

(1 April 2023 – to date)

[This is the **current** version and applies as from 1 April 2023, i.e. the date of commencement of further sections of the Financial Sector Regulation Act 9 of 2017 – to date]

FRIENDLY SOCIETIES ACT 25 OF 1956

Published under Government Notice 839 in Government Gazette 5679 dated 11 May 1956. Commencement date: 31 December 1959 [Proc. No. 289 in Gazette No. 6335 dated 18 December 1959]

As amended by:

Finance Act 81 of 1957 - Government Notice 1026 in Government Gazette 5907 dated 9 July 1957.

Commencement date: 9 July 1957

Finance Act 80 of 1959 - Government Notice 1035 in Government Gazette 6255 dated 6 July 1959.

Commencement date: 6 July 1959

Inspection of Financial Institutions Act 68 of 1962 - Government Notice 963 in Government Gazette 264 dated 20 June 1962. Commencement date: 20 June 1962

Friendly Societies Amendment Act 60 of 1963 - Government Notice 983 in Government Gazette 540 dated 28 June 1963. Commencement date: 28 June 1963

Friendly Societies Amendment Act 67 of 1965 - Government Notice 808 in Government Gazette 1128 dated 4 June 1965. Commencement date: 4 June 1965

Financial Institutions Amendment Act 65 of 1968 - Government Notice 1120 in Government Gazette 2107 dated 26 June 1968. Commencement date: 26 June 1968

Financial Institutions Amendment Act 91 of 1972 - Government Notice 1126 in Government Gazette 3594 dated 28 June 1972. Commencement date: 28 June 1972

Medical Schemes Amendment Act 43 of 1975 - Government Notice 1058 in Government Gazette 4721 dated 28 May 1975. Commencement date: 28 May 1975

Financial Institutions Amendment Act 101 of 1976 - Government Notice 1236 in Government Gazette 5217 dated 23 July 1976. Commencement date: 1 August 1976 [Proc. 139 in Gazette No. 5236 dated 30 July 1976]

Financial Institutions Amendment Act 103 of 1979 - Government Notice 1531 in Government Gazette 6568 dated 13 July 1979. Commencement date: 13 July 1979

Prepared by:

Financial Institutions Amendment Act 99 of 1980 - Government Notice 1526 in Government Gazette 7151 dated 1 August 1980. Commencement date: 1 August 1980

Financial Institutions Amendment Act 86 of 1984 - Government Notice 1480 in Government Gazette 9313 dated 18 July 1984. Commencement date: 18 July 1984

Financial Institutions Amendment Act 51 of 1988 - Government Notice 987 in Government Gazette 11313 dated 20 May 1988. Commencement date: 20 May 1988

Financial Institutions Second Amendment Act 54 of 1989 - Government Notice 1045 in Government Gazette 11893 dated 26 May 1989. Commencement date: 30 June 1989 [Proc. R99 in Gazette No. 11977 dated 30 June 1989]

Financial Institutions Amendment Act 53 of 1989 - Government Notice 1044 in Government Gazette 11892 dated 26 May 1989. Commencement date: 1 October 1989 [Proc. 168 in Gazette No. 12110 dated 29 September 1989]

Legal Succession to the South African Transport Services Act 9 of 1989 - Government Notice 428 in Government Gazette 11743 dated 15 March 1989. Commencement date: 6 October 1989 [Proc. 178 in Gazette No. 12117 dated 6 October 1989]

Financial Services Board Act 97 of 1990 - Government Notice 1600 in Government Gazette 12620 dated 11 July 1990. Commencement date: 1 April 1991 [Proc. 29 in Gazette No. 13094 dated 28 March 1991]

Financial Services Board Amendment Act 41 of 1992 - Government Notice 1069 in Government Gazette 13918 dated 15 April 1992. Commencement date: 1 May 1992 [Proc. 38 in Gazette No. 13943 dated 30 April 1992]

Financial Institutions Amendment Act 7 of 1993 - Government Notice 367 in Government Gazette 14624 dated 5 March 1993. Commencement date: 1 June 1993 [Proc. R46 in Gazette No. 14847 dated 1 June 1993]

Friendly Societies Amendment Act 44 of 1988 - Government Notice 828 in Government Gazette 11273 dated 22 April 1988. Commencement date: 1 July 1993. [Proc. 54 in Gazette No. 14931 dated 1 July 1993]

Financial Institutions Second Amendment Act 104 of 1993 - Government Notice 1200 in Government Gazette 14943 dated 1 July 1993. Commencement date: 1 July 1993 [Proc. 53 in Gazette No. 14930 dated 1 July 1993]

General Law Amendment Act 49 of 1996 - Government Notice 1601 in Government Gazette 17477 dated 4 October 1996. Commencement date: 4 October 1996

Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996 - Government Notice 1888 in Government Gazette 17599 dated 22 November 1996. Commencement date: 22 November 1996

Long-term Insurance Act 52 of 1998 - Government Notice 1190 in Government Gazette 19276 dated 23 September 1998. Commencement date: 1 January 1999 [Proc. R127 in Gazette 19596 dated 18 December 1998]

Labour Relations Act 66 of 1995 - Government Notice 1877 in Government Gazette 16861 dated 13 December 1995 as amended by Act 127 of 1998 with effect from 1 February 1999

Financial Services Laws General Amendment Act 22 of 2008 - Government Notice 1071 in Government Gazette 31471 dated 30 September 2008. Commencement date: 1 November 2008 [GN. 1170 in Gazette 31531 dated 31 October 2008]

Financial Sector Regulation Act 9 of 2017- Government Notice 853 in Government Gazette 41060 dated 22 August 2017. Commencement date: 1 April 2018, unless otherwise indicated [General Notice 169 in Gazette 41549 dated 29 March 2018]

Financial Sector Regulation Act 9 of 2017 - Government Notice 853 in Government Gazette 41060 dated 22 August 2017. Commencement date of further sections: 1 April 2023 [GN 3187 in Government Gazette 48291 dated 24 March 2023]

Publisher's Note:

The Act has been amended by section 290 read with Schedule 4 of Act 9 of 2017 by the substitution for the expression "registrar", wherever it occurs, of the expression "Authority".

ACT

To provide for the registration, incorporation, regulation and dissolution of friendly societies and for matters incidental thereto.

(Afrikaans text signed by the Governor-General.)

(Assented to 28th April, 1956.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:

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CHAPTER I.

ADMINISTRATION AND APPLICATION OF ACT AND INTERPRETATION OF TERMS.

- (1) In this Act, unless the context indicates otherwise –

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

(Definition of "actuary" in section 1 substituted by section 31(a) of Act 104 of 1993)

"assets", in relation to a friendly society, means the assets of that society as they would be reflected in any statement of its assets prepared in accordance with the requirements set out in section twenty-five;

"Authority" means the Financial Sector Conduct Authority established by section 56 of the Financial Sector Regulation Act;

(Definition of "Authority" in section 1 inserted by section 290 read with Schedule 4 of Act 9 of 2017)

"conduct standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;

(Definition of "conduct standard" in section 1 inserted by section 290 read with Schedule 4 of Act 9 of 2017)

"court" means a provincial or local division of the Supreme Court of South Africa;

(Definition of "court" in section 1 substituted by section 31(b) of Act 104 of 1993)

"Financial Sector Regulation Act" means the Financial Sector Regulation Act, 2017;

(Definition of "Financial Sector Regulation Act" in section 1 inserted by section 290 read with Schedule 4 of Act 9 of 2017)

"financial year", in relation to a society, means each period of twelve months ending on the thirty-first day of December, at the end of which the balance of its accounts is required to be struck in terms of its rules, or such other period as may on any particular occasion be determined by the Authority at the request of the society;

"friendly society" means –

- (a) any association of persons established for any of the objects specified in section two; or
- (b) any business carried on under a scheme or arrangement instituted for any of those objects, and includes any central society referred to in section thirty-nine, whether or not it is liable to provide any benefits mentioned in section two, and any central society, association or business as aforesaid which is or may become liable for any such benefits, whether or not it continues to admit or to collect contributions from members;

"Gazette"

(Definition of "Gazette" in section 1 deleted by section 31(c) of Act 104 of 1993)

"Insurance Act" means the Insurance Act, 1943 (Act No. 27 of 1943);

"joint standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;

(Definition of "joint standard" in section 1 inserted by section 290 read with Schedule 4 of Act 9 of 2017)

"liabilities", in relation to a friendly society, means the liabilities of that society as they would be reflected in any statement of its liabilities prepared in accordance with the requirements set out in section twenty-four;

"market value", in relation to any asset of a society, means the market value in the Republic or, if such value cannot be ascertained, the price which would be obtained on a sale in the Republic between a willing seller and a willing purchaser as estimated by the society and approved by the Authority, or, where the Authority does not approve of any estimate made by a society, the value estimated by the Authority;

(Definition of "market value" in section 1 substituted by section 31(d) of Act 104 of 1993)

"member", in relation to a friendly society, means any person who contributes to the society in order to obtain any benefit referred to in section two, either for himself or for any other person mentioned in that section, and includes any association which contributes to a central society referred to in section thirty-nine;

"Minister" means the Minister of Finance;

"officer", in relation to a society, means any member of a committee appointed to manage the affairs of the society, or any individual so appointed, or any manager, principal officer, treasurer, clerk or other agent or employee of the society, but does not include an auditor appointed under section eleven;

"person" includes any committee appointed to manage the affairs of a society;

"prescribed"

(Definition of "prescribed" in section 1 deleted by section 290 read with Schedule 4 of Act 9 of 2017)

"principal officer" means the officer referred to in section ten;

"prudential standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;

(Definition of "prudential standard" in section 1 inserted by section 290 read with Schedule 4 of Act 9 of 2017)

"Register" means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;

(Definition of "Register" in section 1 inserted by section 290 read with Schedule 4 of Act 9 of 2017)

"registered" in relation to a society, means registered or provisionally registered under section five, and "registration" has a corresponding meaning;

"registered office" means the registered office referred to in section nine;

"registrar"

(Definition of "registrar" in section 1 substituted by section 25 of Act 101 of 1976)

(Definition of "registrar" in section 1 substituted by section 25 of Act 101 of 1976)

(Definition of "registrar" in section 1 substituted by section 29 read with the schedule of Act 97 of 1990)

(Definition of "registrar" in section 1 deleted by section 290 read with Schedule 4 of Act 9 of 2017)

"regulation" means a regulation made and in force under this Act;

"rules" means the rules of a society, and includes –

- (a) the act, charter, deed of settlement, memorandum of association, or other document by which the society is constituted;
- (b) the articles of association or other rules for the conduct of the business of the society; and
- (c) the provisions relating to the benefits which may be granted by and the contributions which may become payable to the society;

"society" means a friendly society;

"Territory"

(Definition of "Territory" in section 1 deleted by section 31(c) of Act 104 of 1993)

"Union"

(Definition of "Union" in section 1 deleted by section 31(c) of Act 104 of 1993)

"valuator" means an actuary or any other person who, in the opinion of the Authority, has sufficient actuarial knowledge to perform the duties required of a valuator in terms of this Act.

