Artikel tien van die Hoofwet word hierby deur die volgende artikel vervang:

„Eksamens. 10. Behoudens die bepalings van hierdie deel van hierdie Wet, word niemand as prokureur toegelaat nie tensy hy—
(a) (i) in die eksamen in regte, bekend as die Prokureurs Toelatingeksamens, afge- neem deur en onder toesig van die Gemeenskaplike Komitee vermeld in sub-artikel (4) van artikel sestion duodec. van

Wysiging van artikel 2 van Wet 23 van 1934, soos gewysig deur artikel 1 van Wet 63 van 1964.

Vervanging van artikel 4 van Wet 23 van 1934, soos vervang deur artikel 2 van Wet 63 van 1964.

Vervanging van artikel 10 van Wet 23 van 1934, soos vervang deur artikel 3 van Wet 18 van 1956, soos gewysig deur artikel 11 van Wet 82 van 1959 en artikel 7 van Wet 63 van 1964.

section *sixteen duodec.* of the University Act, 1955 (Act No. 61 of 1955), the Board for the Recognition of Examinations in Law established by section *sixteen* of the said Act, or any University in the Republic; or

- (ii) passed an examination in law by a university certified by the said Joint Committee or the said Board to be equivalent or superior to the examination referred to in sub-paragraph (i); or
- (iii) satisfied all the requirements for the degree in law prescribed by regulation made under paragraph (e) of sub-section (1) of section *thirty*; and
- (b) passed the practical examinations referred to in paragraphs (a), (b) and (c) of section *twenty-seven*; and
- (c) passed examinations in the Afrikaans and in the English language certified by the joint matriculation board referred to in section *fifteen* of the Universities Act, 1955 (Act No. 61 of 1955), to be equivalent or superior to one or other of the examinations in the said languages conducted at a matriculation examination referred to in section *thirteen* or is by regulation made under section *thirty* exempted from passing any or both of the said examinations."

Amendment of section 13 of Act 23 of 1934, as amended by section 6 of Act 18 of 1956 and section 9 of Act 63 of 1964.

4. Section *thirteen* of the principal Act is hereby amended by the substitution in paragraph (c) for all the words preceding sub-paragraph (i) of the following words:

"(c) proof to the satisfaction of the law society that he is a fit and proper person and that he has—".

Amendment of section 15 of Act 23 of 1934.

5. Section *fifteen* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

"(1) The original articles of clerkship shall in every case within two months of the date of such articles be lodged, together with an affidavit testifying to the signatures on such articles and the date on which and the place where such articles were executed, with the registrar of the provincial division within the area of jurisdiction of which the service under articles is to be performed, for the purpose of registration: Provided that no such articles shall be accepted by such registrar unless and until proof is adduced that the articles have been duly endorsed by the secretary of the law society concerned, under his signature, as prescribed by section *fourteen*."

Amendment of section 16 of Act 23 of 1934, as amended by section 7 of Act 18 of 1956 and section 1 of Act 81 of 1962.

6. Section *sixteen* of the principal Act is hereby amended by the substitution for sub-sections (1) and (2) of the following sub-sections:

"(1) A duplicate original of each cession of articles shall within one month of the date on which the services of the articulated clerk concerned have been terminated with the cedent, or within such further period as the court may for good cause allow, be lodged with the law society of the province wherein service under the said articles so ceded is to be performed.

(2) Such cession shall be accompanied by an original and duplicate original affidavit—

- (a) by the cedent stating whether the provisions of this Act relating to service under articles of clerkship have been complied with during the whole term of service during which the articulated clerk concerned was in his service and the date on which the articulated clerk terminated his services with him; and
- (b) by the cessionary stating the date on which the said clerk assumed duty with him."

Amendment of section 17 of Act 23 of 1934.

7. Section *seventeen* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

"(1) Every cession of articles shall, within two months of the date on which the services of the articulated clerk concerned have been terminated with the cedent, be lodged, together with the affidavit referred to in section *fifteen* and a certificate of the secretary of the law society concerned

- die Wet op Universiteite, 1955 (Wet No. 61 van 1955), die Raad vir die Erkenning van Regseksamens ingestel by artikel *sestien* van genoemde Wet, of 'n Universiteit in die Republiek, geslaag het; of
- (ii) in 'n eksamen in regte deur 'n universiteit, gesertifiseer deur genoemde Gemeenskaplike Komitee of Raad as gelyk aan of hoër as die eksamen bedoel in sub-paragraaf (i) geslaag het; of
- (iii) aan al die veteistes vir 'n graad in regte voorgeskryf by regulasie uitgevaardig kragtens paragraaf (e) van sub-artikel (1) van artikel *dertig* voldoen het; en
- (b) in die praktiese eksamens bedoel in paragraaf (a), (b) en (c) van artikel *sewe-en-twintig* geslaag het; en
- (c) in eksamens in die Afrikaanse en in die Engelse taal geslaag het wat die in artikel *vyftien* van die Wet op Universiteite, 1955 (Wet No. 61 van 1955), bedoelde gemeenskaplike matrikulasieraad gesertifiseer het as gelyk aan of hoër as die een of die ander van die eksamens in genoemde tale wat afgeneem word by 'n in artikel *dertien* bedoelde matrikulasie-eksamen of by regulasie uitgevaardig kragtens artikel *dertig* vrygestel is om in enige of albei die bedoelde eksamens te slaag.”.

4. Artikel *dertien* van die Hoofwet word hierby gewysig deur in paragraaf (c) al die woorde wat sub-paragraaf (i) voorafgaan deur die volgende woorde te vervang:

„(c) bewys tot bevrediging van die wetsgenootskap dat hy 'n geskikte en gepaste persoon is en dat hy—”.

Wysiging van artikel 13 van Wet 23 van 1934, soos gewysig deur artikel 6 van Wet 18 van 1956 en artikel 9 van Wet 63 van 1964.

5. Artikel *vyftien* van die Hoofwet word hierby gewysig deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) Die oorspronklike leerkontrak moet in elke geval binne twee maande vanaf die datum van daardie kontrak, tesame met 'n beëdigde verklaring wat die handtekenings op daardie kontrak en die datum waarop en die plek waar die kontrak verly is, attesteer, by die griffier van die provinsiale afdeling binne die regsgebied waarvan onder die leerkontrak gedien moet word, vir registrasie ingelewer word: Met dien verstande dat so 'n leerkontrak nie deur bedoelde griffier aanvaar word nie tensy en totdat bewys gelewer is dat 'n aantekening, onder sy handtekening, op die leerkontrak deur die sekretaris van die betrokke wetsgenootskap behoorlik gemaak is, soos voorgeskryf deur artikel *veertien*.”.

Wysiging van artikel 15 van Wet 23 van 1934.

6. Artikel *sestien* van die Hoofwet word hierby gewysig deur sub-artikels (1) en (2) deur die volgende sub-artikels te vervang:

„(1) 'n Duplikaat-oorspronklike van elke cessie van 'n leerkontrak word binne een maand na die datum waarop die dienste van die betrokke klerk by die cedent beëindig is, of binne die verdere tydperk wat die hof om voldoende gronde toelaat, by die wetsgenootskap van die provinsie waarin onder die aldus gecedeerde kontrak gedien moet word, ingelewer.

(2) So 'n cessie moet vergesel word van 'n oorspronklike en duplikaat-oorspronklike beëdigde verklaring—

(a) deur die cedent waarin vermeld word of aan die bepalings van hierdie Wet betreffende diens onder leerkontrak voldoen is gedurende die gehele diensttermyn waartydens die betrokke klerk in sy diens was en die datum waarop die klerk sy dienste by hom beëindig het; en

(b) deur die cessionaris waarin die datum waarop bedoelde klerk by hom diens aanvaar het, vermeld word.”.

