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THE PRESIDENCY

No. 217 22 February 2008

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

No. 40 of 2007: Co-operative Banks Act, 2007.

OFISI KAMONGAMELI

Ino. 217 22 February 2008

Esi sisaziso sokuba uMongameli uwamkele lo mthetho ulandelayo nopapashwa ukwazisa uluntu jikelele:—

Ino. 40 ka 2007: uMthetho weeBhanki zeNtsebenziswano ka-2007.

(English text signed by the President.)
(Assented to 18 February 2008.)

ACT

To promote and advance the social and economic welfare of all South Africans by enhancing access to banking services under sustainable conditions; to promote the development of sustainable and responsible co-operative banks; to establish an appropriate regulatory framework and regulatory institutions for co-operative banks that protect members of co-operative banks; to provide for the registration of deposit-taking financial services co-operatives as co-operative banks; to provide for the regulation and supervision of co-operative banks; and to provide for the establishment of co-operative banks supervisors and a development agency for co-operative banks; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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(English text signed by the President.)
(Assented to 18 February 2008.)

UMTHETHO

Ukuxhasa nokuqhubela phambili intlalo noqoqosho lwabo bonke abemi baseMzantsi Afrika ngokukhulisa amathuba okufikelela kwiinkonzo zeebhanki ngaphantsi kweemeko ezizinzileyo; ukuxhasa ukukhula okuzinzileyo nokuthe-mbekileyo kweebhanki zentsebenziswano; ukumisa ubume bolawulo olufanele-kileyo namaziko olawulo eebhanki zentsebenziswano olukhusela amalungu ezibhanki; ukulungiselela ubhaliso njengeebhanki zentsebenziswano amashishini amanyeneyo eenkonzo ezamkela imali ebekwayo; ukulungiselela ulawulo nokonganyelwa kweebhanki zentsebenziswano; ukulungiselela ukumiselwa kwabongameli nee-arhente zenkqubela zeebhanki zentsebenziswano; nokulu-ngiselela neminye imicimbi enxulumene noku.

MAWUWISWE NJENGOMTHETHO yiPalamente yaseMzantsi Afrika, ngolu hlobo lulandelayo:—

UKUMISWA KWAMACANDELO

Amacandelo

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CHAPTER I

DEFINITIONS, PURPOSE AND APPLICATION OF ACT

Definitions

1. (1) In this Act, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Co-operatives Act has the meaning assigned to it in that Act, and— 5

“**Agency**” means the Development Agency for Co-operative Banks established under section 54;

“**appeal board**” means the appeal board established under section 76;

“**banking institution**” means a bank registered under the Banks Act, a mutual bank registered under the Mutual Banks Act, 1993 (Act No. 124 of 1993), a co-operative bank registered under this Act and any other similar institution registered under subsequent banking legislation; 10

“**banking services**” means the services that may be provided by a co-operative bank in accordance with section 14; 15

“**Banks Act**” means the Banks Act, 1990 (Act No. 94 of 1990);

“**business plan**” means, in respect of a specified time period, a document of a co-operative bank that sets out—

- (a) its common economic and social objectives and aspirations together with a description of the short and long term strategies for achieving those needs; and 20
- (b) its market strategy, the scope and nature of the business (including the types of products offered), the expected volume of deposits and the details of lending and investment objectives; 20

“**managing director**” means a person under the direct authority of the board of directors of the co-operative bank responsible for the day-to-day operations of the co-operative bank; 25

“**co-operative**” means a co-operative as defined in the Co-operatives Act;

“**co-operative bank**” means a co-operative registered as a co-operative bank in terms of this Act whose members—

- (a) are of similar occupation or profession or who are employed by a common employer or who are employed within the same business district; or 30
- (b) have common membership in an association or organisation, including a business, religious, social, co-operative, labour or educational group; or
- (c) reside within the same defined community or geographical area; 30

“**Co-operatives Act**” means the Co-operatives Act, 2005 (Act No. 14 of 2005); 35

“**deposit**” has the meaning assigned to it in section 1(1) of the Banks Act;

“**executive officer**” means any employee of a co-operative bank that reports directly to the managing director;

“**financial statements**” means the annual financial statements referred to in sections 47 and 48 of the Co-operatives Act; 40

“**fit and proper person**” means a person contemplated in section 9;

“**Fund**” means the Co-operative Banks Deposit Insurance Fund established under section 26;

“**Minister**” means the Minister of Finance;

“**National Treasury**” means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); 45

“**person**” includes any partnership or group of natural persons;