- (2) For the purpose of the application of the provisions of this Act in relation to a society which is a friendly society in terms of paragraph (b) of the definition of "friendly society" in sub-section (1), any reference in this Act to a friendly society shall be construed as a reference to that society or to the person or body in control of the affairs of that society, as the circumstances may require.
- (3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.

(Section 1(3) added by section 290 read with Schedule 4 of Act 9 of 2017)

1A. Relationship between Act and Financial Sector Regulation Act

- (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.
- (2) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being—
 - (a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or
 - (b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.
- (3)
 - (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.
 - (b) The Authority may also publish the information or document on its web site.
- (4) A reference in this Act to a fee prescribed by regulation must be read as a reference to the relevant fee being determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.

(Commencement date of section 1A(4): 1 April 2023 [GN 3187 in Government Gazette 48291 dated 24 March 2023])

(5) The Authority must publish the following on the Register:

- (a) the registration of a society in terms of this Act and each cancellation of a registration;
- (b) any exemption or any withdrawal of an exemption referred to in sections 3(2) and (3), 25(1) or section 47(1)(bC); and
- (c) the rules of each registered friendly society, and each amendment of those rules.

(Section 1A inserted by section 290 read with Schedule 4 of Act 9 of 2017)

1B. Regulatory instruments

For the purposes of the definition of “regulatory instrument” in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the *Gazette* is specifically required by this Act is a regulatory instrument.

(Section 1B inserted by section 290 read with Schedule 4 of Act 9 of 2017)

2. Objects for which friendly societies may be established

(1) A friendly society may, subject to the provisions of sub-section (2), be established for one or more of the following objects, namely –

- (a) the relief or maintenance during minority, old age, widowhood, sickness or other infirmity, whether bodily or mental, of members or their husbands, wives, widows, widowers, children or other relatives or dependants;
- (b) the granting of annuities, whether immediate or deferred, to members or to nominees of members, or the endowment of members or nominees of members;
- (c)

(Section 2(1)(c) deleted by section 31 of Act 43 of 1975)

- (d) the insurance of a sum of money to be paid or other benefit to be provided –
 - (i) on the birth of a member's child; or
 - (ii) on the death of a member or any other person mentioned in paragraph (a) or in the form of an endowment insurance on the life of a member or such a person; or
 - (iii) towards the expenses in connection with the death or funeral of any member or any such person; or

- (iv) during a period of confined mourning by a member or such a person;
- (e) the insurance against fire or other contingencies of the implements of the trade or calling of any member;
- (f) the provision of a sum of money on a member's leaving the service of his employer owing to dismissal, resignation or otherwise, unless in the opinion of the Authority the principal object is the provision of a sum of money on a member's leaving such service because of marriage or intended marriage;
- (g) the relief or maintenance of members, or any group of members, when unemployed or in distressed circumstances, otherwise than in consequence of the existence of a strike or lockout as defined in section 213 of the Labour Relations Act, 1995 (Act No. 66 of 1995);
 - (Section 2(1)(g) amended by section 19 of Act 103 of 1979)*
 - (Section 2(1)(g) substituted by section 32(a) of Act 104 of 1993)*
 - (Section 2(1)(g) substituted by section 211 read with Schedule 5 of Act 66 of 1995)*
- (h) the provision of sums of money for the advancement of the education or training of members or of the children of members;
- (i) such other business as the Minister may by proclamation in the *Gazette* declare to be business in respect of which a friendly society may be established.
 - (Section 2(1)(i) substituted by section 32(b) of Act 104 of 1993)*

(2) No association or business shall be regarded as a friendly society –

- (a) if none of the persons entitled to the benefits specified in sub-section (1) contributes to such association or business; or
- (b) if any of its activities fall within the objects of a pension fund organization as set out in paragraph (a) or (b) of the definition of "pension fund organization" in section one of the Pension Funds Act, 1956; or
- (c) if in terms of its rules each member is entitled at all times to withdraw the full amount of his contributions, subject to such notice as may be prescribed in its rules; or
- (d) if the benefits mentioned in sub-section (1) are provided exclusively by way of loans which in terms of its rules must be repaid.

3. Application of Act

- (1) The provisions of this Act shall not apply in relation to any friendly society –
- (a) which has been established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995. However, such a friendly society shall from time to time furnish the Authority with such statistical information as may be requested by the Authority; and
- (Section 3(1)(a) substituted by section 33(a) of Act 104 of 1993)*
(Section 3(1)(a) substituted by section 211 read with Schedule 5 of Act 66 of 1995)
(Section 3(1)(a) substituted by section 290 read with Schedule 4 of Act 9 of 2017)
- (b) of which the aggregate value of income does not exceed R100 000 per annum, except that such society shall comply with the provisions of any regulation that may be made in relation to it.
- (Section 3(1) amended by section 20 of Act 103 of 1979)*
(Section 3(1) substituted by section 22 of Act 54 of 1989)
(Section 3(1) substituted by section 1(a) of Act 44 of 1988 with effect from 1 July 1993)
- (1A)
- (a) Despite subsection (1), a friendly society which has been established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995, may elect to apply for registration in terms of section 5 of this Act.
- (b) The registration of a friendly society referred to in paragraph (a) may be cancelled in accordance with Chapter V of this Act only.
- (Section 3(1A) inserted by section 18 of Act 22 of 2008)*
- (2) If the Authority is satisfied –
- (a) that the aggregate value of the income likely to be received by a friendly society which is at the commencement of the Friendly Societies Amendment Act, 1988, registered under this Act, will not in general exceed during any year an amount of R100 000, he may by notice in writing addressed to that society, and on such conditions as may be specified in that notice, exempt that society from the operation of all or any of the provisions of this Act;
- (Section 3(2)(a) substituted by section 1(b) of Act 44 of 1988 with effect from 1 July 1993)*
- (b) that a friendly society which has applied for registration under this Act, operates exclusively by means of policies of insurance issued by a person lawfully carrying on insurance business within the meaning of the Insurance Act, he may by notice in writing addressed to that society, and on such conditions as may be specified in that notice, exempt that society from the operation of all or any of the provisions of this Act;
- (Section 3(2)(b) substituted by section 1(c) of Act 44 of 1988 with effect from 1 July 1993)*

- (c) that the affairs of any friendly society which has so applied for registration, are subject to such a measure of control issuing from any department of the State or any provincial administration, as to ensure that the society will as regards its financial strength and the conduct of its business conform to standards at least as high as those imposed under this Act in respect of registered societies (other than provisionally registered societies), he shall in writing exempt the society on such conditions as he may specify from the operation of the provisions of this Act.

(Section 3(2)(c) amended by section 36(5) read with Part 6 of Schedule 2 of Act 9 of 1989)

(Section 3(2)(c) substituted by section 33(b) of Act 104 of 1993)

- (3) The Authority may at any time by notice in writing addressed to the society concerned, withdraw any exemption granted under paragraph (a), (b) or (c) of sub-section (2) in respect of that society if he ceases to be satisfied as provided in the appropriate paragraph.

4.

(Section 4 amended by section 26 of Act 101 of 1976)

(Section 4 substituted by section 29 read with the schedule of Act 97 of 1990)

(Section 4 substituted by section 9 read with the schedule of Act 41 of 1992)

(Section 4 repealed by section 290 read with Schedule 4 of Act 9 of 2017)

4A.

(Section 4A inserted by section 7 of Act 51 of 1988)

(Section 4A deleted by section 29 read with the schedule of Act 97 of 1990)

CHAPTER II.

REGISTRATION AND INCORPORATION.

5. Registration of friendly societies

- (1) Subject to the provisions of section 3, every friendly society shall apply to the Authority for registration under this Act.

(Section 5(1) substituted by section 2 of Act 44 of 1988)

- (2) An application under sub-section (1) shall be accompanied by particulars of the name and address of the person charged with the management of the affairs of the society to which the application relates, and a copy of the rules of such society together with a certificate by a valuator as to the soundness of such rules from a financial point of view or, if no valuator has been employed, such information regarding their financial soundness as the applicant may possess, and the registration fee prescribed by regulation, and, in the case of a society in existence at the commencement of this Act –

(Words in section 5(2) preceding paragraph (a) amended by section 20 of Act 86 of 1984)

- (a) a statement in detail of the revenue and expenditure of the society in question for the last financial year for which accounts have been prepared, and a copy of its balance sheet as at the end of that year; and
 - (b) a statement showing in detail the latest valuation of assets and liabilities made by a valuator, including particulars as to the principles applied in making such valuation, or, if no such valuation has been made such particulars regarding the financial condition of the society as the applicant may possess.
- (3) Upon receipt of the documents referred to in sub-sections (1) and (2) the Authority shall, if the society has complied with such requirements as the Authority may have prescribed and he is satisfied that the registration of the society is desirable in the public interest, register the society provisionally and forward to the applicant a certificate of provisional registration.

(Section 5(3) substituted by section 1(a) of Act 60 of 1963)

- (4) If after considering any such application, in respect of a society which has been provisionally registered, the Authority is satisfied –
- (a) that the rules of the society are not inconsistent with this Act and are based on sound financial principles;
 - (b) that the methods according to which business is or is proposed to be transacted by the society are not undesirable;
 - (c) that the society is in a financially sound condition; and
 - (d) that, having regard to all the circumstances, the rules of the society are not unduly inequitable as between different members or groups of members,

he shall register the society as a friendly society and transmit to the applicant a certificate of registration as well as a copy of the rules of the society bearing an endorsement of the date of registration, and thereupon the society shall cease to be provisionally registered.

(Section 5(4) substituted by section 1(b) of Act 60 of 1963)

- (5) If after considering any such application, the Authority is not satisfied as regards all the matters in respect of which he is in terms of sub-section (4) required to be satisfied, he shall in writing indicate to the applicant the requirements to be complied with in order that he may be so satisfied.

(5)*bis*

- (a) When the Authority indicates in terms of sub-section (5) to the applicant any requirements to be complied with the Authority may at the same time determine a period within which such requirements shall be complied with.

- (b) The Authority may at any time before the expiration of any period determined under this sub-section modify any requirements indicated to the applicant in terms of sub-section (5) or determine a different period in substitution of the existing period (which shall not be shorter than the unexpired portion of the existing period) within which the requirements, or the requirements as modified in terms of this paragraph, shall be complied with.