Wysiging van artikel 16 van Wet 23 van 1934, soos gewysig deur artikel 7 van Wet 18 van 1956 en artikel 1 van Wet 81 van 1962.

7. Artikel *sewentien* van die Hoofwet word hierby gewysig deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) Elke cessie van 'n leerkontrak moet binne twee maande na die datum waarop die dienste van die betrokke klerk by die cedent beëindig is, tesame met die in artikel *vyftien* bedoelde beëdigde verklaring en 'n sertifikaat van die sekretaris van die betrokke wetsgenootskap dat aan

Wysiging van artikel 17 van Wet 23 van 1934.

that the provisions of section *sixteen* have been complied with and that the cession has been approved of, with the registrar of the provincial division, within the area of jurisdiction of which the service under articles is to be performed, for the purpose of registration.”.

Amendment of section 19 of Act 23 of 1934, as amended by section 8 of Act 18 of 1956 and section 10 of Act 63 of 1964.

8. Section *nineteen* of the principal Act is hereby amended—

(a) by the substitution for sub-section (3) of the following sub-section:

“(3) The court may, on the application of any person made within three years from the date of the completion of his articles of clerkship referred to in sections *five* and *six*, allow such further period after the expiration of the period of three years from the completion of his articles of clerkship, within which the applicant may apply for admission as an attorney under section *four*, as the court may deem fit, and if such further period is allowed, the court may, in its discretion, impose such conditions as it may deem fit, including a condition relating to the service of further articles.”;

(b) by the substitution in sub-section (5) for all the words preceding paragraph (a) of the following words:

“(5) Where a person who has served any period under articles of clerkship, which were cancelled or abandoned before completion thereof, has satisfied all the requirements for a degree referred to in the First Schedule or is entitled to be admitted as an advocate by any provincial division the court may, on the application of such person made within a period of three years from the last day of the period so served and subject to such conditions as the court may impose, order—”; and

c) by the addition of the following sub-section:

“(7) No application under sub-section (3) or (5) shall be heard by the court unless it is made before the expiration of the period of three years referred to therein.”.

Amendment of section 21 of Act 23 of 1934, as amended by section 10 of Act 18 of 1956 and section 3 of Act 81 of 1962.

9. Section *twenty-one* of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of sub-section (3) of the following paragraph:

“(b) being bound in terms of the First Schedule to this Act to serve articles for a period of three years, has served at least two years of his articles and has passed one of the examinations referred to in paragraph (a) of section *ten* or has satisfied all the requirements for the degree referred to in the said paragraph; or”; and

(b) by the substitution for paragraph (d) of the said sub-section of the following paragraph:

“(d) has satisfied all the requirements for the degree prescribed by regulations made under paragraph (e) of sub-section (1) of section *thirty* and has served at least one year of his articles.”.

Amendment of section 23 of Act 23 of 1934, as amended by section 11 of Act 18 of 1956, and section 11 of Act 63 of 1964.

10. Section *twenty-three* of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) no order of court striking his name off the roll of attorneys or suspending him from practice as an attorney is in operation in respect of him, and that no proceedings are pending to strike his name off the roll or to suspend him from practice; and”.

Amendment of section 24 of Act 23 of 1934, as amended by section 12 of Act 18 of 1956 and section 12 of Act 63 of 1964.

11. Section *twenty-four* of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) no order of court striking his name off the roll of attorneys or suspending him from practice as an attorney is in operation in respect of him, and that no proceedings are pending to strike his name off the roll or to suspend him from practice; and”.

Amendment of section 28 of Act 23 of 1934.

12. Section *twenty-eight* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

“(1) Every person applying to a court to be admitted or readmitted as an attorney, notary or conveyancer, as

die bepalings van artikel *sestien* voldoen is en dat die cessie goedgekeur is, by die griffier van die provinsiale afdeling binne die regsgebied waarvan onder die leerkontrak gediën moet word, vir registrasie ingelewer word.”.

8. Artikel *negentien* van die Hoofwet word hierby gewysig—
- (a) deur sub-artikel (3) deur die volgende sub-artikel te vervang:
- „(3) Die hof kan, op aansoek van iemand wat gedoen word binne drie jaar vanaf die datum van voltooiing van sy leerkontrak bedoel in artikels *vyf* en *ses*, die verdere tydperk na verstryking van die tydperk van drie jaar vanaf voltooiing van sy leerkontrak, waarbinne die aansoeker om toelating as ’n prokureur ingevolge artikel *vier* kan aansoek doen, wat die hof goetvind, toelaat, en indien so ’n verdere tydperk toegelaat word, kan die hof, na goeddunke, die voorwaardes wat hy goetvind, oplê, met inbegrip van ’n voorwaarde met betrekking tot verdere diens onder leerkontrak.”;
- (b) deur in sub-artikel (5) al die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- „(5) Waar iemand wat enige tydperk gediën het onder ’n leerkontrak wat ingetrek of laat vaar is voordat dit voltooi is, aan al die vereistes van ’n in die Eerste Bylae bedoelde graad voldoen het of geregtig is om deur enige provinsiale afdeling as advokaat toegelaat te word, kan die hof, op aansoek van sodanige persoon gedoen binne ’n tydperk van drie jaar vanaf die laaste dag van die tydperk aldus gediën en onderworpe aan die voorwaardes wat die hof oplê, beveel—”; en
- (c) deur die volgende sub-artikel by te voeg:
- „(7) ’n Aansoek kragtens sub-artikel (3) of (5) word nie deur die hof aangehoor tensy dit voor die verstryking van die daarin bedoelde tydperk van drie jaar gedoen word nie.”.
9. Artikel *een-en-twintig* van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (b) van sub-artikel (3) deur die volgende paragraaf te vervang:
- „(b) ingevolge die Eerste Bylae by hierdie Wet, ’n leerkontrak van drie jaar moet uitdien, minstens twee jaar van sy leerkontrak uitgedien het en in een van die in paragraaf (a) van artikel *tien* bedoelde eksamens geslaag het of aan al die vereistes vir ’n daarin bedoelde graad voldoen het; of”; en
- (b) deur paragraaf (d) van genoemde sub-artikel deur die volgende paragraaf te vervang:
- „(d) aan al die vereistes voldoen het vir die graad voorgeskryf by kragtens paragraaf (e) van sub-artikel (1) van artikel *dertig* uitgevaardigde regulasies, en minstens een jaar van sy leerkontrak uitgedien het.”.
10. Artikel *drie-en-twintig* van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:
- „(b) geen hofbevel waarby sy naam van die rol van prokureurs geskrap is of hy in sy praktyk as prokureur geskors is, ten opsigte van hom van krag is nie, en dat geen saak aanhangig is om sy naam van die rol te skrap of hom in sy praktyk te skors nie; en”.
11. Artikel *vier-en-twintig* van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:
- „(b) geen hofbevel waarby sy naam van die rol van prokureurs geskrap is of hy in sy praktyk as prokureur geskors is, ten opsigte van hom van krag is nie, en dat geen saak aanhangig is om sy naam van die rol te skrap of hom in sy praktyk te skors nie; en”.
12. Artikel *agt-en-twintig* van die Hoofwet word hierby gewysig deur sub-artikel (1) deur die volgende sub-artikel te vervang:
- „(1) Elke persoon wat by ’n hof aansoek doen om as prokureur, notaris of transportbesorger, na gelang van die

Wysiging van artikel 19 van Wet 23 van 1934, soos gewysig deur artikel 8 van Wet 18 van 1956 en artikel 10 van Wet 63 van 1964.

Wysiging van artikel 21 van Wet 23 van 1934, soos gewysig deur artikel 10 van Wet 18 van 1956 en artikel 3 van Wet 81 van 1962.

Wysiging van artikel 23 van Wet 23 van 1934, soos gewysig deur artikel 11 van Wet 18 van 1956, en artikel 11 van Wet 63 van 1964.