“**prescribe**”, in relation to—

- (a) the Minister, means prescribe by regulation in the *Gazette*;
- (b) a supervisor, means prescribe by rule in the *Gazette*; 50
- (c) the Agency, means prescribe by rule in the *Gazette*; and

“**primary savings co-operative bank**” means a co-operative registered as a primary co-operative under the Co-operatives Act and as a primary savings co-operative bank under this Act that may provide the banking services and perform the functions referred to in sections 14 and 15; 55

“**primary savings and loans co-operative bank**” means a co-operative registered as a primary co-operative under the Co-operatives Act and as a primary savings and loans co-operative bank under this Act that may provide the banking services and perform the functions referred to in sections 14 and 15 of this Act;

ULUDWE LWENKQUBO

ISAHLUKO I

INKCAZELO, INJONGO NOKUSETYENZISWA KOMTHETHO

Inkcazelo

1. (1) Kulo mthetho, ngaphandle kokuba umxholo ubonisa ngenye indlela, igama okanye intetho enikwe intsingiselo ethile kuMthetho weNtsebenziswano emanyeneyo linaloo ntsingiselo nakulo Mthetho, kwaye—
- “**I-Arhente**” ithetha i-Arhente yeNkqubela yeeBhanki zeNtsebenziswano ezisekwe phantsi kwecandelo 54;
- “**ibhodi yezibheno**” ithetha ibhodi yezibheno esekwe phantsi kwecandelo 76;
- “**iziko lebhanki**” lithetha ibhanki ebhaliswe phantsi koMthetho weBhanki, ibhanki ehlangeneyo ebhaliswe phantsi koMthetho weBhanki ezihlangeneyo ka-1993 (uMthetho weNombolo 124 ka-1993), ibhanki yentsebenziswano ebhaliswe phantsi kwalo Mthetho kunye nalo naluphi na iziko elifanayo elibhaliswe phantsi kwalo mthetho wakaloku nje;
- “**iinkonzo zebhanki**” zithetha iinkonzo ezinganikwa yibhanki yentsebenziswano ngokwecandelo 14;
- “**UMthetho weBhanki**” uthetha uMthetho weBhanki ka-1990 (uMthetho oNombolo. 94 ka-1990);
- “**isicwangciso soshishino**” sithetha, ngokubhekiselele kwixesha elinikiweyo, uxwebhu lwebhanki yentsebenziswano elichaza—
- (a) iinjongo zayo zoqoqosho nezentlalo neminqweno ehamba neenkcazelo zobuchule bexesha elide nelifutshane lokuphumeza ezo mfuno; okanye
- (b) ubuchule borhwebo, ubungakanani nobunjani boshishino (kuquka iindidi zemveliso ezifumanekayo), ubungakanani bemali ebekwayo neenkukacha zokubolekisa neenjongo zotyalo mali;
- “**umlawuli ophetheyo**” uthetha umntu ophantsi kolawulo ngqo lwebhodi yabalawuli bebhanki yentsebenziswano ojongene nokusebenza kwemihla ngemihla kwebhanki yentsebenziswano;
- “**indibaniselwano**” ibhekiswa kwindibaniselwano njengoko ichazwe kuMthetho weNtsebenziswano;
- “**ibhanki yentsebenziswano**” ibhekisa kwindibaniselwano ebhaliswe njengebhanki yentsebenziswano phantsi kwalo Mthetho enamalungu—
- (a) enza umsebenzi ofanayo okanye abaqeshwe ngumqeshi omnye okanye abaqeshwe kwisithili soshishino esinye; okanye
- (b) anobulungu obufanayo embuthweni okanye kwiqumrhu elinye, oku kuquka, ishishini, iqela lenkolo, ngokwentlalo, ishishini elimanyeneyo, ngokomsebenzi okanye imfundo; okanye
- (c) abangabahlali kwindawo okanye kwingingqi enye;
- “**UMthetho weNtsebenziswano**” uthetha uMthetho weNtsebenziswano ka-2005 (uMthetho oNombolo 14 ka-2005);
- “**imali ebekiweyo**” inentsingiselo enikwe kwicandelo 1(1) loMthetho weBhanki;
- “**igosa lesigqeba**” lithetha nawuphina umqeshwa webhanki yentsebenziswano onika ingxelo nqo kumqondisi olawulayo;
- “**iingxelo zemali**” zithetha iingxelo zemali zonyaka ekubhekiswe kuzo kumacandelo 47 nelama-48 oMthetho weNtsebenziswano;
- “**umntu ofanelekileyo nolungileyo**” kuthetha umntu ochazwe kwicandelo 9;
- “**ingxowa-mali**” ithetha iNngxowa-mali yokhuselo lwemali ebekiweyo yeeBhanki zeNtsebenziswano ngaphantsi kwecandelo 26;
- “**uMphathiswa**” uthetha uMphathiswa wezeziMali;
- “**uNongxowa kaZwelonke**” uthetha uNongxowa kaZwelonke osekwe phantsi kwecandelo 5 loMthetho woLawulo lweMali yoLuntu ka-1999 (uMthetho onguNombolo 1 ka-1999);
- “**umntu**” uquka intsebenziswano okanye iqela labantu;
- “**ukumisela**”, ngokubhekisele—
- (a) kuMphathiswa, kuthetha ukumisela ngolawulo kwiPhephandaba loMbuso;
- (b) umphathi, uthetha ukumisela ngomthetho kwiPhepha-ndaba loMbuso;
- (c) i-Arhente ithetha ukumisela ngomthetho kwiPhephandaba loMbuso; kuze