(Section 5(5)bis inserted by section 1(c) of Act 60 of 1963)

- (6) The provisional registration of a society under sub-section (3) shall be valid for a period of five years, but may, where the Authority is satisfied that the society has made all reasonable efforts to meet his requirements, as indicated in terms of this section, and the requirements prescribed in this Act, in the discretion of the Authority, and subject to such conditions and limitations as he may consider desirable, be renewed from time to time for periods not exceeding twelve months at a time and not exceeding in the aggregate –

- (a) in the case of a society which has complied with the requirements set out in sub-section (4), except the requirements set out in paragraph (c) of that sub-section, and which may in the opinion of the Authority be expected to attain a sound financial condition within a reasonable period –

- (i) if the principal object or one of the principal objects of the society is the insurance of sums of money payable on the death of members or other persons, or the provision of endowment insurance on the lives of members or other persons, a period ending twenty years after the commencement of this Act; or
- (ii) if none of the objects mentioned in sub-paragraph (i) constitutes a principal object of the society, a period ending twelve years after such commencement;

- (b) in any other case a period of five years.

(Section 5(6) substituted by section 1 of Act 67 of 1965)

- (7)

(Section 5(7) effectively deleted by section 1 of Act 67 of 1965)

- (8) Whenever a society which is provisionally registered under this section has complied with all the requirements specified in sub-section (4), the Authority shall register the society and transmit to it a certificate of registration as well as a copy of its rules with the date of registration duly endorsed thereon, and thereupon the society shall cease to be provisionally registered.
- (9) The rules of a society shall not be regarded as based on sound financial principles if they exclude from actuarial scrutiny any part of the business of the society which in the opinion of the Authority should be subject to such scrutiny, unless the Authority is satisfied that the expense and practical difficulties likely to be involved in such scrutiny would outweigh the value of the advantages to be derived therefrom.

- (10) No society shall be registered or provisionally registered under this Act except as provided in this section.

6. Societies not to be registered under identical or similar names

- (1) No friendly society shall be registered under a name identical with that under which any other society has already been registered or under a name so closely resembling such a name as in the opinion of the Authority to be likely to mislead.
- (2) Whenever the Authority has under consideration applications for registration from two or more societies bearing identical names or names so closely resembling each other as in his opinion to be likely to mislead, he shall register under the name under which application for registration has been made

(a) where only one of the applications was lodged with the Authority –

- (i) in the case of societies which were in existence at the commencement of this Act, within six months after such commencement; or
- (ii) in the case of societies established after such commencement, within six months after the date on which they were established,

the society in respect of which the application was so lodged;

- (b) where two or more of the applications were so lodged, the society which adopted the name under which it has applied for registration before any of the other societies concerned had adopted the name under which such other society has so applied; and
- (c) where none of the applications was so lodged, the society whose application was first lodged with the Authority,

and if any of the societies concerned has been so registered, none of the remaining societies shall be registered except under a name which the Authority has approved.

- (3) The provisions of subsections (2), (3) and (4) of section 30 of the Banks Act, 1965 (Act No. 23 of 1965), shall *mutatis mutandis* apply in relation to any change in the name of a society under this section as if the society were a banking institution within the meaning of that Act and as if the change had effected a transfer of the assets and liabilities of the society to another society known by the name under which the registration of the society has been effected.

(Section 6(3) amended by section 21 of Act 103 of 1979)

7. Effect of registration of friendly society

Prepared by:

(1) Upon the registration under this Act –

- (a) of a society which is a friendly society in terms of paragraph (a) of the definition of "friendly society" in sub-section (1) of section one, the society shall, under the name by which it is so registered, and in so far as its activities are concerned with any of the objects set out in section two, become a body corporate capable of suing and being sued in its corporate name and 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;
- (b) of a society which is a friendly society in terms of paragraph (b) of the said definition, all the assets, rights, liabilities and obligations pertaining to the business of the society shall, notwithstanding anything contained in any law or in the memorandum, articles of association, constitution or rules of any body corporate or unincorporate having control of the business of the society, be deemed to be assets, rights, liabilities and obligations of the society to the exclusion of any other person, and no person shall have any claim on the assets or rights or be responsible for any liabilities or obligations of the society, except in so far as the claim has arisen or the responsibility has been incurred in connection with transactions relating to the business of the society;
- (c) of any friendly society, the assets, rights, liabilities and obligations of the society (including any assets held in trust for the society by any person) as existing immediately prior to its registration, shall vest in and devolve upon the registered society, without any formal transfer or cession.

(1)*bis* The officer in charge of a deeds registry in which is registered any deed or other document relating to any asset or right which in terms of paragraph (c) of subsection (1) vests in or devolves upon a registered society, shall, upon production to him by the society of its certificate of registration or of provisional registration, as the case may be, and of the deed or other document aforesaid, without payment of transfer duty, stamp duty, registration fees or charges, make the endorsements upon such deed or document and the alterations in his registers that are necessary by reason of such vesting or devolution.

(Section 7(1)bis inserted by section 16 of Act 81 of 1957)

- (2) All moneys and assets belonging to a friendly society shall be kept by that society and every society shall maintain such books of account and other records as may be necessary for the purposes of such society.

8. Allocation of assets and liabilities between friendly society and other associated business

- (1) Within twelve months after the registration under this Act of a friendly society the business whereof is or has been carried on by any undertaking as part of or in conjunction with any other business in which the undertaking is or has been engaged, the person having control of the business of that undertaking shall

submit to the Authority proposals as to the apportionment of the assets, rights, liabilities and obligations of that undertaking between the society and such other business.

- (2) If the proposals mentioned in sub-section (1) are not received within the period specified in that sub-section the Authority shall prepare proposals for the apportionment of the assets, rights, liabilities and obligations of that undertaking between the society and such business in such a manner as he may with due regard to all the circumstances consider equitable.
- (3) The Authority may for the purpose of making any proposals under sub-section (2), require any person having control of the undertaking in question, to lodge with him, within such period as he may specify, any information relating to the business or any part of the business which is or has been carried on by that undertaking, including the business of such friendly society, together with such reports by a valuator or (at the discretion of the Authority) by the auditor of that undertaking, as the Authority may direct.
- (4) As soon as practicable after having received any proposals under sub-section (1) or after having prepared any proposals as provided in sub-section (2), the Authority shall transmit a copy thereof to the principal officer of the society and publish at the expense of the society in the *Gazette* and in at least one English and one Afrikaans newspaper circulating in the district in which the head office of the undertaking is situate, a notice –
 - (a) indicating that such apportionment is contemplated;
 - (b) stating the place or places where copies of the proposals in question will be available for inspection by interested persons for a period of thirty days from a date specified in the notice; and
 - (c) calling upon interested persons to submit to the Authority whatever representations they may deem necessary within the said period of thirty days.
- (5) Upon the expiration of the period mentioned in paragraph (c) of sub-section (4), the Authority shall proceed to consider any written representations lodged with him in pursuance of the relevant notice and any oral representations which any person who lodged such written representations or the person having control of the business of the undertaking may desire to submit to him, and shall thereafter approve of the proposals in question as drafted or with such modifications as he may deem necessary.
- (6) A decision made by the Authority under sub-section (5) shall be binding upon all persons affected thereby.

CHAPTER III.

ADMINISTRATION AND POWERS OF REGISTERED SOCIETIES.

9. Registered office

Prepared by:

- (1) Every registered society shall have a registered office in the Republic.

(Section 9(1) amended by section 38 of Act 104 of 1993)

- (2) Process in any legal proceedings against any such society may be served by leaving it at the registered office, and in the event of such registered office having ceased to exist, service upon the Authority shall be deemed to be service upon the society.

10. Principal officer

- (1) Every registered society shall have a principal executive officer.

- (2) The officer referred to in sub-section (1) shall be an individual who is resident in the Republic, and if he is absent from the Republic or unable for any reason to discharge any duty imposed upon him by any provision of this Act, the society shall, in the manner directed by its rules, appoint another officer within thirty days to be its principal officer.

(Section 10(2) amended by section 38 of Act 104 of 1993)

- (3) Within thirty days of the registration of a society under this Act, the person managing the business of the society shall notify the Authority of the name of the principal officer of the society.
- (4) Whenever a registered society has appointed a new principal officer, the person managing the business of the society shall within thirty days as from such appointment give notice thereof in writing to the Authority.

11. Appointment powers and duties of auditor

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

(Words in section 11(1) preceding the proviso substituted by section 34 of Act 104 of 1993)

Provided that if an auditor so registered is not readily available the Authority may at the request of the society approve of the appointment of a person nominated by the society, to act as auditor of the society, or if the Authority is not satisfied that the nominated person is suitable to act as auditor of the society, he may appoint as auditor any other person whom he considers suitable.

(Section 11(1) amended by section 8 of Act 91 of 1972)

- (2) In certifying a statement of liabilities prepared in terms of section twenty-four the auditor shall not be deemed to vouch for the correctness of the amounts at which the liabilities were assessed by the valuator in terms of section twenty-three.

12. Business which may be carried on

No registered society shall carry on any business other than the business connected with the objects for which a friendly society may be established as set out in section two: Provided that the Authority may approve of a society carrying on such other business on such conditions and for such period as he may determine if the Authority is satisfied that this is necessary in order to safeguard an investment made by the society.

13. Matters to be included in rules

The rules of a friendly society shall be in one of the official languages of the Republic and shall contain provision in regard to the following matters, that is to say –

- (a) the name of the society and the situation of its registered office;
- (b) the objects of the society;
- (c) the manner in which funds are to be raised and collected and the purposes for which they are to be applied;
- (d) the various classes (if any) of members and the requirements for admission to membership and the circumstances under which membership is to cease;
- (e) the conditions under which any member or other person may become entitled to any benefit and the nature and extent of any such benefit;
- (f) the fines and forfeitures (if any) to be imposed on any member and the consequences of non-payment of any contribution or fine;
- (g) the appointment, removal from office, powers and remuneration (if any) of officers of the society;
- (h) the powers of investment of funds;
- (i) whether or not any part of the business of the society is subject to actuarial scrutiny, and, if so, which kinds of business are so subject;
- (j) the maintenance of accounts relating to such kinds of business as are subject to actuarial scrutiny separately from accounts relating to any other business;
- (k) whether or not a separate account is to be kept in respect of any particular kind of business other than as required in terms of the preceding paragraph, and, if so, in respect of which kinds;

- (l) if the society is entitled to receive contributions from its members towards the expenses of management, and if such contributions are payable under a separate table, the maintenance of a separate account of such expenses and contributions;
- (m) if separate accounts are kept in respect of any particular kind of business, or in respect of expenses of management and contributions towards such expenses, the circumstances in which and conditions upon which amounts may be transferred from one such account to another;
- (n) the manner of determining profits and losses and of disposing of such profits or providing for such losses;
- (o) the manner in which contracts and other documents binding the society shall be executed;
- (p) the custody of the securities, books, papers and other effects of the society;
- (q) the manner of altering and rescinding any rules, and of making any additional rule;
- (r) the manner of deciding disputes between a member or former member or any person whose claim is derived from a member or former member and the society or any officer of the society;
- (s) in the case of a society with share capital, the amount of such share capital and the division thereof into shares of a fixed amount, whether the liability of a shareholder for the debts of the society is limited or unlimited, the conditions relating to participation in the profits of the society by the shareholders (subject to the condition that such participation shall not in any one year exceed an amount equal to five per cent of the paid-up share capital), the conditions of redemption or repayment of shares, the conditions relating to calls on shares, the manner of transfer and transmission of shares, the manner of forfeiture of shares, and the manner of alteration of share capital;
- (t) the appointment of the auditor of the society and the duration of such appointment;
- (u) subject to the provisions of this Act, the manner in which and the circumstances under which a society shall be terminated or dissolved;
- (v) the appointment of a liquidator in the case of a voluntary dissolution;
- (w) 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;
- (x) such other matters as the Authority may approve.