Wysiging van artikel 24 van Wet 23 van 1934, soos gewysig deur artikel 12 van Wet 18 van 1956 en artikel 12 van Wet 63 van 1964.

Wysiging van artikel 28 van Wet 23 van 1934.

the case may be, shall, at least one month before the date of his application, lodge with the secretary of the law society of the province in which the court to which such application is made, is situated, with his notice of motion, a copy of his petition for admission or readmission, as the case may be, together with copies of all affidavits, certificates and other documents or papers which are referred to therein or connected therewith."

Amendment of section 28*bis* of Act 23 of 1934, as inserted by section 14 of Act 63 of 1964.

13. Section *twenty-eight bis* of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

"(b) in the case of a person referred to in sub-section (1) of section *eight* who is by regulation made under paragraph (j) of sub-section (1) of section *thirty* temporarily exempted from passing any or both of the examinations referred to in paragraph (c) of section *ten* or who belongs to a class of persons so exempted, if he has failed to pass any examination in respect of which he is so exempted before the expiration of the period in respect of which he is so exempted or within such further period as the court may for good cause allow; or".

Insertion of section 28*ter* in Act 23 of 1934.

14. (1) The following section is hereby inserted in the principal Act after section *twenty-eight bis*:

"Jurisdiction of the Eastern Cape Division to remove from the roll or suspend attorneys, notaries or conveyancers in certain instances. 28*ter*. Notwithstanding anything to the contrary in any law contained, the Eastern Cape Division of the Supreme Court of South Africa shall, in addition to any jurisdiction which it might otherwise have, have jurisdiction in any application for the removal from the roll or the suspension of an attorney, notary or conveyancer practising within its area of jurisdiction and admitted or enrolled at any time after the commencement of this Act by the Cape of Good Hope Provincial Division of the Supreme Court of South Africa."

(2) Sub-section (1) shall be deemed to have come into operation on the twenty-eighth day of June, 1957.

Amendment of section 29 of Act 23 of 1934, as amended by section 15 of Act 18 of 1956.

15. Section *twenty-nine* of the principal Act is hereby amended by the substitution in sub-section (1) for paragraphs (c), (d) and (e) of the following paragraphs:

"(c) admission or readmission as an attorney;
(d) admission or readmission as a notary;
(e) admission or readmission as a conveyancer;"

Amendment of section 30 of Act 23 of 1934, as substituted by section 15 of Act 63 of 1964.

16. Section *thirty* of the principal Act is hereby amended

(a) by the addition to sub-section (1) of the following paragraphs:

"(i) the certificate which shall be endorsed on any document specified in the regulations by the person preparing such document for or on behalf of any other person;
(j) whether any person exempted under section *eight* from service under articles or any class of persons so exempted shall, either temporarily or permanently, be exempted from any or both of the examinations referred to in paragraph (c) of section *ten* and, in the case of any person or class of persons temporarily so exempted, the period of such exemption."; and

(b) by the addition thereto of the following sub-section:

"(3) Any regulation made under paragraph (i) of sub-section (1) may provide for penalties by way of a fine not exceeding fifty rand or imprisonment for a period not exceeding three months for any contravention thereof or failure to comply therewith."

Repeal of section 32*bis* of Act 23 of 1934, as inserted by section 4 of Act 19 of 1941 and amended by section 6 of Act 81 of 1962.

17. Section *thirty-two bis* of the principal Act is hereby repealed.

geval, toegelaat of her-toegelaat te word, moet minstens een maand voor die datum van sy aansoek by die sekretaris van die wetsgenootskap van die provinsie waarin die hof waarby so 'n aansoek gedoen word, gesetel is, met sy kennisgewing van mosie, 'n afskrif van sy petisie om toelating of hertoelating, na gelang van die geval, tesame met afskrifte van alle beëdigde verklarings, sertifikate en ander dokumente of stukke wat daarin vermeld of daarby betrokke is, inlewer."

13. Artikel *agt-en-twintig bis* van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

„(b) in die geval van 'n in sub-artikel (1) van artikel *agt* bedoelde persoon wat by regulasie uitgevaardig kragtens paragraaf (j) van sub-artikel (1) van artikel *dertig* tydelik daarvan vrygestel is om in enige of albei die in paragraaf (c) van artikel *tien* bedoelde eksamens te slaag, of wat behoort tot 'n klas van persone wat aldus vrygestel is, as hy in gebreke gebly het om in enige eksamen ten opsigte waarvan hy aldus vrygestel is, te slaag voor die verstryking van die tydperk ten opsigte waarvan hy aldus vrygestel is of binne die verdere tydperk wat die hof om gegronde redes toelaat; of”.

Wysiging van artikel 28*bis* van Wet 23 van 1934, soos ingevoeg deur artikel 14 van Wet 63 van 1964.

14. (1) Die volgende artikel word hierby in die Hoofwet na artikel *agt-en-twintig bis* ingevoeg:

„Jurisdiksie 28*ter*. Ondanks andersluidende wetsbepalings, het van Oos-Kaapse die Oos-Kaapse afdeling van die Hooggeregshof van Afdeling om Suid-Afrika, benewens enige jurisdiksie wat hy in sekere andersins het, jurisdiksie in enige aansoek om die gevalle skraping van die rol of die skorsing van 'n prokureurs, notaris of transportbesorger, wat binne sy notaris of transportbesorger gebied praktiseer en wat te eniger tyd na die inwerkingtreding van hierdie Wet deur die Provinsiale Afdeling die Kaap die Goeie Hoop van die skrap of te Hooggeregshof van Suid-Afrika toegelaat of ingeskrif is.”.

Invoeging van artikel 28*ter* in Wet 23 van 1934.

(2) Sub-artikel (1) word gcag op die agt-en-twintigste dag van Junie 1957 in werking te getree het.

15. Artikel *nege-en-twintig* van die Hoofwet word hierby gewysig deur in sub-artikel (1) paragrafe (c), (d) en (e) deur die volgende paragrafe te vervang:

„(c) toelating of hertoelating as prokureur;
(d) toelating of hertoelating as notaris;
(e) toelating of hertoelating as transportbesorger;”.

Wysiging van artikel 29 van Wet 23 van 1934, soos gewysig deur artikel 15 van Wet 18 van 1956.

16. Artikel *dertig* van die Hoofwet word hierby gewysig—

(a) deur die volgende paragrafe by sub-artikel (1) te voeg:

„(i) die sertifikaat wat op 'n in die regulasies vermelde dokument geëndosseer moet word deur die persoon wat so 'n dokument vir of namens iemand anders opstel;

(j) of iemand wat kragtens artikel *agt* van diens onder leerkontrak vrygestel is of enige klas van persone wat aldus vrygestel is, tydelik of permanent van enige van of albei die in paragraaf (c) van artikel *tien* bedoelde eksamens vrygestel is en, in die geval van 'n persoon of 'n klas van persone wat tydelik aldus vrygestel is, die tydperk van sodanige vrystelling;” en

(b) deur die volgende sub-artikel daarby te voeg:

„(3) 'n Kragtens paragraaf (i) van sub-artikel (1) uitgevaardigde regulasie kan voorsiening maak vir strawwe by wyse van 'n boete van hoogstens vyftig rand of gevangenisstraf vir 'n tydperk van hoogstens drie maande vir 'n oortreding daarvan of versuim om dit na te kom.”.

Wysiging van artikel 30 van Wet 23 van 1934, soos vervang deur artikel 15 van Wet 63 van 1964.

17. Artikel *twee-en-dertig bis* van die Hoofwet word hierby herroep.

Herroeping van artikel 32*bis* van Wet 23 van 1934, soos ingevoeg deur artikel 4 van Wet 19 van 1941 en gewysig deur artikel 6 van Wet 81 van 1962.