- “**proposed co-operative bank**” means a deposit-taking financial services co-operative that applies for registration as a co-operative bank under section 6;
- “**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- “**registrar**” means the Registrar of Co-operatives defined in section 1 of the Co-operatives Act; 5
- “**regulatory authority**” means an entity established in terms of national legislation responsible for regulating activities or an industry, or sector of an industry;
- “**representative body**” means a secondary co-operative, irrespective of whether it is also a secondary co-operative bank, or other association of co-operative banks registered under section 33 that represents more than one co-operative bank in interactions with organs of state, the private sector and stakeholders; 10
- “**Reserve Bank**” means the South African Reserve Bank referred to in the South African Reserve Bank Act, 1989 (Act No. 90 of 1989); 15
- “**rule**”, in relation to—
- (a) the supervisor, means a rule prescribed by the supervisor under section 46; and
- (b) the Agency, means a rule prescribed by the supervisor under section 57; 20
- “**secondary co-operative bank**” means a co-operative registered as a secondary co-operative under the Co-operatives Act and as a secondary co-operative bank under this Act that may provide the banking services and perform the functions referred to in sections 14 and 15 of this Act;
- “**supervisor**” means the relevant supervisor of co-operative banks appointed in terms of section 41; 25
- “**support organisation**” means a representative body accredited under section 38 that support more than one co-operative bank as contemplated in section 37;
- “**tertiary co-operative bank**” means a co-operative registered as a secondary or tertiary co-operative under the Co-operatives Act and as a tertiary co-operative bank under this Act that may provide the banking services and perform the functions referred to in sections 14 and 15 of this Act; 30
- “**this Act**” includes any regulation or rule made under this Act.

Purpose of Act

2. The purpose of this Act is to—
- (a) promote and advance the social and economic welfare of all South Africans by enhancing access to banking services under sustainable conditions; 35
- (b) promote the development of sustainable and responsible co-operative banks; and
- (c) establish an appropriate regulatory framework and regulatory institutions for co-operative banks that protect members of co-operative banks, 40
- by providing for—
- (i) the registration of deposit-taking financial services co-operatives as co-operative banks;

“**ibhanki yentsebenziswano yogcino-mali lokuqala**” ithetha indibaniselwano ebhaliswe njengeshishini elimanyeneyo phantsi koMthetho weNtsebenziswano nanjengebhanki yentsebenziswano yogcino-mali lokuqala phantsi kwalo mthetho enokunika iinkonzo zoshishino nemisebenzi edweliswe kwicandelo le-14 nele-15; 5

“**ibhanki yentsebenziswano yogcino-mali lokuqala nobolekiso**” ithetha indibaniselwano ebhaliswe njengeshishini eliqalayo phantsi koMthetho weNtsebenziswano kwaye njengebhanki yentsebenziswano yokugcina nokubolekisa phantsi kwalo mthetho inganika iinkonzo zoshishino ize yenze nemisebenzi edweliswe kwicandelo le-14 nele 15 kulo Mthetho;

“**Ibhanki yentsebenziswano ecetywayo**” ithetha ishishini elimanyeneyo elinika iinkonzo zokuthabatha imali ebekwayo efaka isicelo sokubhalisa njengebhanki yentsebenziswano ngaphantsi kwecandelo 6; 10

“**uMthetho woLawulo lweMali yoLuntu**” ithetha uMthetho woLawulo lweMali yoLuntu ka-1999 (Public Finance Management Act) (uMthetho onguNombolo 1 ka-1999); 15