(Section 13 amended by section 38 of Act 104 of 1993)

14. Amendment of rules

- (1) A registered 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, other than as a member or shareholder thereof; or
 - (b) unless it has been approved by the Authority and registered as provided in sub-section (4).
- (2) Within one month from the date of the passing of a resolution for the alteration or rescission of any rule or for the adoption of any additional rule, a copy of such resolution shall be transmitted by the principal officer to the Authority, together with a certificate signed by the person managing the business of the society to the effect that such resolution has been adopted in accordance with the provisions of the rules of the society.
- (3) If any such alteration, rescission or addition affects the financial condition of the society, the principal officer shall also transmit to the Authority a certificate by a valuator as to its financial soundness or, if no valuator has been employed, such information regarding its financial soundness as the society may possess.
- (4) If the Authority finds that any such alteration, rescission or addition is not inconsistent with this Act, and is satisfied that –
 - (a) it is based on financially sound principles;
 - (b) the methods of transacting the business of the society as laid down therein or brought about thereby are not undesirable; and
 - (c) it will not, having regard to all the circumstances, bring about undue inequity between different members or groups of members,

he shall register the alteration, rescission or addition and return a copy of the resolution to the principal officer with the date of registration endorsed thereon, and such alteration, rescission or addition, as the case may be, shall take effect as from the date determined by the society concerned or, if no date has been so determined, as from the said date of registration.

- (5) A registered society may at any time consolidate its rules, and in such event the principal officer shall forward to the Authority a copy of such consolidated rules and if the Authority is satisfied that the consolidated rules are not substantially different from the existing rules of the society, he shall register such consolidated rules and return a copy thereof to the principal officer with the date of registration

endorsed thereon, and such consolidated rules shall thereupon take effect from the date of registration thereof.

15. Binding force of rules

Subject to the provisions of this Act, the rules of a registered society shall be binding on the society and the members, shareholders and officers thereof, and on any person who claims under the rules, or whose claim is derived from a person so claiming.

16. Membership of minors

If the rules of a registered society so provide, a minor may be a member, and any such member may, by himself if he has attained the age of sixteen years, or by his parent or guardian if he is under that age, execute all necessary documents and give all necessary acquittances, but he shall not manage the affairs or be the principal officer of such society.

17. Membership of married women

A married woman, whether under marital power or not, may without her husband's consent be a member of a society, and may without assistance execute all necessary documents and give all necessary acquittances, and any benefit granted to her shall, as between the husband and the wife, be her sole and separate property free from his control, and she shall furthermore, unless otherwise provided by the rules, be qualified to be an officer of a society.

18. Payment of benefits to nominees

- (1) If the rules of a society so provide, and subject to any conditions or limitations that may be specified in the said rules, a member or former member of a society may, by writing under his hand delivered at or sent to the registered office of the society, nominate any person to whom any money payable by the society on the death of such member or former member shall be paid at his decease, and may from time to time revoke or vary any such nomination by writing under his hand similarly delivered or sent.
- (2) On proof of the death of a member or former member referred to in sub-section (1), the society concerned shall pay to the nominee of the deceased the amount due and payable to the nominee in terms of the said nomination.

19. Restriction of payments on death of children under fourteen years of age

- (1) No society shall insure the life of a child who is under the age of fourteen years for any sum of money which either alone or together with any amount which to the knowledge of the said society is payable on the death of that child by any other society or by any insurer carrying on insurance business within the meaning of the Insurance Act, exceeds –

- (a) two hundred and fifty rand, if the child is under six years of age; or
- (b) five hundred rand, if the child is six years old or older, but is under fourteen years of age.

(Section 19(1) substituted by section 27(a) of Act 101 of 1976)

(Section 19(1) substituted by section 42 of Act 99 of 1980)

- (2) Where a society or an insurer has insured the life of a child for a benefit not consisting of a sum of money, it shall for the purposes of this section be deemed to have insured the life of that child for a sum of money equal to the value of such benefit.
- (3) The provisions of this section shall not be construed so as to prohibit an insurance which provides for the payment, on the death of any child which is under the age of fourteen years, of a sum not exceeding in the aggregate all the contributions paid in respect of such insurance, plus interest on each contribution at a rate not exceeding seven and a half per cent per annum, compounded annually.

(Section 19(3) substituted by section 27(b) of Act 101 of 1976)

20. Investments

- (1) Subject to the provisions of this section, a registered society may invest its funds in any manner provided by its rules.

- (2)

(Section 20(2) amended by section 15 of Act 80 of 1959)

(Section 20(2) substituted by section 28(a) of Act 101 of 1976)

(Section 20(2) amended by section 43 of Act 99 of 1980)

(Section 20(2) deleted by section 10(a) of Act 53 of 1989)

- (3)

(Section 20(3) substituted by section 28(b) of Act 101 of 1976)

(Section 20(3) deleted by section 10(a) of Act 53 of 1989)

- (4)

(Section 20(4) deleted by section 10(a) of Act 53 of 1989)

- (5) A registered friendly society may, if its rules so provide –

- (a) make donations to any charitable, religious, provident, sporting or cultural institution or to any hospital, nursing home, infirmary or home for aged persons;
- (b) grant loans secured by first mortgages of immovable property, by way of investment of its funds, to any of its members if the mortgaged property is property on which a dwelling house has been

or is to be erected: Provided that such loans shall in no case exceed seventy-five per cent of the market value of the property to be acquired;

(c)

(Section 20(5)(c) deleted by section 32 of Act 43 of 1975)

(d) contribute to any other friendly society registered under this Act or any fund of any kind whatsoever which is conducted for the benefit of the employees of the said registered society or take out and pay for insurance policies on the lives of employees of the said registered society for the benefit of such employees or their dependants.

(6) The Authority may, under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any society from compliance with any provision of subsection (5).

(Section 20(6) substituted by section 28(c) of Act 101 of 1976)

(Section 20(6) substituted by section 10(b) of Act 53 of 1989)

21. Amalgamations and transfers

- (1) No transaction involving the amalgamation of any business carried on by a registered society with any business carried on by any other person (irrespective of whether that other person is or is not a registered society) or the transfer of any business from a registered society to any other person or the transfer of any business from any other person to a registered society, shall be of any force or effect unless the amalgamation or transfer is carried out in accordance with the provisions of this section.
- (2) The registered society shall deposit with the Authority a copy of the scheme for the proposed transaction (in this section referred to as the scheme), including a copy of every actuarial or other statement taken into account for the purposes of the scheme, and shall furnish the Authority with particulars of the voting at any meeting of its members or shareholders at which the scheme was considered and with such additional information as he may require: Provided that if two or more registered societies are concerned in the proposed transaction, only one such society need furnish a copy of the scheme as aforesaid.
- (3) If any party to the proposed transaction is not a registered society, but carries on insurance business in the Republic within the meaning of the Insurance Act, the Authority shall deposit with the Registrar of Insurance the copy of the scheme, particulars and information referred to in sub-section (2), and the provisions of sub-sections (5) to (10), inclusive, of this section shall not apply, but the provisions of section twenty-five of the Insurance Act shall apply as if the society were an insurer registered under the Insurance Act, and as if the members of the society were the owners of policies of insurance issued by the society.
- (4) If any party to the proposed transaction is not a registered society and does not carry on insurance business in the Republic within the meaning of the Insurance Act, the Authority may require that party

to furnish him with any information which is in possession of that party and which the Authority may specify.

- (5) The Authority may, in his discretion, require any or all of the following provisions to be fulfilled, namely –
- (a) a report on the scheme to be drawn up by an independent valuator or other competent person nominated by the Authority at the expense of those parties and furnished to the Authority who shall send a copy thereof to each of the parties to the proposed transaction;
 - (b) each of the said parties to send a copy of the scheme and of the report (if any) referred to in paragraph (a) to every member, shareholder and creditor of that party, or to such only of those members, shareholders and creditors as the Authority may direct;
 - (c) the parties to the proposed transaction to publish particulars thereof, in a form approved by the Authority, in the *Gazette* and in such newspaper or newspapers as the Authority may direct.
- (6) Copies of the scheme and of the report (if any) referred to in paragraph (a) of sub-section (5) shall, for such period of not less than twenty-one days as the Authority may specify, be made available for the inspection of any member, shareholder or creditor of any party to the proposed transaction –
- (a) at the registered office of any registered society concerned; and
 - (b) at the registered office or other principal place of business in the Republic of any other party.
- (7) When the requirements of sub-section (6) have been complied with, the Authority shall consider the scheme, and thereafter he may –
- (a) confirm the scheme; or
 - (b) suggest that the parties to the proposed transaction modify the scheme in certain respects, and if they so modify the scheme he may confirm the scheme as modified; or
 - (c) decline to confirm the scheme.
- (8) If the Authority has declined to confirm the scheme, the parties to the proposed transaction may after not less than fourteen days' notice to the Authority, apply to the court for confirmation of the scheme.
- (9) The Authority shall be entitled to be heard personally or by a representative at any such application, and the court may confirm the scheme as submitted to it or with such modifications as the court may think fit or decline to confirm the scheme.