Amendment of section 33 of Act 23 of 1934, as substituted by section 17 of Act 63 of 1964.

18. Section *thirty-three* of the principal Act is hereby amended by the substitution for sub-section (6) of the following sub-section:

“(6) For the purposes of sub-sections (4) and (5) the expression ‘books of account’ includes any record or document kept by or in the custody or under the control of an attorney, notary or conveyancer and relating to any moneys invested in terms of sub-section (2), or to any interest referred to in sub-section (3), or to any estate of a deceased person or any insolvent estate or any estate placed under curatorship in respect of which he is the executor, trustee or curator or which he is administering on behalf of the executor, trustee or curator of any such estate or to his practice as an attorney, notary or conveyancer.”.

Substitution in Act 23 of 1934 for “Union” of “Republic”.

19. The principal Act is hereby amended by the substitution for the word “Union”, wherever it occurs, of the word “Republic”.

Amendment of section 3 of Ordinance 9 of 1903 of the Orange Free State.

20. Section *three* of The Incorporated Law Society Ordinance, 1903 (Ordinance No. 9 of 1903 of the Orange Free State) (hereinafter referred to as the Free State Ordinance) is hereby amended by the insertion before the definition of “The Society” of the following definitions:

“‘articled clerk’ any person bound to serve under articles of clerkship;
‘articles’ or ‘articles of clerkship’ a contract in writing whereby any person is bound to serve any attorney for a specified period in terms of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934);”.

Amendment of section 20 of Ordinance 9 of 1903 of the Orange Free State, as substituted by section 1 of Act 6 of 1942.

21. Section *twenty* of the Free State Ordinance is hereby amended—

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

“(e) as to what in an attorney, notary, conveyancer or articled clerk shall be deemed to be unworthy, unprofessional or dishonourable conduct;”;

(b) by the substitution for paragraphs (h), (i) and (j) of the following paragraphs:

“(h) as to the tariff of fees and charges payable to and recoverable by attorneys, notaries and conveyancers in cases where such fees or charges are not by law subject to taxation by an officer in the service of the State or where no tariff is prescribed by law;

(i) as to the fines, not exceeding two hundred rand, and penalties for contravention of any bye-law, rule or regulation of the Society or for any unworthy, unprofessional or dishonourable conduct by any Attorney, Notary, Conveyancer or articled clerk and the manner in which any such fine shall be paid or recovered;

(j) as to the procedure to be followed in reporting to the Society complaints and charges against members of the Society or articled clerks and at or in connection with any enquiry by the Council into allegations of unworthy, unprofessional or dishonourable conduct by any attorney, notary, conveyancer or articled clerk;” and

(c) by the insertion after paragraph (k) of the following paragraph, the existing paragraph (l) becoming paragraph (m):

“(l) regulating service under articles of clerkship and prescribing the circumstances under and the conditions on which articles of clerkship may be cancelled by the Council.”.

Amendment of section 26 of Ordinance 9 of 1903 of the Orange Free State.

22. The following section is hereby substituted for section *twenty-six* of the Free State Ordinance:

“Procedure when Council informed of any professional misconduct. 26. If the Council shall become cognizant of any professional or alleged professional misconduct of any Attorney, Notary or Conveyancer and after due examination into the circumstances it shall appear to the Council or to the majority of its members present at any meeting, that there is a *prima facie*

18. Artikel *drie-en-dertig* van die Hoofwet word hierby gewysig deur sub-artikel (6) deur die volgende sub-artikel te vervang:

Wysiging van artikel 33 van Wet 23 van 1934, soos vervang deur artikel 17 van Wet 63 van 1964.

„(6) By die toepassing van sub-artikels (4) en (5) sluit die uitdrukking ‚rekeningboeke’ in enige aantekening of dokument gehou deur of in die bewaring of onder die beheer van ’n prokureur, notaris of transportbesorger en wat betrekking het op enige gelde ingevolge sub-artikel (2) belê, of op enige in sub-artikel (3) bedoelde rente, of op ’n boedel van ’n oorlede persoon of ’n insolvente boedel of ’n boedel onder kuratorskap geplaas, ten opsigte waarvan hy die eksekuteur, trustee of kurator is of wat hy namens die eksekuteur, trustee of kurator van so ’n boedel administreer of op sy praktyk as ’n prokureur, notaris of transportbesorger.”.

19. Die Hoofwet word hierby gewysig deur die woord „Unie” oral waar dit voorkom deur die woord „Republiek” te vervang.

Vervanging in Wet 23 van 1934 van „Unie” deur „Republiek”.

20. Artikel *drie* van die „Incorporated Law Society Ordinance, 1903” (Ordonnansie No. 9 van 1903 van die Oranje-Vrystaat) (hieronder die Vrystaatse Ordonnansie genoem), word hierby gewysig deur die volgende omskrywings voor die omskrywing van „The Society” in te voeg:

Wysiging van artikel 3 van Ordonnansie 9 van 1903 van die Oranje-Vrystaat.

„‘articled clerk’ any person bound to serve under articles of clerkship;
‘articles’ or ‘articles of clerkship’ a contract in writing whereby any person is bound to serve any attorney for a specified period in terms of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934);”.

21. Artikel *twintig* van die Vrystaatse Ordonnansie word hierby gewysig—

Wysiging van artikel 20 van Ordonnansie 9 van 1903 van die Oranje-Vrystaat, soos vervang deur artikel 1 van Wet 6 van 1942.

(a) deur paragraaf (e) deur die volgende paragraaf te vervang:

„(e) as to what in an attorney, notary, conveyancer or articled clerk shall be deemed to be unworthy, unprofessional or dishonourable conduct;”;

(b) deur paragrawe (h), (i) en (j) deur die volgende paragrawe te vervang:

„(h) as to the tariff of fees and charges payable to and recoverable by attorneys, notaries and conveyancers in cases where such fees or charges are not by law subject to taxation by an officer in the service of the State or where no tariff is prescribed by law;

(i) as to the fines, not exceeding two hundred rand, and penalties for contravention of any bye-law, rule or regulation of the Society or for any unworthy, unprofessional or dishonourable conduct by any Attorney, Notary, Conveyancer or articled clerk and the manner in which any such fine shall be paid or recovered;

(j) as to the procedure to be followed in reporting to the Society complaints and charges against members of the Society or articled clerks and at or in connection with any enquiry by the Council into allegations of unworthy, unprofessional or dishonourable conduct by any attorney, notary, conveyancer or articled clerk;” en

(c) deur die volgende paragraaf na paragraaf (k) in te voeg terwyl die bestaande paragraaf (l) paragraaf (m) word:

„(l) regulating service under articles of clerkship and prescribing the circumstances under and the conditions on which articles of clerkship may be cancelled by the Council.”.

22. Artikel *ses-en-twintig* van die Vrystaatse Ordonnansie word hierby deur die volgende artikel vervang:

Wysiging van artikel 26 van Ordonnansie 9 van 1903 van die Oranje-Vrystaat.

26. If the Council shall become cognizant of any professional or alleged professional misconduct of any Attorney, Notary or Conveyancer and after due examination into the circumstances it shall appear to the Council or to the majority of its members present at any meeting, that there is a *prima facie* case against such Attorney, Notary or

case against such Attorney, Notary or Conveyancer the President may bring the circumstances to the notice of the Orange Free State provincial division of the Supreme Court of South Africa by way of application upon motion for the striking off the rolls or other punishment of the accused party, of which due notice shall be given to him, and the members of such Council in the *bona fide* exercise of their duty and discretion herein shall not be liable to any action or suit for damages for defamation of character, libel or any other cause at the hands of any party against whom any such application shall have been unsuccessfully made.”.

Insertion of section 28ter in Ordinance 9 of 1903 of the Orange Free State.