“**umbhalisi**” uthetha umbhalisi wamashishini amanyeneyo echazwe kwicandelo 1 loMthetho wamaShishini amanyeneyo;

“**igunya lolawulo**” lithetha ubukho obumiselwa ngumthetho wesizwe obujongana nokulawula umsebenzi okanye ishishini okanye icandelo leshishini;

“**ibhodi yomelo**” ithetha ishishini elimanyeneyo elikudidi lwesibini nokuba yibhanki yentsebenziswano okanye omnye umbutho weebhanki zentsebenziswano ezibhaliswe phantsi kwecandelo 33 elimele iibhanki zentsebenziswano ezingaphezu kwebhanki enye ekusebenzeni namalungu ombuso, amacandelo abucala nabanye ababandanyekayo; 20

“**iBhanki enguVimba**” ithetha iBhanki enguVimba yaseMzantsi Afrika ekubhekiswa kuyo nguMthetho weBhanki enguVimba yaseMzantsi Afrika ka-1989 (uMthetho onguNombolo 90 ka-1989); 25

“**umthetho**”, ngokubhekisele—

(a) kumphathi, uthetha umthetho omiselwe ngumphathi phantsi kwecandelo 46; kuze 30

(b) i-Arhente, ithetha umthetho omiselwe ngumphathi phantsi kwecandelo 57;

“**ibhanki yentsebenziswano yodidi lwesibini**” ithetha ishishini elimanyeneyo elibhaliswe njengeshishini elimanyeneyo elikudidi lwesibini ngaphantsi koMthetho wamaShishi amanyeneyo nanjengebhanki yentsebenziswano ngaphantsi kwalo mthetho evumeleke ukunika iinkonzo zoshishino yenze nemisebenzi kwicandelo le-14 nele- 15 kulo Mthetho; 35

“**umphathi**” uthetha umphathi weebhanki zentsebenziswano omiselwe phantsi kwecandelo 41;

“**iqumrhu elixhasayo**” lithetha ibhodi yomelo eqinisekisiweyo phantsi kwecandelo 38 exhasa ngaphezu kwebhanki yentsebenziswano enye ngokokucetywa phantsi kwecandelo 37; 40

“**ibhanki yentsebenziswano ekudidi lwesithathu**” ithetha ishishini elimanyeneyo elibhaliswe njengeshishini elimanyeneyo elikudidi lwesibini okanye lwesithathu phantsi koMthetho weNtsebenziswano nanjengebhanki yentsebenziswano ekudidi lwesithathu phantsi kwalo Mthetho enokunika iinkonzo zoshishino yenze nemisebenzi enikwe kumacandelo 14 no-15 alo Mthetho; 45

“**lo Mthetho**” uquka naluphi ulawulo okanye umthetho owenziwe phantsi kwalo Mthetho.

Injongo yoMthetho

2. Injongo yalo Mthetho— 50

- (a) kukuxhasa nokuqhubela phambili intlalo noqoqosho lwabemi baseMzantsi Afrika ngokukhulisa amathuba abo okufikelela kwiinkonzo zebhanki ngaphantsi kweemeko ezizinzileyo;
- (b) kukuxhasa ukukhula okuzinzileyo nokuthembekileyo kwebhanki zentsebenziswano; 55
- (c) kukumisa ubume bolawulo olufanelekileyo namaziko olawulo eebhanki zentsebenziswano olukhusela amalungu ezi bhanki,

ngokwenza amalungiselelo—

- (i) obhaliso amashishini amanyeneyo eenkonzo ezamkela imali ebekwayo njengebhanki zentsebenziswano; 60

- (ii) the establishment of supervisors to ensure appropriate and effective regulation and supervision of co-operative banks, and to protect members and the public interest; and
- (iii) the establishment of a Development Agency for Co-operative Banks to develop and enhance the sustainability of co-operative banks. 5

Application of Act

3. (1) This Act applies to all co-operative banks registered under this Act and to any co-operative registered under the Co-operatives Act that takes deposits and—
- (a) has 200 or more members; and
 - (b) holds deposits of members to the value of one million Rand or more. 10
- (2) A co-operative referred to in subsection (1) must, subject to section 91, within two months of meeting the criteria referred to in subsection (1)(a) or (b) apply for registration as a co-operative bank in terms of this Act.

Application of Co-operatives Act

4. (1) The Co-operatives Act applies to co-operative banks unless the application of a provision thereof has specifically been excluded or amended in this Act. 15
- (2) In the event of an inconsistency between any provision of this Act and any provision of the Co-operatives Act, the provision of this Act prevails.