- (10) A scheme confirmed by the Authority or the court in accordance with this section shall be binding on all persons concerned, and shall have effect notwithstanding any conflicting provision contained in the rules of any registered society concerned or in the memorandum or other document under which any other party to the transaction is constituted, or in the articles of association or other rules of such party.
- (11) When the scheme has been confirmed by the Authority or the court, the person controlling the amalgamated business or the person to whom any business has been transferred in terms of the transaction, as the case may be, shall within fourteen days after such confirmation deposit with the Authority –
- (a) a declaration, duly signed in accordance with the provisions of section twenty-six, on behalf of each of the parties to the transaction, that to the best of their belief every payment made or to be made or other valuable consideration given or to be given to any person whatsoever on account of the amalgamation or transfer is fully set forth in the scheme; and
 - (b) if the scheme has been confirmed by the court, a certified copy of the scheme as confirmed and the order of court confirming the scheme.
- (12) Whenever a scheme is confirmed in accordance with the provisions of this section, the relevant assets and liabilities of the parties to the amalgamation shall vest in and become binding upon the amalgamated body or, as the case may be, the relevant assets and liabilities of the party effecting the transfer shall vest in and become binding upon the party to which transfer is effected.
- (13) The officer in charge of a deeds registry in which is registered any deed or other document relating to any asset which is transferred in accordance with the provisions of sub-section (12), shall, upon production to him by the person concerned of such deed or other document and of a certificate by the Authority of the confirmation of the scheme of amalgamation or of transfer, as the case may be, without payment of transfer duty, stamp duty, registration fees or charges, make the endorsements upon such deed or document and the alterations in his registers that are rendered necessary by reason of the amalgamation or transfer.
- (Section 21(13) substituted by section 17 of Act 81 of 1957)*
- (14) A transaction effected in terms of this section shall not deprive any creditor of a party thereto (other than in his capacity as a member or a shareholder of such party) of any right or remedy which he had immediately prior to that date against any party to the transaction or against any member or shareholder or officer of such party_

CHAPTER IV.

DOCUMENTS TO BE DEPOSITED WITH AUTHORITY.

22. Accounts

- (1) Every registered society shall, within six months as from the expiration of every financial year, furnish to the Authority –
 - (a) a revenue account showing the revenue and expenditure for that year including the expenses of management of the society and any contributions towards such expenses: Provided that, if the rules of the society require a separate account to be maintained for a particular kind of business or in respect of the said expenses and contributions, the aforesaid revenue account shall be divided into sections in such a way as to show separately the transactions of the society in respect of that particular kind of business, or, as the case may be, in respect of the said expenses and contributions; and
 - (b) a balance sheet showing the financial position of the society at the close of that year.
- (2) Every registered society shall, when furnishing to the Authority the documents referred to in sub-section (1), also furnish to the Authority –
 - (a) a copy of any special report by the auditor relating to the activities of the society during the financial year to which the documents relate;
 - (b) a copy of any annual report that the society may have issued to its members or shareholders in respect of the said financial year; and
 - (c) a copy of any other statement that the society may have presented to its members or shareholders in respect of any of its activities during such financial year.

22A. Authority may order submission of accounts and other documents in connection with control and administration of societies

- (1) The Authority may by notice in writing direct any person carrying on the business of the control and administration of the affairs of a registered society to furnish him within a period stated in such notice, or within such further period as the Authority may allow, with –
 - (a) a revenue account showing the income derived from and the expenses incurred in connection with such business;
 - (b) any other account, statement or other document relating to such business;and with such further information in connection with such business as he may require.
- (2) The Authority may –

- (a) determine the period to which a revenue account, other account, statement or other document referred to in subsection (1) shall relate;
- (b) require that such revenue account, other account, statement or other document shall relate to the affairs of a particular registered society or to the affairs of all registered societies of which the affairs are controlled and administered by the said person;
- (c) require that such revenue account, other account, statement or other document shall be duly audited.

(Section 22A inserted by section 29 of Act 101 of 1976)

23. Valuations by a valuator in respect of business subject to actuarial scrutiny

- (1) Every registered society carrying on any kind of business which in terms of its rules is subject to actuarial scrutiny shall, once at least in every five years, cause a valuation of the liabilities of the society in respect of that kind of business, in so far as such liabilities are capable of actuarial valuation, to be made by a valuator, and shall deposit with the Authority a copy of the valuation duly certified by the valuator.
- (2) Such valuation shall be made in respect of the position as at the expiration of a financial year, and a copy thereof shall be deposited with the Authority within twelve months from the close of that year.
- (3) In the case of a society which was carrying on friendly society business at the commencement of this Act and has complied with the provisions of sub-section (1) of section five, the first valuation shall be made in respect of the position as at the expiration of the financial year which commenced after the date of commencement of this Act: Provided that –
 - (a) in special circumstances the society may, with the permission of the Authority, defer such first valuation for such period, not exceeding three years, as the Authority may determine; and
 - (b) if the society has furnished a statement in terms of paragraph (b) of sub-section (2) of section five, showing the results of a valuation of the liabilities and assets of the society, the Authority may direct that the first valuation under this section shall be made in respect of the position as at a date subsequent to the expiration of the said financial year, but not more than five years after the date to which the said statement relates.
- (4) In the case of a society other than a society mentioned in sub-section (3), the first valuation shall be made in respect of the position as at the expiration of the fifth financial year which is completed after the date of registration, or as at the expiration of such previous financial year as the society may select.
- (5) Notwithstanding anything contained in the preceding subsections, the Authority may, with the consent of the Minister, and after not less than one month's notice in writing to any registered society, require that society to cause such a valuation to be made in respect of the position as at the expiration of any

financial year, if the Authority is of opinion that a valuation would show that any kind of business of the society is not in a sound financial condition.

- (6) A valuation made by a valuator in terms of any of the preceding sub-sections shall include particulars, set out separately in respect of each kind of business for which a separate account is required by the rules of the society, of the amount of the liabilities and contingent liabilities of each kind of business, together with a description of the actuarial basis employed in making such valuation.
- (7) Whenever a registered society deposits with the Authority a copy of a valuation made by a valuator in terms of this section, it shall also deposit with the Authority a certificate by the person managing the business of the society and by the principal officer that to the best of their knowledge and belief the information furnished to the valuator for the purposes of the valuation was correct and complete in every material respect.

24. Statement of liabilities

- (1) Every registered society shall periodically prepare a statement of all its liabilities at the close of a financial year, and shall deposit such statement with the Authority within six months from the close of that year.
- (2) Such statement shall be prepared –
 - (a) in the case of a society to which the provisions of section twenty-three apply, on the occasions when a valuation by a valuator is made in terms of that section; and
 - (b) in the case of any other society annually.
- (3) The statement of liabilities shall include –
 - (a) the liabilities and contingent liabilities under contracts between the society and its members, including claims under such contracts which have been intimated but not paid;
 - (b) a record of any pledge, hypothecation or other encumbrance of the assets of the society;
 - (c) the amount of the share capital which has been paid-up;
 - (d) the amount of any liability for taxes for the year concerned, and in the absence of a completed assessment the estimated amount of such taxes; and
 - (e) any other liabilities of the society.

- (4) Notwithstanding anything contained in sub-sections (1) and (3), a liability or contingent liability which is covered by reinsurance shall not be shown as a liability on the statement if the reinsurance has been effected with –
- (a) an insurer authorized to carry on insurance business under the Insurance Act; or
 - (b) a registered society, including (with the consent of the Authority) a provisionally registered society.
- (5) All liabilities and contingent liabilities undertaken and entered into by way of reinsurance shall be included in the statement.
- (6)
- (a) If any of the liabilities or contingent liabilities to be included in the statement in accordance with the preceding sub-sections are of indeterminate amount, and have not been valued by a valuator in terms of section twenty-three, the society concerned shall request the Authority to determine the basis upon which they shall be valued, and any determination so made by the Authority shall be binding upon that society.
 - (b) The Authority may recover from the society concerned all expenses necessarily incurred in making a determination under paragraph (a).
- (7) So far as may be practicable, the liabilities shall be separately stated in respect of each kind of business for which a separate account is required by the rules of the society.

25. Statement of assets

- (1) Every registered society shall prepare annually a statement of its assets at the close of the financial year, and shall deposit such statement with the Authority within six months from the close of that year: Provided that the Authority may, if he is satisfied that none of the objects of this Act would be thereby prejudiced, exempt from the provisions of this section a society to which the provisions of section twenty-three apply, on the occasions other than those on which a valuation by a valuator is made in terms of that section and may at any time withdraw any such exemption which he has previously granted if he is no longer satisfied as aforesaid.
- (2) Any asset represented by a claim which is overdue shall be shown as a separate asset.
- (3) No expenses of administration, organization or business extension, and no purchase price of a business (apart from the value of any property belonging thereto) or of a goodwill or any item of a similar nature, shall be included as an asset.
- (4) No asset shall be valued above its market value.

- (5) Full particulars of each asset, including the market value thereof, shall be furnished: Provided that if compliance with the requirements of this sub-section by a particular society would result in unduly voluminous returns, the society concerned may group various classes of assets together, or otherwise abridge the statement in such manner as the Authority may approve.
- (6) A full explanation shall be included in the statement of the methods and bases adopted in ascertaining the market values of the various kinds of assets, including a statement as to whether or not such market values include allowances for interest, dividends or rent accrued since the last date on which interest, dividends or rent fell due.

26. Requirements in regard to documents to be deposited with Authority

- (1) A registered society shall be deemed not to have complied with any provision of this Act, which imposes upon such society the obligation to furnish to the Authority a document prepared by the society, unless such document is signed by the principal officer and one other person authorized in accordance with the rules of the society to sign documents.
- (2) If any person (other than an auditor or valuator) who is not a natural person, is required by any provision of this Act to sign any document which is to be furnished to the Authority, such document shall be signed on behalf of such person as follows, that is to say –
 - (a) if such person is a committee of individuals, by the person for the time being at the head of the committee and by one other member thereof;
 - (b) if such person is an association of persons, by the person who is for the time being at the head of the board of directors or other committee controlling such association, and by one other member of such board or committee;
 - (c) in any other case by persons designated by the Authority, who exercise any control over the business of the said person.
- (3) A registered society shall be deemed not to have complied with the applicable provisions of sub-section (1) of section twenty-two or section twenty-four or twenty-five unless any revenue account, balance sheet, statement of liabilities or statement of assets required to be submitted under one or other of those provisions is certified by the auditor of the society.
- (4) Any person who is required in terms of any provision of this Act to furnish to the Authority –
 - (a) any original document, shall also furnish such additional copies thereof, not exceeding three in number, as may be prescribed by regulation or as the Authority may require;
 - (b) a copy of any document, shall furnish one copy thereof certified as correct –

- (i) in the case of a registered society, by its principal officer; and
- (ii) in any other case, by the person by whom such copy is required to be furnished,

together with so many additional copies, not exceeding three, as may be prescribed by regulation or as the Authority may require.

27. Authority may reject returns

If the Authority is of the opinion that any revenue account or balance sheet furnished by a registered society in terms of sub-section (1) of section twenty-two, or any statement of liabilities or statement of assets furnished by a registered society in terms of section twenty-four or twenty-five, is not in accordance with the provisions of this Act or does not correctly reflect the revenue and expenditure or financial position (as the case may be) of the society, he may reject the document in question, and in that event –

- (a) he shall notify the society concerned of the reasons for such rejection; and
- (b) the society shall be deemed not to have furnished the said document to the Authority, but the Authority may in such case apply the provisions of section forty-four, even if the period concerned has expired before application is made for extension.