23. The following section is hereby inserted in the Free State Ordinance, after section *twenty-eight bis*:

“Disciplinary powers of the Council.

28ter. (1) Notwithstanding anything to the contrary in any law contained, the Council may, in the manner prescribed by bye-law, rule or regulation made under section *twenty*, enquire into cases of alleged unworthy, unprofessional or dishonourable conduct by any Attorney, Notary, Conveyancer or articulated clerk and may upon finding such Attorney, Notary, Conveyancer or articulated clerk guilty of unworthy, unprofessional or dishonourable conduct impose upon him in respect thereof any punishment prescribed as aforesaid, including in the case of an articulated clerk, cancellation of his articles of clerkship.

(2) Sub-section (1) shall not be construed as affecting the right of the Orange Free State provincial division of the Supreme Court of South Africa of removing such Attorney, Notary, or Conveyancer from the Roll of Attorneys or Notaries or Conveyancers or of suspending him from practice or of the Society of applying to the said division for the removal of such Attorney, Notary or Conveyancer from any such Roll or for his suspension from practice.

(3) (a) The Council may, for the purposes of sub-section (1), by itself or through its nominee and at its own cost, inspect the books of account or any document in the custody or under the control of the attorney, notary or conveyancer concerned and relating to his practice as an attorney, notary or conveyancer.

(b) Any attorney, notary or conveyancer who, after having been requested by the Council or such nominee to produce any such book of account or document for inspection, refuses or fails without good cause to comply with such request, shall be deemed to be guilty of unworthy, unprofessional or dishonourable conduct.

(4) Whenever any punishment imposed under sub-section (1) consists of or includes any fine, the amount thereof shall be payable to and recoverable by the Society in the manner prescribed by bye-law, rule or regulation made under section *twenty*.”.

Insertion of section 2bis in Ordinance (Private) 1 of 1905 of the Transvaal.

24. The following section is hereby inserted after section *two* of the Constitution of the Incorporated Law Society of the Transvaal Ordinance, 1905 (Ordinance (Private) No. 1 of 1905 of the Transvaal) (hereinafter referred to as the Transvaal Ordinance):

“Definitions. 2bis. In this Act, unless the context otherwise indicates—

‘articled clerk’ means any person bound to serve under articles of clerkship;

‘articles’ or ‘articles of clerkship’ means a contract in writing whereby any person is bound to serve an attorney for a specified period in terms of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934);

‘Council’ means the council appointed under section *five*;

‘the Society’ means the society referred to in section *two*.”.

Conveyancer, the President may bring the circumstances to the notice of the Orange Free State provincial division of the Supreme Court of South Africa by way of application upon motion for the striking off the rolls or other punishment of the accused party, of which due notice shall be given to him, and the members of such Council in the *bona fide* exercise of their duty and discretion herein shall not be liable to any action or suit for damages for defamation of character, libel or any other cause at the hands of any party against whom any such application shall have been unsuccessfully made.”.

23. Die volgende artikel word hierby in die Vrystaatse Ordonnansie na artikel *agt-en-twintig bis* ingevoeg:

„Disciplinary powers of the Council.

28ter. (1) Notwithstanding anything to the contrary in any law contained, the Council may, in the manner prescribed by bye-law, rule or regulation made under section *twenty*, enquire into cases of alleged unworthy, unprofessional or dishonourable conduct by any Attorney, Notary, Conveyancer or articulated clerk and may upon finding such Attorney, Notary, Conveyancer or articulated clerk guilty of unworthy, unprofessional or dishonourable conduct impose upon him in respect thereof any punishment prescribed as aforesaid, including in the case of an articulated clerk, cancellation of his articles of clerkship.

(2) Sub-section (1) shall not be construed as affecting the right of the Orange Free State provincial division of the Supreme Court of South Africa of removing such Attorney, Notary or Conveyancer from the Roll of Attorneys or Notaries or Conveyancers or of suspending him from practice or of the Society of applying to the said division for the removal of such Attorney, Notary or Conveyancer from any such Roll or for his suspension from practice.

(3) (a) The Council may, for the purposes of sub-section (1), by itself or through its nominee and at its own cost, inspect the books of account or any document in the custody or under the control of the attorney, notary or conveyancer concerned and relating to his practice as an attorney, notary or conveyancer.

(b) Any attorney, notary or conveyancer who, after having been requested by the Council or such nominee to produce any such book of account or document for inspection, refuses or fails without good cause to comply with such request, shall be deemed to be guilty of unworthy, unprofessional or dishonourable conduct.

(4) Whenever any punishment imposed under sub-section (1) consists of or includes any fine, the amount thereof shall be payable to and recoverable by the Society in the manner prescribed by bye-law, rule or regulation made under section *twenty*.”.

24. Die volgende artikel word hierby in die „Constitution of the Incorporated Law Society of the Transvaal Ordinance, 1905” (Ordonnansie (Private) No. 1 van 1905 van Transvaal) (hieronder die Transvaalse Ordonnansie genoem), na artikel *twee* ingevoeg:

Invoeging van artikel 28ter in Ordonnansie 9 van 1903 van die Oranje-Vrystaat.

Invoeging van artikel 2bis in Ordonnansie (Private) 1 van 1905 van Transvaal.

„Definitions. 2bis. In this Act, unless the context otherwise indicates—

‘articled clerk’ means any person bound to serve under articles of clerkship;

‘articles’ or ‘articles of clerkship’ means a contract in writing whereby any person is bound to serve an attorney for a specified period in terms of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934);

‘council’ means the council appointed under section *five*;

‘the Society’ means the society referred to in section *two*.”.

Amendment of section 37 of Ordinance (Private) 1 of 1905 of the Transvaal, as amended by section 1 of Act 23 of 1934.

25. Section *thirty-seven* of the Transvaal Ordinance, is hereby amended—

- (a) by the substitution for paragraph (a) of the following paragraph:
“(a) conduct which shall be deemed to be unprofessional or dishonourable or unworthy conduct by attorneys, notaries, conveyancers or articulated clerks;”;
- (b) by the substitution for paragraph (f) of the following paragraph:
“(f) the tariff of fees and charges payable to and recoverable by attorneys, notaries or conveyancers in cases where such fees or charges are not by law subject to taxation by an officer in the service of the State or where no tariff is prescribed by law;”;
- (c) by the substitution for paragraph (h) of the following paragraph:
“(h) the regulation of service under articles of clerkship and the circumstances under and the conditions on which articles of clerkship may be cancelled by the Council;”;
- (d) by the insertion of the following paragraph after paragraph (h):
“(h)*bis* the procedure to be followed at or in connection with any enquiry by the Council into allegations of unprofessional, dishonourable or unworthy conduct by any attorney, notary, conveyancer or articulated clerk;”;
- (e) by the substitution for paragraph (i) of the following paragraph:
“(i) the fines, not exceeding two hundred rand, and penalties for contravention of any bye-law or regulation of the Society or for any unprofessional, dishonourable or unworthy conduct by any attorney, notary, conveyancer or articulated clerk and the manner in which any such fine shall be paid or recovered;”.

Insertion of section 37*bis* in Ordinance (Private) 1 of 1905 of the Transvaal.

26. The following section is hereby inserted after section *thirty-seven* of the Transvaal Ordinance:

“Disciplinary powers of the Council.

37*bis*. (1) Notwithstanding anything to the contrary in any law contained, the Council may, in the manner prescribed by bye-law or regulation made under section *thirty-seven*, enquire into cases of alleged unprofessional, dishonourable or unworthy conduct by any attorney, notary, conveyancer or articulated clerk and may, upon finding such attorney, notary, conveyancer or articulated clerk guilty of unprofessional, dishonourable or unworthy conduct, impose upon him in respect thereof any punishment prescribed as aforesaid, including, in the case of an articulated clerk, cancellation of his articles of clerkship.