Types of co-operative banks

5. This Act provides for the registration of the following types of co-operative banks: 20
- (a) A primary savings co-operative bank;
 - (b) a primary savings and loans co-operative bank;
 - (c) a secondary co-operative bank; and
 - (d) a tertiary co-operative bank.

CHAPTER II 25

REGISTRATION, CONSTITUTION, FUNCTIONS, MANAGEMENT AND AUDITOR OF CO-OPERATIVE BANK

Part 1

Application to register, name, and fit and proper requirement

Application for registration as co-operative bank 30

6. (1) A co-operative must apply, on the application form prescribed by the supervisor, to the supervisor for registration as one of the types of co-operative banks referred to in section 5.
- (2) The following must be submitted together with the application form referred to in subsection (1): 35
- (a) Two certified copies of the constitution of the proposed co-operative bank;
 - (b) a certified copy of the registration certificate as a co-operative under the Co-operatives Act of the proposed co-operative bank;
 - (c) the full and abbreviated name of the proposed co-operative bank as well as any literal translation thereof; 40
 - (d) a lending policy, if applicable;
 - (e) a savings policy;
 - (f) a business plan;
 - (g) certified copies of the registers referred to in section 21(1)(e) and (f) of the Co-operatives Act; 45

- (ii) ukumiselwa kwabaphathi bokuqinisekisa ulawulo nokonganyelwa ngokufanelekileyo nangempumelelo kweebhanki zentsebenziswano nokukhusela okululutho kumalungu noluntu;
- (iii) ukusekwa kwe-Arhente yoPhuhliso yeeBhanki zeNtsebenziswano ukuphuhlisa nokomeleza uzinzo kwezi bhanki zentsebenziswano. 5

Ukusetyenziswa koMthetho

3. (1) Lo Mthetho ubhekisela kuzo zonke iibhanki zentsebenziswano ezibhaliswe phantsi kwalo Mthetho nakuwo onke amashishini abhaliswe phantsi koMthetho weNtsebenziswano athabatha imali ebekwayo kwaye—
- (a) anamalungu angama-200 nangaphezulu; kunye 10
- (b) nagcine imali yamalungu engangesigidi seeRandi nangaphezulu.
- (2) Indibaniselwano ekubhekiswa kuyo kwicandelwana (1) kufuneka ithobeke icandelo 91, kwithuba leenyanga ezimbini lihlangabezane nomlinganiselo ekubhekiselwe kuwo kwicandelwana (1)(a) okanye (b) lifake isicelo sokubhalisa njengebhanki yentsebenziswano ngokwalo Mthetho. 15

Ukusetyenziswa koMthetho weeBhanki zeNtsebenziswano

4. (1) UMthetho weNtsebenziswano usebenza kwiibhanki zentsebenziswano ngaphandle kokuba ukusebenza kolungiselelo kushiye okanye kulungisiwe ngulo Mthetho.
- (2) Ukuba kukho ukuphikisana phakathi kolungiselelo olukulo Mthetho nolo lukuMthetho weNtsebenziswano, ulungiselelo olu kulo Mthetho lulo olusebenzayo. 20

Iindidi zeebhanki zentsebenziswano

5. Lo Mthetho uvumela ukubhaliswa kwezi ndidi zeebhanki zentsebenziswano:
- (a) ibhanki yentsebenziswano yocino mali ekudidi lokuqala;
- (b) ibhanki yentsebenziswano yocino nobolekiso mali ekudidi lokuqala; 25
- (c) ibhanki yentsebenziswano ekudidi lwesibini; kunye
- (d) nebhanki yentsebenziswano ekudidi lwesithathu.