28. Authority may require additional particulars in case of certain applications and returns

- (1) If the Authority is of opinion that –

- (a) any application for registration of a society or of an alteration or rescission of rules or of an additional rule; or
- (b) any return or scheme relating to the financial condition of a society,

does not disclose sufficient information to enable him to make the necessary decision, the person concerned shall furnish such additional particulars as the Authority may deem necessary.

- (2) If the Authority is of opinion that a certificate or special report by a valuator or by the auditor of a society is necessary in regard to any matter set out in sub-section (1), the person concerned shall furnish such certificate or report as the Authority may require.

29. Inspection of documents

- (1) Upon payment of the fees prescribed by regulation any person may inspect at the office of the Authority any document referred to in section forty-six and make a copy thereof or take extracts therefrom or obtain from the Authority a copy thereof or extract therefrom.
- (2) The Authority may exempt any person from the obligation to pay fees 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.
- (3) The Authority shall without charge furnish any applicant therefor with particulars of the address of the registered office and the name of the principal officer of any registered society.

30. Effect of Authority's certificate on documents

Every document which purports to have been certified by the Authority to be a document deposited at his office under the provisions of this Act, or to be a copy of such a document, shall *prima facie* be deemed to be such a document, or a copy thereof, and every such copy shall be admissible in evidence as if it were the original document.

CHAPTER V.

ENQUIRIES AND INVESTIGATIONS, APPLICATIONS TO COURT, CANCELLATION OR SUSPENSION OF REGISTRATION AND DISSOLUTION OF SOCIETIES.

31. Enquiries

The Authority may address enquiries to any registered society in relation to any matter connected with its business or transactions, and it shall be the duty of the society to reply in writing thereto within a period of thirty days as from the date upon which the Authority addressed the enquiry to it or within such further period as the Authority may allow.

32.

(Section 32 substituted by section 11(1) of Act 68 of 1962)

(Section 32 repealed by section 290 read with Schedule 4 of Act 9 of 2017)

33. Applications to court

- (1) The Authority may, in regard to any registered society, apply to the court for an order in terms of paragraph (c), (d) or (e) of subsection (3), and a registered society may, in regard to itself, apply to the court for an order in terms of paragraph (b), (d) or (e) of that subsection, if the Authority or the society is of the opinion that it is desirable, because the society is not in a sound financial condition or for any other reason, that such an order be made in regard to the society: Provided that a society shall not make such an application except by leave of the court, and the court shall not grant such leave unless the society has given security to an amount specified by the court for the payment of the costs of the

application and of any opposition thereto, and has established *prima facie* the desirability of the order for which it wished to apply.

(Section 33(1) substituted by section 290 read with Schedule 4 of Act 9 of 2017)

- (2) Any creditor of a registered society who is unable to obtain payment of his claim after recourse to the ordinary process of law may, in regard to such society, make an application to the court for an order in terms of paragraph (b), (d) or (e) of sub-section (3), and the proviso to sub-section (1) shall apply *mutatis mutandis* in regard to such an application.
- (3) Upon any application in terms of either of the preceding sub-sections, the court may –
 - (a) refuse the application; or
 - (b) order that an investigation be made in terms of section thirty-two, and may issue such directions regarding such investigation as the court may deem desirable; or
 - (c) order that the rules of the society relating to the appointment, powers, remuneration and removal from office of the person managing the business of the society, or relating to such other matter as the court may regard as appropriate, be altered in a manner to be specified in such order; or
 - (d) order that the society be placed under judicial management in terms of section thirty-four; or
 - (e) order that the whole or any part of the business of the society be wound up in terms of section thirty-five.
- (4) In exercising its discretion under sub-section (3), the court shall consider the equitable interests of the members of the society (or of the several classes of members if there is more than one such class) and of any other person who has rendered or who intends to render financial assistance to the society, and, subject to such consideration as aforesaid, shall make such order as it deems most advantageous to the members of the society.
- (5) When a court has made an order in terms of paragraph (b) of sub-section (3) in regard to a society, it may at any time thereafter make an order in terms of paragraph (c), (d) or (e) of that sub-section or of sub-section (3) of section thirty-six in regard to that society, and when a court has made an order in terms of paragraph (d) of sub-section (3) in regard to a society it may at any time thereafter make an order in terms of paragraph (e) of that sub-section or of sub-section (3) of section thirty-six, in regard to that society.
- (6) Notwithstanding any conflicting provision contained in the rules of the society, an order of the court made in terms of paragraph (c) of sub-section (3) shall take effect as from any date specified for that purpose in the order, or if no date has been so specified, as from the date of the order, and thereupon the said rules shall be deemed to have been amended in the manner specified by the court.

- (7) Unless the court otherwise orders, the costs of the Authority in or in connection with an application in terms of this section shall be paid by the society and shall be a first charge upon the assets of such society.
- (8) A registered society shall not be placed under judicial management or wound up or dissolved otherwise than under the provisions of this Act.

34. Judicial management

- (1) An order of the court in terms of paragraph (d) of sub-section (3) of section thirty-three shall be subject to the provisions contained in the following sub-sections.
- (2) The court shall appoint a judicial manager, who shall receive such remuneration as the court may direct, and the court may at any time cancel the appointment and appoint some other person as judicial manager.
- (3) The judicial manager appointed to a society shall take over the whole management of the society, but except with the leave of the court he shall not admit any more members.
- (4) The court shall issue such directions to the judicial manager as to his powers and duties as it deems desirable in the circumstances of the case.
- (5) The provisions of the Companies Act, 1973 (Act No. 61 of 1973), shall apply *mutatis mutandis* in connection with the judicial management of a society under this section, in so far as those provisions relate to a judicial management in terms of the said Act, and in so far as the said provisions are applicable and not inconsistent with any provision of this Act or with any direction issued by the court under this section.

(Section 34(5) substituted by section 22 of Act 103 of 1979)

- (6) The judicial manager shall act under the control of the court, and he may apply to the court at any time for instructions as to the manner in which he shall carry out the judicial management.
- (7) The judicial manager shall give the Authority such information as the latter may require from time to time, and shall, whenever he intends to apply to the court for instructions, report accordingly to the Authority, who shall be entitled to be heard personally or by a representative at any such application, and may himself make an application to the court with reference to the conduct of the judicial management.
- (8) The judicial manager shall as soon as possible report to the court which of the following courses he deems most advantageous to members of the society, that is to say –

- (a) the transfer of the whole or of a part of the business of the society to some other person;
 - (b) the carrying on of the society with such alterations in benefits, contributions or conditions or in other respects as he may deem advisable;
 - (c) the winding-up of the business or of a part of the business of the society;
 - (d) such other course as he may deem advisable.
- (9) The court shall consider the report of the judicial manager and shall decide upon the course it considers most advantageous to members of the society, and an order containing the decision of the court shall be binding on all persons, and shall have effect notwithstanding anything in the rules of the society: Provided that if the court orders the winding-up of the business or any part of the business of the society, the provisions of section thirty-six shall apply to such winding-up.

35. Winding-up by the court

- (1) An order of the court in terms of paragraph (e) of sub-section (3) of section thirty-three, or an order under subsection (9) of section thirty-four for the winding-up of a society, shall be subject to the provisions contained in the following sub-sections.
- (2) The provisions of the Companies Act, 1973 (Act No. 61 of 1973), shall apply *mutatis mutandis* to a winding-up under this section in so far as the said provisions refer to a winding-up by the court in terms of the said Act, and in so far as the said provisions are applicable and not inconsistent with any provision of this Act or with any direction issued by the court under this section.
- (Section 35(2) substituted by section 23(a) of Act 103 of 1979)*
- (3) The court may direct that the aforementioned provisions of the Companies Act, 1973, may, for the purposes of the winding up, be suitably modified in any particular case if the court is satisfied that having regard to the circumstances of the society concerned, it would be impracticable or unnecessarily onerous to comply with the said provisions in every particular, and that in spite of such modification the interests of the creditors of the society will be sufficiently safeguarded.
- (Section 35(3) amended by section 23(b) of Act 103 of 1979)*
- (4) Without prejudice to the powers of the Master who has jurisdiction in respect of any winding-up, the liquidator appointed in terms of sub-section (2) shall give the Authority such information as the latter may require from time to time, and shall, whenever he intends to apply to the court for instructions, report accordingly to the Authority who shall be entitled to be heard personally or by a representative at any such application, and may himself make an application to the court with reference to the winding-up.

- (5) In the winding-up of the whole or any part of the business of a society the value of the interests of the members or of the various groups of members of the society, and the value of any benefits due by the society to persons other than members, shall be ascertained in such manner as the court may direct.
- (6) If, where the court has ordered that the whole business of the society be wound up, the Authority is satisfied that the winding-up of such a society has been completed, he shall cancel the registration of the society and thereupon the society shall be deemed to be dissolved.

36. Cancellation or suspension of registration

- (1) The Authority shall cancel the registration of a society –
 - (a) on proof to his satisfaction that the society has ceased to exist; or
 - (b) if the Authority and the society are agreed that the society was registered by mistake in circumstances not amounting to fraud:

Provided that in the circumstances stated in paragraph (b), the Authority may suspend the registration in lieu of cancelling it, if he is satisfied that by so doing the society will be furnished with an opportunity of rectifying the said mistake in a manner consistent with the provisions of this Act, and if the society does rectify such mistake to the satisfaction of the Authority, the latter shall thereupon reinstate the said registration, as from the date of suspension but if the mistake is not rectified within a period specified by the Authority he shall cancel the registration of the society.

- (2) The Authority may apply to the court for the cancellation or suspension of the registration of a society if –
 - (a) the society has wilfully and after notice from the Authority violated any provision of this Act; or
 - (b) the Authority is of opinion, as the result of an investigation under section thirty-two, that the registration should be cancelled or suspended; or
(Section 36(2)(b) amended by section 2(a) of Act 60 of 1963)
 - (c) the society has failed to comply with any requirement of the Authority indicated to it in terms of sub-section (5) of section five or with any such requirement as modified in terms of paragraph (b) of sub-section (5)*bis* of that section within any period determined in terms of the said sub-section (5)*bis*.
(Section 36(2)(c) added by section 2(b) of Act 60 of 1963)

- (3) The court may 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 Authority in or in connection with the application shall be paid by the society and shall be a first charge upon the assets of such society.