(2) Sub-section (1) shall not be construed as affecting the right of the division of the Supreme Court of South Africa concerned of removing such attorney, notary or conveyancer from the roll of attorneys or notaries or conveyancers or of suspending him from practice or of the Society of applying to the said division for the removal of such attorney, notary or conveyancer from any such roll or for his suspension from practice.

- (3) (a) The Council may, for the purposes of sub-section (1), by itself or through its nominee and at its own cost, inspect the books of account or any document in the custody or under the control of the attorney, notary or conveyancer concerned and relating to his practice as an attorney, notary or conveyancer.
- (b) Any attorney, notary or conveyancer who, after having been requested by the Council or such nominee to produce any such book of account or document for inspection, refuses or fails without good cause to comply with such request, shall be deemed to be guilty of unprofessional, dishonourable or unworthy conduct.

(4) Whenever any punishment imposed under sub-section (1) consists of or includes any fine, the

25. Artikel *sewe-en-dertig* van die Transvaalse Ordonnansie word hierby gewysig

Wysiging van artikel 37 van Ordonnansie (Private) 1 van 1905 van Transvaal, soos gewysig deur artikel 1 van Wet 23 van 1934.

- (a) deur paragraaf (a) deur die volgende paragraaf te vervang:
„(a) conduct which shall be deemed to be unprofessional or dishonourable or unworthy conduct by attorneys, notaries, conveyancers or articulated clerks;”;
- (b) deur paragraaf (f) deur die volgende paragraaf te vervang:
„(f) the tariff of fees and charges payable to and recoverable by attorneys, notaries or conveyancers in cases where such fees or charges are not by law subject to taxation by an officer in the service of the State or where no tariff is prescribed by law;”;
- (c) deur paragraaf (h) deur die volgende paragraaf te vervang:
„(h) the regulation of service under articles of clerkship and the circumstances under and the conditions on which articles of clerkship may be cancelled by the Council;”;
- (d) deur die volgende paragraaf na paragraaf (h) in te voeg:
„(h)*bis* the procedure to be followed at or in connection with any enquiry by the Council into allegations of unprofessional, dishonourable or unworthy conduct by any attorney, notary, conveyancer or articulated clerk;”;
- (e) deur paragraaf (i) deur die volgende paragraaf te vervang:
„(i) the fines, not exceeding two hundred rand, and penalties for contravention of any bye-law or regulation of the Society or for any unprofessional, dishonourable or unworthy conduct by any attorney, notary, conveyancer or articulated clerk and the manner in which any such fine shall be paid or recovered;”.

26. Die volgende artikel word hierby na artikel *sewe-en-dertig* van die Transvaalse Ordonnansie ingevoeg:

Invoeging van artikel 37*bis* in Ordonnansie 1 (Private) van 1905 van Transvaal.

„Disciplinary powers of the Council.

37*bis*. (1) Notwithstanding anything to the contrary in any law contained, the Council may, in the manner prescribed by bye-law or regulation made under section *thirty-seven*, enquire into cases of alleged unprofessional, dishonourable or unworthy conduct by any attorney, notary, conveyancer or articulated clerk and may, upon finding such attorney, notary, conveyancer or articulated clerk guilty of unprofessional, dishonourable or unworthy conduct, impose upon him in respect thereof any punishment prescribed as aforesaid, including, in the case of an articulated clerk, cancellation of his articles of clerkship.

(2) Sub-section (1) shall not be construed as affecting the right of the division of the Supreme Court of South Africa concerned of removing such attorney, notary or conveyancer from the roll of attorneys or notaries or conveyancers or of suspending him from practice or of the Society of applying to the said division for the removal of such attorney, notary or conveyancer from any such roll or for his suspension from practice.

(3) (a) The Council may, for the purposes of sub-section (1), by itself or through its nominee and at its own cost, inspect the books of account or any document in the custody or under the control of the attorney, notary or conveyancer concerned and relating to his practice as an attorney, notary or conveyancer.

(b) Any attorney, notary or conveyancer who, after having been requested by the Council or such nominee to produce any such book of account or document for inspection, refuses or fails without good cause to comply with such request, shall be deemed to be guilty of unprofessional, dishonourable or unworthy conduct.

(4) Whenever any punishment imposed under sub-section (1) consists of or includes any fine, the

amount thereof shall be payable to and recoverable by the Society in the manner prescribed by bye-law or regulation made under section *thirty-seven*."

Substitution of section 41 of Ordinance (Private) 1 of 1905 of the Transvaal.

27. The following section is hereby substituted for section *forty-one* of the Transvaal Ordinance:

"Immunity of office-bearers of Society against actions for damages.

41. The president, vice-president, members of the Council and the secretary of the Society shall not be subject or liable to any action or proceeding for damages on the ground of defamation or slander or otherwise in the *bona fide* execution of their duties and for taking any steps or instituting any proceedings under or purporting to be taken or instituted under the provisions of this Ordinance."

Amendment of section 27 of Act 10 of 1907 of Natal, as amended by section 1 of Act 23 of 1934 and section 4 of Act 36 of 1945.

28. Section *twenty-seven* of the Incorporated Law Society of Natal Act, 1907 (Act No. 10 of 1907 of Natal) (hereinafter referred to as the Natal Act), is hereby amended—

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

"(a) Conduct which shall be deemed to be unprofessional or dishonourable or unworthy conduct by Attorneys, Notaries, Conveyancers or articulated clerks;"

(b) by the substitution for paragraph (f) of the following paragraph:

"(f) the tariff of fees and charges payable to and recoverable by Attorneys, Notaries or Conveyancers in cases where such fees or charges are not by law subject to taxation by an officer in the service of the State or where no tariff is prescribed by law;" and

(c) by the substitution for paragraphs (h) and (i) of the following paragraphs:

"(h) the regulation of service under articles of clerkship and the registration thereof and the circumstances under and the conditions on which articles of clerkship may be cancelled by the Council;

(i) the procedure to be followed at or in connection with any enquiry by the Council into allegations of unprofessional, dishonourable or unworthy conduct by any Attorney, Notary, Conveyancer or articulated clerk;

(i)*bis* the fines, not exceeding two hundred rand, and penalties for contravention of any bye-law or regulation of the Society or for any unprofessional, dishonourable or unworthy conduct by any Attorney, Notary, Conveyancer or articulated clerk and the manner in which any such fine shall be paid or recovered;"

Insertion of section 27*bis* in Act 10 of 1907 of Natal.

29. The following section is hereby inserted after section *twenty-seven* of the Natal Act:

"Disciplinary powers of the Council.

27*bis*. (1) Notwithstanding anything to the contrary in any law contained, the Council may, in the manner prescribed under bye-law or regulation made under section *twenty-seven*, enquire into cases of alleged unprofessional, dishonourable or unworthy conduct by any Attorney, Notary, Conveyancer or articulated clerk and may, upon finding such Attorney, Notary, Conveyancer or articulated clerk guilty of unprofessional, dishonourable or unworthy conduct, impose upon him in respect thereof any punishment prescribed as aforesaid, including, in the case of an articulated clerk, cancellation of his articles of clerkship.

(2) Sub-section (1) shall not be construed as affecting the right of the division of the Supreme Court of South Africa concerned of removing such Attorney, Notary or Conveyancer from the Roll of Attorneys or Notaries or Conveyancers or of suspending him from practice or of the Society of applying to the said division for the removal of such Attorney, Notary or Conveyancer from any such Roll or for his suspension from practice.

(3) (a) The Council may, for the purposes of sub-section (1), by itself or through its nominee and at its own cost, inspect the books of account

amount thereof shall be payable to and recoverable by the Society in the manner prescribed by bye-law or regulation made under section *thirty-seven*."

27. Artikel *een-en-veertig* van die Transvaalse Ordonnansie word hierby deur die volgende artikel vervang:

„Immunity of office bearers of Society against actions for damages.