ISAHLUKO II

UBHALISO, UMGAQO-SISEKO, IMISEBENZI, ULAWULO NOMPICOTHI ZINCWADI ZEMALI WEEBHANKI ZENTSEBENZISWANO 30

Indima 1

Isicelo sobhaliso, igama neemfuno ezifanelekeyo nezilungileyo

Isicelo sobhaliso njengebhanki yentsebenziswano

6. (1) Indibaniselwano mayifake isicelo kumphathi ngefomu yoku emiswe ngumphathi, kumphathi ukubhalisa njengohlobo lweebhanki zentsebenziswano ezikhankanywe kwicandelo 5. 35
- (2) Makufakwe oku kulandelayo kunye nesicelo esenziwe kwifomu ekhankanywe kwicandelwana (1):
- (a) iikopi ezimbini eziqinisekisiweyo zomgaqo-siseko webhanki yentsebenziswano ecetywayo; 40
- (b) iikopi eziqinisekisiweyo zesiqinisekiso sobhaliso njengendibaniselwano phantsi koMthetho weNtsebenziswano zebhanki yentsebenziswano ecetywayo;
- (c) igama elizeleyo nelishunqulweyo lebhanki yentsebenziswano ecetywayo nenguqulelo ngqo yalo; 45
- (d) umgaqo-nkqubo wokubolekisa ngemali, ukuba ukho;
- (e) umgaqo-nkqubo wocino-mali;
- (f) isicwangciso soshishino;
- (g) iikopi eziqinisekisiweyo zeencwadi zobungqina ekubhekiswe kuzo kwicandelo 21(1)(e) no (f) woMthetho weNtsebenziswano; 50

- (h) the postal and physical address of the proposed co-operative bank and a statement describing the suitability of the premises from which the proposed co-operative bank will operate; and
- (i) the application fee prescribed by the supervisor.
- (3) The application and every document submitted in terms of subsection (2) must be signed by the chairperson of the proposed co-operative bank. 5
- (4) The supervisor may require a proposed co-operative bank to furnish him or her with—
- (a) additional information or documents; or
- (b) a report by an auditor or by any other knowledgeable person, approved by the supervisor, on aspects relating to the application. 10

Requirements for registration

7. In order to qualify for registration, a proposed co-operative bank must demonstrate to the satisfaction of the supervisor that—
- (a) the business it proposes to conduct is that of a co-operative bank of the type to which the application relates; 15
- (b) it has sufficient human, financial and operational capacity to function efficiently and competently as a co-operative bank;
- (c) every person that is to be a director, managing director or executive officer of the proposed co-operative bank has the necessary experience, knowledge and qualifications to operate the proposed co-operative bank and is a fit and proper person as contemplated in section 9; and 20
- (d) the composition of the board of directors of the proposed co-operative bank is appropriate having regard to the nature and scale of the business to be conducted. 25

Registration of co-operative bank

8. (1) The supervisor must grant an application for registration on payment of a fee prescribed by the supervisor, if the supervisor is satisfied that—
- (a) the application has been made in accordance with this Act;
- (b) the proposed co-operative bank complies with the requirements for registration referred to in section 7; 30
- (c) the establishment of the proposed co-operative bank will be in the public interest;
- (d) the constitution of the proposed co-operative bank complies with section 13; and 35
- (e) the proposed name of the proposed co-operative bank complies with section 10.
- (2) The supervisor may grant an application for registration subject to any condition he or she may determine.
- (3) The supervisor must, on registration, issue a certificate of registration to a co-operative bank and publish a notice of the registration in the *Gazette*. 40

Fit and proper person

9. (1) The supervisor may, for purposes of assessing whether a director, managing director or executive officer of a proposed co-operative bank is a fit and proper person, have regard to—
- (a) the competence and soundness of judgment of the person for the fulfilment of the responsibilities of the particular office and class of co-operative bank; 45
- (b) the diligence with which the person concerned is likely to fulfil those responsibilities;
- (c) previous conduct and activities of the person in business or financial matters; and 50
- (d) any evidence that the person—
- (i) within the previous 10 years has been convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), or any offence involving dishonesty; 55

- (h) idilesi yeposi neyasekhaya yebhanki yentsebenziswano ecetywayo nenkcazelo ebonisa ukufaneleka kwendawo apho izakusebenzela khona ibhanki yentsebenziswano ecetywayo;
- (i) intlawulo yobhaliso emiselwe ngumphathi.
- (3) Isicelo nawo onke amaxwebhu angeniswayo ngokwecandelwana (2) 5
mawayayinwe ngusihlalo webhanki yentsebenziswano ecetywayo.
- (4) umphathi angafuna ukuba ibhanki yentsebenziswano ecetywayo imnike—
- (a) ulwazi olongezelelekileyo okanye amaxwebhu; okanye
- (b) ingxelo ngumphengululi zincwadi zemali okanye omnye umntu onolwazi ovunywe ngumphathi, ngokuphathelele kwisicelo esifakiweyo. 10