37. Voluntary or automatic dissolution of society

- (1) If the rules of a registered society provide for the dissolution or termination of such society upon the expiry of a period or upon the occurrence of an event, or upon a resolution by the members of the society that such society shall be terminated, then upon the expiry of such period, or the occurrence of such event, or the passing of such resolution, such society shall, subject to the provisions of this section, be liquidated in the manner provided by such rules, and the assets of the society shall, subject to the provisions of this section, be distributed in the manner provided by the said rules.
- (2) As soon as such period has expired or such event has occurred or such resolution has been passed a person approved by the Authority shall be appointed as liquidator in the manner directed by the rules, or, if the rules do not contain directions as to such appointment, by the person managing the business of the society, and the liquidation shall be deemed to commence as from the date of such approval.
- (3) During such liquidation the provisions of this Act shall continue to apply to such society as if the liquidator were the person managing the business of the society.
- (4) The liquidator shall as soon as may be deposit with the Authority a preliminary account and a preliminary balance sheet signed and certified by him as correct, showing the assets and liabilities of the society at the commencement of the liquidation and the manner in which it is proposed to realize the assets and to discharge the liabilities, including any liabilities and contingent liabilities to or in respect of members.
- (5) The Authority may, in his discretion, direct the liquidator to furnish a report, drawn up by an independent valuator or other competent person nominated by the Authority, upon the preliminary account and preliminary balance sheet.
- (6) The preliminary account, preliminary balance sheet and report (if any) referred to in sub-section (5), shall lie open at the office of the Authority, and at the registered office of such society, and where the registered office of the society is in any district other than the district wherein the office of the Authority is situate, at the office of the magistrate of the district in which the registered office of the society is situate, for inspection by interested persons for a period of thirty days.
- (7) The Authority shall, at the cost of such society, cause to be published in the *Gazette* or in a newspaper circulating in the district in which the registered office of such society is situate, or in both the *Gazette* and such newspaper, a notice stating the period during which and the places at which the preliminary account, preliminary balance sheet and report (if any) shall lie open for inspection as aforesaid, and such notice shall call upon all interested persons who have any objection to the said preliminary account, preliminary balance sheet and report (if any) to lodge their objections in writing with the Authority within

a period stated in the notice, not being less than fourteen days as from the last day on which the aforesaid documents lie open for inspection.

- (8) If no objections are lodged with the Authority in terms of sub-section (7), he shall direct the liquidator to complete the liquidation.
- (9) If objections are lodged with the Authority in terms of sub-section (7), the Authority may, after considering the said objections, direct the liquidator to amend the preliminary account and preliminary balance sheet, or give such other directions relating to the liquidation as he thinks fit, provided such directions are not inconsistent with the rules of the society, and any such direction shall be binding upon the liquidator.
- (10) The liquidator shall, within fourteen days of the receipt by him of any direction of the Authority in terms of sub-section (9), post a copy thereof to every member, shareholder and creditor of the society, and the liquidator or any person aggrieved by any such direction of the Authority may apply by motion to the court within twenty-eight days after such direction has been communicated to the liquidator, for an order to set aside the Authority's decision, and the court may confirm the said decision, or make such order as it thinks fit.
- (11) If the Authority is satisfied that his directions, in so far as they have not been varied or set aside by the court, have been given effect to, he shall direct the liquidator to complete the liquidation.
- (12) The liquidator shall, within thirty days after the completion of the liquidation, lodge with the Authority a final account and a final balance sheet, signed and certified by him as correct, showing the assets and liabilities of the society at the commencement of the liquidation and the manner in which the assets have been realized and the liabilities, including any liabilities and contingent liabilities to or in respect of members, have been discharged.
- (13) The provisions of the Companies Act, 1973 (Act No. 61 of 1973), in so far as the said provisions relate to a voluntary winding-up in terms of the said Act, and in so far as they are applicable and not inconsistent with any provision of this Act, shall apply *mutatis mutandis* to the dissolution of a society in terms of this section.

(Section 37(13) substituted by section 24 of Act 103 of 1979)

- (14) All claims against the society shall be proved to the satisfaction of the liquidator, subject to a right of appeal to the court, and the liquidator may require any claim to be made on affidavit.
- (15) If the Authority is satisfied that the said account and balance sheet are correct and that the liquidation has been completed, he shall cancel the registration of the society and thereupon such society shall be deemed to be dissolved.

38. Special provisions relating to liquidation of societies

(1) In applying the provisions of the Companies Act, 1973 (Act No. 61 of 1973), in terms of section thirty-five or thirty-seven.

(a) the members of a society shall be treated as deferred creditors, and their claims against the society in their capacity as members shall not be settled until the debts of ordinary creditors have been paid;

(b)

(Section 38(1)(b) deleted by section 35 of Act 104 of 1993)

(Section 38(1) amended by section 25 of Act 103 of 1979)

(2) If a society has a share capital, the liability of a shareholder in the event of liquidation under the aforementioned sections shall either be limited to the amount (if any) unpaid on any share held by him, or shall be unlimited according as is provided by the rules of the society.

38A. Application for approval for conversion of society into company

(1) A registered society intending to apply in terms of section 4 of the Insurance Act, 1943 (Act No. 27 of 1943), to the Registrar of Insurance to carry on a particular class of insurance business within the meaning of that Act, may apply to the Registrar of Friendly Societies for his approval for its conversion into a company referred to in section 4(3)*bis*(b)(i) of that Act, so as to be able to make such application to the Registrar of Insurance.

(2) An application to the Registrar of Friendly Societies referred to in subsection (1), shall be accompanied by –

(a) a proposed memorandum and articles of association for the public company to be established by the conversion;

(b) an exposition of the basis and conditions on which it is contemplated to offer or grant shares in that company to persons who are members of the Society, and other persons;

(c) an exposition of the manner in which the first directors of that company are to be designated.

(Section 38A added by section 3 of Act 44 of 1988)

38B. Incorporation as company

(1) As soon as the Registrar of Friendly Societies has granted approval for the conversion referred to in section 38A(1), the Society may apply to be incorporated as a company under Chapter IV of the Companies Act, 1973 (Act No. 61 of 1973), after which the Registrar of Companies may register the

said memorandum and articles of association in accordance with the provisions of section 63 of that Act.

- (2) The society is by such registration converted into such company.
- (3) The Registrar of Friendly Societies shall give notice in the *Gazette* of such conversion.

(Section 38B added by section 3 of Act 44 of 1988)

38C. Effects of conversion of friendly society into company

- (1) At the registration of a company converted from a friendly society –
 - (a) all assets, liabilities, rights and obligations of the society shall vest in the company; and
 - (b) the provisions of the Friendly Societies Act, 1956 (Act No. 25 of 1956), shall cease to apply to the society.
- (2) Any legal proceedings instituted by or against the society prior to the said registration, may be continued by or against the company, and anything else done by or in respect of the society shall be deemed to have been done by or in respect of the company.

(Section 38C added by section 3 of Act 44 of 1988)

CHAPTER VI.

SPECIAL PROVISIONS APPLICABLE TO AFFILIATED FRIENDLY SOCIETIES

39. Definitions

- (1) In this Chapter, unless the context indicates otherwise –

"affiliated society" means a society which is under the control of a central society and is bound to contribute to a fund administered by such central society;

"central society" means a society which controls two or more affiliated societies liable for the payment of contributions to its funds.

- (2) The societies contributing to the funds of a central society shall be deemed to be its members, and a central society shall not admit as members any persons other than its affiliated societies.

40. Special provisions applicable to affiliated societies and central societies

- (1) Notwithstanding anything contained in section five or six –

- (a) an application for registration under this Act of an affiliated society may be made by the central society of which such affiliated society is a member, and in such event the information to be supplied by the central society shall be the same as if such application had been made by the person carrying on the business of the affiliated society; and
 - (b) an affiliated society may be registered under this Act by a name identical with or similar to the name under which the central society of which it is a member is registered, but such affiliated society shall add to the name of the central society some distinguishing name, letter or number which will differentiate it from other affiliated societies of the said central society.
- (2) The provisions of section thirteen shall *mutatis mutandis* apply to a central society except that the following paragraphs shall apply instead of paragraphs (b), (c), (d), (e), (f) and (r), namely –
- (b) the objects of the central society and of its affiliated societies, the composition and powers of the central society and of its affiliated societies respectively and the manner of settling disputes between the central society and any of its affiliated societies;
 - (c) the manner in which the funds of the central society are to be raised and the purposes for which they are to be applied;
 - (d) the conditions (if any) under which, subject to the provisions of this Act, an affiliated society may secede or be expelled from the central society.
- (3) No rule or part of a rule of an affiliated society shall be valid if it conflicts with the rules, or any part of the rules of the central society of which the affiliated society is a member, and any person who is under this Act entitled to receive a copy of the rules of an affiliated society shall also be entitled to receive a copy of the rules of the central society of which the affiliated society is a member.
- (4) The Authority may, instead of investigating or appointing an inspector to investigate the affairs or any part of the affairs of an affiliated society in terms of section thirty-two, give the central society of which the affiliated society is a member the option of itself making a similar investigation, and the central society shall, if it exercises such option, report to the Authority the results of its investigation, and thereupon the Authority may make an investigation or cause an investigation to be made in terms of that section, if he considers it necessary.

41. Secessions and expulsions of affiliated societies

- (1) A proposed secession or expulsion of an affiliated society from a central society shall be of no force or effect unless –

- (a) the scheme for the proposed secession or expulsion, including full details of the financial arrangements which it is proposed to make between the central society and the affiliated society, has been submitted to the Authority;
 - (b) the Authority has been furnished with such additional particulars or with such certificate or special report by a valuator as he may deem necessary for the purposes of this sub-section;
 - (c) the Authority is satisfied that such secession or expulsion would not render the said central society or the said affiliated society unable to meet the requirements of this Act or to remain in a sound financial condition or, in the case of a central society or an affiliated society which is not in such a condition, to attain such a condition within a reasonable period of time;
 - (d) the Authority has been furnished with such evidence as he may require that the provisions of the said scheme and the provisions, in so far as they are applicable, of the rules of the central society and of the affiliated society have been carried out; and
 - (e) the Authority has forwarded a certificate to the principal officer of the central society and the principal officer of the affiliated society concerned, to the effect that all the requirements of this sub-section have been satisfied.
- (2) When an affiliated society has seceded or been expelled from a central society, the Authority may allow such affiliated society a reasonable period, not exceeding three months from the date of such secession or expulsion, in which to effect such change of name or such amendments to its rules as may be necessitated by such secession or expulsion, and during such period the affiliated society shall not be deemed, solely by reason of its failure so to change its name or to amend its rules, to have contravened any provision of this Act.
- (3) The provisions of sub-section (2) shall *mutatis mutandis* apply to the central society in so far as it is affected by the secession or expulsion of the affiliated society.
- (4) The provisions of sub-section (3) of section six shall *mutatis mutandis* apply in connection with any change of name necessitated by the secession or expulsion of an affiliated society.

CHAPTER VII.

GENERAL AND MISCELLANEOUS.