41. The president, vice-president, members of the Council and the Secretary of the Society shall not be subject or liable to any action or proceeding for damages on the ground of defamation or slander or otherwise in the *bona fide* execution of their duties and for taking any steps or instituting any proceedings under or purporting to be taken or instituted under the provisions of this Ordinance."

Vervanging van artikel 41 van Ordonnansie 1 (Private) van 1905 van Transvaal.

28. Artikel *sewe-en-twintig* van die „Incorporated Law Society of Natal Act, 1907" (Wet No. 10 van 1907 van Natal) (hieronder die Natalse Wet genoem), word hierby gewysig—

(a) deur paragraaf (a) deur die volgende paragraaf te vervang:

„(a) Conduct which shall be deemed to be unprofessional or dishonourable or unworthy conduct by Attorneys, Notaries, Conveyancers or articulated clerks;"

(b) deur paragraaf (f) deur die volgende paragraaf te vervang:

„(f) the tariff of fees and charges payable to and recoverable by Attorneys, Notaries or Conveyancers in cases where such fees or charges are not by law subject to taxation by an officer in the service of the State or where no tariff is prescribed by law;" en

(c) deur paragrawe (h) en (i) deur die volgende paragrawe te vervang:

„(h) the regulation of service under articles of clerkship and the registration thereof and the circumstances under and the conditions on which articles of clerkship may be cancelled by the Council;

(i) the procedure to be followed at or in connection with any enquiry by the Council into allegations of unprofessional, dishonourable or unworthy conduct by any Attorney, Notary, Conveyancer or articulated clerk;

(i)bis the fines, not exceeding two hundred rand, and penalties for contravention of any bye-law or regulation of the Society or for any unprofessional, dishonourable or unworthy conduct by any Attorney, Notary, Conveyancer or articulated clerk and the manner in which any such fine shall be paid or recovered;"

Wysiging van artikel 27 van Wet 10 van 1907 van Natal, soos gewysig deur artikel 1 van Wet 23 van 1934 en artikel 4 van Wet 36 van 1945.

29. Die volgende artikel word hierby na artikel *sewe-en-twintig* van die Natalse Wet ingevoeg:

„Disciplinary powers of the Council.

27bis. (1) Notwithstanding anything to the contrary in any law contained, the Council may, in the manner prescribed under bye-law or regulation made under section *twenty-seven*, enquire into cases of alleged unprofessional, dishonourable or unworthy conduct by any Attorney, Notary, Conveyancer or articulated clerk and may, upon finding such Attorney, Notary, Conveyancer or articulated clerk guilty of unprofessional, dishonourable or unworthy conduct, impose upon him in respect thereof any punishment prescribed as aforesaid, including in the case of an articulated clerk, cancellation of his articles of clerkship.

(2) Sub-section (1) shall not be construed as affecting the right of the division of the Supreme Court of South Africa concerned of removing such Attorney, Notary or Conveyancer from the Roll of Attorneys or Notaries or Conveyancers or of suspending him from practice or of the Society of applying to the said division for the removal of such Attorney, Notary or Conveyancer from any such Roll or for his suspension from practice.

(3) (a) The Council may, for the purposes of sub-section (1), by itself or through its nominee and at its own cost, inspect the books of account

Invoeging van artikel 27bis in Wet 10 van 1907 van Natal.

or any document in the custody or under the control of the attorney, notary or conveyancer concerned and relating to his practice as an attorney, notary or conveyancer.

- (b) Any attorney, notary or conveyancer who, after having been requested by the Council or such nominee to produce any such book of account or document for inspection, refuses or fails without good cause to comply with such request, shall be deemed to be guilty of unprofessional, dishonourable or unworthy conduct.

(4) Whenever any punishment imposed under sub-section (1) consists of or includes any fine, the amount thereof shall be payable to and recoverable by the Society in the manner prescribed by bye-law or regulation made under section *twenty-seven*."

Substitution of section 33 of Act 10 of 1907 of Natal, as substituted by section 6 of Act 36 of 1945.

30. The following section is hereby substituted for section *thirty-three* of the Natal Act:

"Definitions. 33. In this Act, unless the context otherwise indicates—

'articled clerk' means any person bound to serve under articles of clerkship;

'articles' or 'articles of clerkship' means a contract whereby any person is bound to serve an attorney for a specified period in terms of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934);

'Council' means the Council elected under section *seven* and includes the Council as supplemented under section *nine*;

'the Society' means the Society referred to in section *one*."

Insertion of section 43bis in Act 20 of 1916.

31. The following section is hereby inserted after section *forty-three* of the Law Society (Cape of Good Hope) Private Act, 1916 (hereinafter referred to as the Cape Act):

"Disciplinary powers of the Council.

43bis. (1) Notwithstanding anything to the contrary in any law contained, the Council may, in the manner prescribed by rule, bye-law or regulation made under section forty-eight, enquire into cases of alleged unworthy, unprofessional or dishonourable conduct by any attorney, notary, conveyancer or articled clerk and may, upon finding such attorney, notary, conveyancer or articled clerk guilty of unworthy, unprofessional or dishonourable conduct, impose upon him in respect thereof any punishment prescribed as aforesaid, including, in the case of an articled clerk, cancellation of his articles of clerkship.

(2) Sub-section (1) shall not be construed as affecting the power of the division of the Supreme Court of South Africa concerned of removing such attorney, notary or conveyancer from the roll of attorneys or notaries or conveyancers or of suspending him from practice or of the Society of applying to the said division for the removal of such attorney, notary or conveyancer from any such roll or for his suspension from practice.

- (3) (a) The Council may, for the purposes of sub-section (1), by itself or through its nominee and at its own cost, inspect the books of account or any document in the custody or under the control of the attorney, notary or conveyancer concerned and relating to his practice as an attorney, notary or conveyancer.

- (b) Any attorney, notary or conveyancer who, after having been requested by the Council or such nominee to produce any such book of account or document for inspection, refuses or fails without good cause to comply with such request, shall be deemed to be guilty of unworthy, unprofessional or dishonourable conduct.

(4) Whenever any punishment imposed under sub-section (1) consists of or includes any fine, the amount thereof shall be payable to and recoverable

or any document in the custody or under the control of the attorney, notary or conveyancer concerned and relating to his practice as an attorney, notary or conveyancer.

- (b) Any attorney, notary or conveyancer who, after having been requested by the Council or such nominee to produce any such book of account or document for inspection, refuses or fails without good cause to comply with such request, shall be deemed to be guilty of unprofessional, dishonourable or unworthy conduct.

(4) Whenever any punishment imposed under sub-section (1) consists of or includes any fine, the amount thereof shall be payable to and recoverable by the Society in the manner prescribed by bye-law or regulation made under section *twenty-seven*."

30. Artikel *drie-en-dertig* van die Natalse Wet word hierby deur die volgende artikel vervang:

„Definitions. 33. In this Act, unless the context otherwise indicates—

‘articled clerk’ means any person bound to serve under articles of clerkship;

‘articles’ or ‘articles of clerkship’ means a contract whereby any person is bound to serve an attorney for a specified period in terms of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934);

‘Council’ means the Council elected under section *seven* and includes the Council as supplemented under section *nine*;

‘the Society’ means the Society referred to in section *one*.”.

Vervanging van artikel 33 van Wet 10 van 1907 van Natal, soos vervang deur artikel 6 van Wet 36 van 1945.

31. Die volgende artikel word hierby na artikel *drie-en-veertig* van die „Wetsgenootschap (Kaap de Goede Hoop) Private Wet, 1916” (hieronder die Kaapse Wet genoem), ingevoeg:

„Disciplinaire bevoegdheden van de Raad.