Iimfuno zobhaliso

7. Ukulungela ukufaka isicelo, ibhanki yentsebenziswano ecetywayo kufuneka ibonise umphathi ngaphandle kwamathandabuzo ukuba—
- (a) ushishino olucetywayo lolo lwebhanki yentsebenziswano yohlobo oluchazwa kwisicelo; 15
- (b) inabantu, imali nomthamo wokusebenza oya kuvumela ukuba isebenze ngempumelelo nangokwanelisayo njengebhanki yentsebenziswano;
- (c) wonke umntu oza kuba ngumlawuli, umlawuli ophetheyo okanye igosa lolawulo lebhanki yentsebenziswano ecetywayo makabe namava, ulwazi nemfundo efanelekileyo yokuqhuba ibhanki yentsebenziswano ecetywayo kwaye ufanelekile ekwalungile njengoko kuchazwe kwicandelo 9; 20
- (d) nokwakhiwa kwebhodi yabalawuli bebhanki yentsebenziswano ecetywayo kulungile ngokujonga ubunjani nobungakanani boshishino oluza kuqhutywa.

Ubhaliso lwebhanki yentsebenziswano

8. (1) Umphathi makanike imvume yobhaliso emva kwentlawulo emiselwe ngumphathi, ukuba umphathi uyonela ukuba— 25
- (a) isicelo sifakwe ngokwalo Mthetho;
- (b) ibhanki yentsebenziswano ecetywayo iyazoneza iimfuno zobhaliso ezikhankanywe kwicandelo 7;
- (c) ukumiswa kwebhanki yentsebenziswano ecetywayo kuya kuba lulutho kuluntu; 30
- (d) umgaqo-siseko webhanki yentsebenziswano ecetywayo uyalithobela icandelo 13; kwaye
- (e) igama eliphakanyisiweyo lebhanki yentsebenziswano ecetywayo liyalithobela icandelo 10. 35
- (2) Umphathi angasivuma isicelo sobhaliso ngokusebenzisa nezinye iimeko azibona zifanelekile.
- (3) Ngobhaliso umphathi kufuneka akhuphe isiqinisekiso sobhaliso esinikwa ibhanki yentsebenziswano aze akhuphe nesaziso solo bhaliso kwiPhepha-ndaba loMbuso.

Umntu ofanelekileyo nolungileyo 40

9. (1) Umphathi uqinisekisa ukuba umlawuli, umlawuli ophetheyo okanye igosa lolawulo webhanki yentsebenziswano ungumntu ofanelekileyo nolungileyo ujonga—
- (a) isakhono nokufaneleka kwendlela agweba ngayo ukuze akwazi ukuphumeza uxanduva lwesikhundla abekwe kuso nomgangatho webhanki yentsebenziswano; 45
- (b) inkuthalo engenza ukuba umntu lowo aphumeze uxanduva anikwe lona;
- (c) indlela umntu lowo ebeziphetha ngayo nendlela ebesenza ngayo izinto zoshishino nezibhekiselele kwimicimbi yemali;
- (d) nabo nabuphi na ubungqina, ukuba bukho, bokuba umntu lowo—
- (i) kwiminyaka elishumi edlulileyo ukhe wagwetyelwa ubusela, ubuqhinga, inkohliso, okanye ukunikeza ixwebhu lenkohliso, ukuxoka phantsi kwesifungo, ulwaphulo mthetho oluphantsi koMthetho woKhuselo nokiLiwa kweZenzo zoRhawaphilizo ka-2004 (uMthetho onguNombolo 12 ka-2004) nolwaphulo mthetho phantsi koMthetho weZiko leNgqiqo yeMali ka-2001 (uMthetho onguNombolo 38 ka-2001) noluphi ulwaphulo mthetho oluhambelana nokunganyaniseki; apha kwiRiphabliki okanye naphi na; 50

- (ii) has been convicted of an offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect, and sentenced to imprisonment without the option of a fine;
- (iii) has contravened the provisions of any law the object of which is the protection of the public against financial loss; 5
- (iv) is a former director or executive officer of a co-operative bank or any other bank and that the person's actions contributed to the inability of that co-operative bank or other bank to pay its debts; or
- (v) has taken part in any business practices that, in the opinion of the supervisor, were deceitful, prejudicial, or otherwise improper (whether unlawful or not) or which otherwise brought discredit to that person's methods of conducting business. 10

(2) The supervisor may request any person to assist him or her in assessing if a person is fit and proper to act as a director, managing director or executive officer of a proposed co-operative bank. 15

Name of co-operative bank

10. (1) The proposed name of a co-operative bank must comply with section 10(1) of the Co-operatives Act.

(2) A co-operative bank must have the words "co-operative bank" or "co-op bank" as part of its name. A co-operative bank must within one month of being registered under section 8 amend its constitution to comply with the requirements of this subsection. 20

(3) (a) A co-operative bank must, in addition to the requirements of section 10(4) of the Co-operatives Act, set out its name in legible characters on any statement, notice or advertisement.