42. Carrying on business of unregistered friendly society and use of designation "friendly society"

- (1) No person shall –

- (a) carry on the business of a friendly society which is in existence at the commencement of this Act, for a period of more than six months after such commencement unless application has been duly made under section five for the registration of that society; or
- (b) carry on the business of a friendly society established after such commencement, unless that society has been duly registered under section five; or
- (c) carry on the business of a friendly society for a period of more than twelve months after the date on which the person who applied for registration of the society is advised by the Authority that the application for registration has been refused; or
- (d) after the expiration of a period of twelve months from the commencement of this Act, apply to his business a name which includes the words "friendly society" or any other name which is calculated to indicate that he carries on the business of a friendly society, unless such business is registered as a friendly society under this Act, except with the consent of the Authority.

(Section 42 renumbered to 42(1) by section 16 of Act 80 of 1959)

- (2) If at the commencement of this Act any person applies to his business any such name as is referred to in paragraph (d) of sub-section (1), and he changes such name and produces any deed or document bearing such name and registered in any deeds registry, to the officer in charge of that registry, and satisfies the said officer that such name was changed by virtue of the provisions of the said paragraph (d), the said officer shall, without any charge, substitute the new name for the previous name on such deed or document and in all the relevant registers in the said registry.

(Section 42(2) added by section 16 of Act 80 of 1959)

43. Authority may require unregistered societies to furnish information

- (1) The Authority may by notice in writing require any person whom he has reason to suspect is carrying on the business of a friendly society which is not registered under this Act, to transmit to him within a period stated in such notice, a copy of the rules, if any, under which such person is operating, together with a copy of the last annual accounts recorded by such person, and such further information as the Authority may require.
- (2) If such person fails to comply with the requirements of the Authority to his satisfaction, the Authority may, with the consent of the Minister, investigate the affairs or any part of the affairs of the said person, or appoint an inspector to hold such an investigation and to report the result of his investigation to the Authority, and the provisions of section thirty-two shall *mutatis mutandis* apply to every such investigation, and the Authority shall be entitled to recover from the person concerned all expenses necessarily incurred in connection with the investigation, unless such investigation shows that such person is not carrying on the business of a friendly society.

(Section 43(2) amended by section 11(2) of Act 68 of 1962)

- (3) If it appears from enquiries made by the Authority in terms of sub-section (1) or of any investigation made in terms of sub-section (2), that the person concerned is carrying on the business of a friendly society, the Authority shall inform the said person accordingly and thereafter the person concerned shall be regarded as carrying on the business of a friendly society and the provisions of this Act shall apply to the said society.

(Section 43(3) amended by section 3 of Act 60 of 1963)

43A. Authority may impose limit on expenses of management and prescribe basis for calculation thereof

The Authority may from time to time impose a limit on the expenses of management which a registered society may incur during any financial year, and may from time to time prescribe the basis on which expenses of management shall during any financial year be calculated for that purpose.

(Section 43A inserted by section 30 of Act 101 of 1976)

44.

(Section 44 repealed by section 290 read with Schedule 4 of Act 9 of 2017)

45.

(Section 45 substituted by section 36 of Act 104 of 1993)

(Section 45 repealed by section 290 read with Schedule 4 of Act 9 of 2017)

46. Right to obtain copies of or to inspect certain documents

- (1) Every registered society shall deliver to any member on demand by such member, and on payment of such sum as may be determined by the rules of the society, a copy of any of the following documents, that is to say –

- (a) the rules of the society;
- (b) the last revenue account prepared in terms of paragraph (a) of sub-section (1) of section twenty-two, together with the last balance sheet prepared in terms of paragraph (b) of that sub-section.

- (2) Any member shall be entitled to inspect without charge at the registered office of a registered society, a copy of any of the following documents and make extracts therefrom, that is to say –

- (a) the documents referred to in sub-section (1);
- (b) the last valuation (if any) by a valuator prepared in terms of section twenty-three;
- (c) the last statement of liabilities prepared in terms of section twenty-four;

- (d) the last statement of assets prepared in terms of section twenty-five.
- (3) Every society exempted under section 3(1)(b) or (2) shall deliver to any member on demand by such member, and on payment of such sum as may be determined by the rules of the society, a copy of any of the following documents, that is to say –
 - (a) the rules of the society;
 - (b) the last revenue account or balance sheet prepared as prescribed by regulation; and
 - (c) any other information or document as prescribed by regulation.

(Section 46(3) added by section 4 of Act 44 of 1988)

47. Regulations

- (1) The Minister may make regulations, not inconsistent with the provisions of this Act –

(Words in section 47 preceding paragraph (a) substituted by section 26 of Act 103 of 1979)

 - (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;
 - (bA)

(Section 47(bA) inserted by section 21 of Act 86 of 1984)

(Section 47(bA) substituted by section 4(a) of Act 7 of 1993)

(Section 47(1)(bA) deleted by section 290 (Schedule 4) of Act 9 of 2017, with effect from 1 April 2023)
 - (bB) limiting, notwithstanding the provisions of section 20(1), the amount which and the extent to which a society may invest in particular assets or in particular kinds or categories of assets, prescribing the basis on which the limit shall be determined and defining the kinds or categories of assets to which the limit applies;

(Section 47(bB) inserted by section 11 of Act 53 of 1989)
 - (bC) authorizing the Authority to grant unconditional or conditional exemption, whether unlimited or limited in duration, from provisions of the regulations contemplated in paragraph (bB);

(Section 47(bB) inserted by section 11 of Act 53 of 1989)
 - (c) generally, as to all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(Section 47(bA) substituted by section 4(a) of Act 7 of 1993)

(Section 47 renumbered to 47(1) by section 4(b) of Act 7 of 1993 with effect from 1 June 1993 and again by section 5 of Act 44 of 1988 with effect from 1 July 1993)

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

(Section 47(2) added by section 4(b) of Act 7 of 1993 with effect from 1 June 1993)

- (2) A regulation made under this section may in respect of any contravention thereof or failure to comply therewith prescribe a penalty not exceeding a fine of R1 000 or imprisonment for a period of six months.

(Second Section 47(2) added by section 5 of Act 44 of 1988 with effect from 1 July 1993)

48. Penalties

- (1) Any person who –

- (a) contravenes or fails to comply with the provisions of sub-section (1) of section forty-six; or
- (b) fails to make a return or transmit or deposit a scheme, report, account, statement or other document, when required to do so in terms of this Act; or
- (c) invests assets otherwise than in accordance with the provisions of this Act or contravenes any condition on which he has been exempted from the provisions of section twenty; or
- (d) contravenes the provisions of section nineteen; or
- (e) fails or refuses to furnish information, or produce documents or accounts, or render other assistance to the Authority when called upon to do so in terms of this Act; or
- (f) after the expiration of a period of six months from the commencement of this Act, induces or attempts to induce any person to become a member of, or to contribute to a society not registered under this Act; or
- (g) contravenes the provisions of section 12 or 42, or fails to comply with a directive in terms of section 43A or exceeds a limit imposed in terms of that section,

(Section 48(1)(g) substituted by section 31(a) of Act 101 of 1976)

shall be guilty of an offence, and liable on conviction –

- (i) in the case of an offence referred to in paragraph (a), to a fine not exceeding R50;

(Section 48(1)(i) substituted by section 6(a) of Act 44 of 1988)

- (ii) in the case of an offence referred to in paragraph (b) or (c), to a fine not exceeding R100;

(Section 48(1)(ii) substituted by section 6(a) of Act 44 of 1988)

- (iii) in the case of an offence referred to in paragraph (d), (e) or (f), to a fine not exceeding R200; and

(Section 48(1)(iii) substituted by section 6(a) of Act 44 of 1988)

- (iv) in the case of an offence referred to in paragraph (g), to a fine not exceeding R2 000, or, if the offender is an individual, to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment.

(Section 48(1)(iv) substituted by section 6(a) of Act 44 of 1988)

- (2) Without derogation from the provisions of subsection (1), a person who has failed to make a return or to maintain, transmit or deposit a scheme, report, account, statement or other document within the time prescribed by or under this Act, may thereafter furnish such return or transmit or deposit such scheme, report, account, statement or other document subject to the payment of a penalty prescribed by regulation.

(Section 48(2) substituted by section 31(b) of Act 101 of 1976)

(Section 48(2) substituted by section 6(b) of Act 44 of 1988)

- (3) Any penalty prescribed under sub-section (2) may vary according to the period which has elapsed since the last day on which the return, scheme, report, account, statement or other document in question was required to be made, transmitted or deposited.

- (4) For the purpose of subsection (2) the Authority shall make a decision as to the time within which a return, scheme, report, account, statement or other document referred to in that subsection was required to be furnished, transmitted or deposited.

(Section 48(4) substituted by section 10 of Act 88 of 1996)

- (5) Any penalty payable under sub-section (2) shall be a debt due to the Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and may be recovered by the Authority by action in any competent court.

(Section 48(5) substituted by section 5 of Act 7 of 1993)

48A Protection of moneys due on retirement of member

- (1) Moneys due by way of benefit in terms of the rules of a friendly society on the retirement of a member who was a member of the society for a period of at least three years, or any other asset into which the member converted such money or part thereof, shall not, during a period of five years as from the date upon which the money became due, be liable to be attached in execution of a judgment or order of the court, at the instance of his creditors, and shall not form part of his insolvent estate.

- (2) Where the benefit referred to in subsection (1), was pledged, the provisions of that subsection shall apply only to so much of the value of that benefit as exceeds the amount of the liability secured by the pledge.

(Section 48A inserted by section 15 of Act 65 of 1968)

48B. Protection of moneys due on death of member

Moneys due by way of benefit in terms of the rules of a friendly society on the death of a member who was a member of the society for a period of at least three years, and any money or other asset protected under section 48A shall, to the extent of such protection, not be available on the death of the member for the payment of his creditors as against the claim of –

- (a) his surviving spouse, or his parent, child or stepchild, under his will; or
- (b) his surviving spouse or his parent or child, by right of succession *ab intestato*.

(Section 48B inserted by section 15 of Act 65 of 1968)

49. Exemption from Act 57 of 1988

The Trust Property Control Act, 1988 (Act No. 57 of 1988), shall not apply to a society registered under this Act.

(Section 49 substituted by section 37 of Act 104 of 1993)

50.

(Section 50 repealed by section 73 read with Schedule 4 of Act 52 of 1998)

51. Repeal of laws

So much of the Friendly Societies Act, 1892 (Act No. 5 of 1892), as has not previously been repealed, and the Friendly Societies Amendment Act, 1895 (Act No. 26 of 1895), of the Cape of Good Hope, and Law No. 20 of 1862 and Law No.7 of 1897 of Natal, are hereby repealed.

52.

(Section 52 repealed by section 1 of Act 49 of 1996)

53. Short title and commencement

This Act shall be called the Friendly Societies Act, 1956, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.