43bis. (1) Ondanks andersluidende wetsbepalingen, is de Raad bevoegd op de wijze voorgeschreven bij regel, bijwet of regulatie gemaakt krachtens artikel *acht-en-veertig*, gevallen van beweerd onwaardig, niet-professioneel of schandelijk gedrag door een prokureur, notaris, transportbezorger of prokureursklerk te onderzoeken en bij schuldigbevinding van zulk een prokureur, notaris, transportbezorger of prokureursklerk aan onwaardig, niet-professioneel of schandelijk gedrag, hem een zoals voormeld voorgeschreven straf, waarbij inbegrepen, in het geval van een prokureursklerk, het intrekken van zijn leerkontraakt, ten opzichte daarvan op te leggen.

(2) Sub-artikel (1) wordt niet uitgelegd de bevoegdheid van de betrokken afdeling van het Hooggerichtshof van Zuid-Afrika te benadelen om zulk een prokureur, notaris of transportbezorger van de lijst van prokureurs of notarissen of transportbezorgers te schrappen of hem in zijn praktijk te schorsen of van het Genootschap om bij bedoelde afdeling om zijn schrapping van zulk een lijst of zijn schorsing in zijn praktijk aanzoek te doen.

(3) (a) De Raad kan voor de doeleinden van sub-artikel (1), zelf of door zijn benoemde en op eigen kosten, de rekening-boeken of iedere dokument in de bewaring of onder het beheer van de betrokken prokureur, notaris of transportbezorger en betrekking hebbende op zijn praktijk als zulk een prokureur, notaris of transportbezorger onderzoeken.

(b) Een prokureur, notaris of transportbezorger die, nadat hij door de Raad of zulk een benoemde verzocht is geweest een zodanige rekening-boek of dokument voor onderzoek voor te leggen, zonder een gegronde reden weigert of verzuimt aan zulk een verzoek te voldoen, wordt geacht aan onwaardig, niet-professioneel of schandelijk gedrag schuldig te zijn.

(4) Wanneer een krachtens sub-artikel (1) opgelegde straf uit een boete bestaat of een boete insluit, is de bedrag ervan betaalbaar aan en verhaalbaar

Invoeging van artikel 43bis in Wet 20 van 1916.

by the Society in the manner prescribed by rule, bye-law or regulation made under section *forty-eight*."

Amendment of section 48 of Act 20 of 1916, as amended by section 1 of Act 23 of 1934.

32. Section *forty-eight* of the Cape Act, is hereby amended—

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

"(a) Prescribing conduct which shall be deemed to be unworthy, unprofessional or dishonourable conduct by an attorney, notary, conveyancer or articled clerk.";

(b) by the insertion of the following paragraphs after paragraph (a):

"(a)*bis* Prescribing the procedure to be followed at or in connection with any enquiry by the Council into allegations of unworthy, unprofessional or dishonourable conduct by any attorney, notary, conveyancer or articled clerk.

(a)*ter* Prescribing the fines, not exceeding two hundred rand, and penalties for contravention of any rule, bye-law or regulation of the Society or for any unworthy, unprofessional or dishonourable conduct by any attorney, notary, conveyancer or articled clerk and the manner in which any such fines shall be paid or recovered.";

(c) by the substitution for paragraph (e) of the following paragraph:

"(e) Regulating service under articles of clerkship and prescribing the circumstances under and the conditions on which articles of clerkship may be cancelled by the Council."; and

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

"(e)*bis* Prescribing the tariff of fees and charges payable to and recoverable by attorneys, notaries or conveyancers in cases where such fees or charges are not, by law, subject to taxation by an officer in the service of the State or where no tariff is prescribed by law.";

Commencement of sections 4 and 6 and savings.

33. Sections *five* and *seven* shall be deemed to have come into operation on the twenty-eighth day of June, 1957, but shall not affect the validity of, or the regularity of any service under, any articles of clerkship or any cession of articles of clerkship whereby or whereunder any person referred to in such articles of clerkship or cession is or was bound to serve or served under articles in the area of jurisdiction of the Eastern Cape Division of the Supreme Court of South Africa and which was, before the commencement of this Act, lodged with the registrar of the Cape of Good Hope Provincial Division of the Supreme Court of South Africa.

Short title and date of Commencement.

34. This Act shall be called the Attorneys, Notaries and Conveyancers Admission Amendment Act, 1965, and shall, subject to the provisions of sub-section (2) of section *fourteen* and section *thirty-three*, come into operation on a date fixed by the State President by proclamation in the *Gazette*: Provided that different dates may be so fixed in respect of the several provisions of this Act.

door het Genootschap op de wijze voorgeschreven, bij regel, bijwet of regulatie gemaakt krachtens artikel acht-en-veertig.”.

32. Artikel agt-en-veertig van die Kaapse Wet, word hierby gewysig—

Wysiging van artikel 48 van Wet 20 van 1916, soos gewysig deur artikel 1 van Wet 23 van 1934.

(a) deur paragraaf (a) deur die volgende paragraaf te vervang:

„(a) Gedrag voorschryvende dat onwaardig, niet-professioneel of schandelik gedrag bij een prokureur, notaris of transportbezorger of prokureursklerk geacht wordt.”;

(b) deur die volgende paragraaf na paragraaf (a) in te voeg:

„(a)bis De procedure voorschryvende die bij of in verband met een onderzoek door de Raad naar beweringen van onwaardig, niet-professioneel of schandelik gedrag door een prokureur, notaris, transportbezorger of prokureursklerk gevolg moet worden.

„(a)ter De boeten, tweehonderd rand niet te boven gaande, en straffen voorschryvende voor een overtreding van een regel, bijwet of regulatie van het Genootschap of voor onwaardig, niet-professioneel of schandelik gedrag door een prokureur, notaris, transportbezorger of prokureursklerk en de wijze waarop zodanige boeten betaald of verhaald moeten worden.”;

(c) deur paragraaf (e) deur die volgende paragraaf te vervang:

„(e) Waarbij dienst onder leerkontrakt geregeld en de omstandigheden waaronder en de voorwaarden waarop leerkontrakten door de Raad ingetrokken kunnen worden, voorgeschreven worden.”;

(d) deur die volgende paragraaf na paragraaf (e) in te voeg:

„(e)bis Waarbij het tarief van gelden en vorderingen betaalbaar aan en verhaalbaar door prokureurs, notarissen of transportbezorgers voorgeschreven wordt in gevallen waar die gelden of vorderingen niet rechtens aan taxatie door een beambte in dienst van de Staat onderworpen zijn of waar geen tarief bij wet voorgeschreven is.”.

33. Artikels vyf en sewe word geag op die agt-en-twentigste dag van Junie 1957 in werking te getree het, maar raak nie die geldigheid van, of die reëlmaticheid van diens onder, 'n leerkontrak of 'n cessie van 'n leerkontrak waarby of waaronder 'n in so 'n leerkontrak of cessie bedoelde persoon gebonde is of was om onder leerkontrak te dien of aldus gedien het in die regsgebied van die Oos-Kaapse Afdeling van die Hooggeregshof van Suid-Afrika en wat voor die inwerkingtreding van hierdie Wet by die griffier van die provinsiale afdeling die Kaap die Goeie Hoop van die Hooggeregshof van Suid-Afrika vir registrasie ingelewer is nie.

Inwerkingtreding van artikels 4 en 6 en voorbehoudsbepalings.

34. Hierdie Wet heet die Wysigingswet op die Toelating van Prokureurs, Notarisse en Transportbesorgers, 1965, en tree in werking, onderworpe aan die bepalinge van subartikel (2) van artikel veertien en artikel drie-en-dertig, op 'n datum deur die Staatspresident by proklamasie in die Staatskoerant bepaal: Met dien verstande dat verskillende datums ten opsigte van die onderskeie bepalinge van hierdie Wet aldus bepaal kan word.

Kort titel en datum van inwerkingtreding.