(b) A co-operative bank must indicate as which type of co-operative bank it is registered on the documents listed in paragraph (a) and in section 10(4) of the Co-operatives Act. 25

(4) A co-operative bank may not use, or refer to itself by, a name other than the name under which it is registered or any literal translation or abbreviation of such name which has been approved by the supervisor. 30

Suspension of registration or de-registration

11. (1) The supervisor may, subject to subsection (4), de-register or, where appropriate, suspend the registration of a co-operative bank where the supervisor is satisfied that the co-operative bank—

- (a) has not commenced operating as a co-operative bank six months after the date of its registration as a co-operative bank; 35
- (b) has ceased to operate;
- (c) has not, for a continuous period of three months, met the criteria referred to in section 3(1) and is unlikely to meet the criteria in the future;
- (d) obtained registration through fraudulent means; 40
- (e) no longer meets the requirements for registration referred to in section 7;
- (f) is unable to meet or maintain its prudential requirements referred to in section 20 or 23(2);
- (g) has failed to comply with any condition imposed under this Act;
- (h) has failed to comply with any directive issued under this Act; or 45
- (i) is de-registered or wound-up under the Co-operatives Act.

(2) Where a co-operative bank has taken a decision at a general meeting to de-register as a co-operative bank, the supervisor may on submission of such a decision together with a report from its auditor stating that such a co-operative bank has no debts other than deposits, de-register such a co-operative bank. 50

(3) (a) Where the supervisor suspends the registration of a co-operative bank under subsection (1), he or she may do so subject to any condition he or she may determine.

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- (ii) ukhe wabanjelwa ulwaphulo mthetho emva koMgaqo-siseko woMzantsi Afrika ka-1993 (uMthetho onguNombolo 38 ka-1993) waze wagwe-tyelwa ukuvalelwa entolongweni ngaphandle kokunikwa isohlwayo semali;
- (iii) wophule amalungiselelo awo nawuphi umthetho okhusela uluntu 5 ekulahlekelweni yimali;
- (iv) ebengumlawuli okanye igosa lolawulo lebhanki yentsebenziswano okanye nayiphi ibhanki zaza izenzo zakhe ziye zakhokelela ekubeni ibhanki yentsebenziswano okanye engenye ingakwazi ukuhlawula amatyala ayo; okanye 10
- (v) uthabathe inxaxheba kushishino, ngokokubona komphati, olunama-qhinga, olonakalisayo nolungalunganga (nokuba lolusemthethweni okanye olungekho mthethweni) okanye oluthe lwahlazisa indlela aqhuba ngayo ushishino.
- (2) Umphathi angacela ukuncediswa ngomnye umntu ukujonga ukufaneleka 15 nokulungela komntu lowo ukusebenza njengomlawuli, umlawuli ophetheyo okanye igosa lolawulo webhanki yentsebenziswano ecetywayo.

Igama lebhanki yentsebenziswano

- 10.** (1) igama lebhanki yentsebenziswano ecetywayo malihambelane necandelo 10 (1) loMthetho weNtsebenziswano. 20
- (2) Igama lebhanki yentsebenziswano maliquke amagama athi "ibhanki yentsebenziswano" okanye "ibhanki-Ntse" njengenxalenye yegama layo. Ibhanki yentsebenziswano kwithuba lenyanga emva kobhaliso lwayo ngaphantsi kwecandelo 8 mayilungise umgaqo siseko ukuze uhambelane neemfuno zeli candelwana.
- (3) (a) Ibhanki yentsebenziswano ukongeza kwiimfuno zecandelo 10(4) loMthetho 25 weNtsebenziswano, ibhale igama layo ngoonobumba abafundeke lula kuzo zonke iingxelo, izaziso okanye iindlela zokuzazisa.
- (b) Ibhanki yentsebenziswano mayichaze uhlobo ebhaliswe phantsi kwalo kuma-xwebhu adweliswe kumhlathi (a) nakwicandelo 10(4) loMthetho weNtsebenziswano.
- (4) Ibhanki yentsebenziswano ayikwazi ukusebenzisa elinye igama ngaphandle 30 kwelo ibhaliswe ngalo okanye yenze inguqulelo okanye ushunqulelo lwelo gama livunywe ngumphathi.

Ukunqunyanyiswa nokucinywa kobhaliso

- 11.** (1) Umphathi, ngokuvunyelwa licandelwana (4) unokulucima okanye apho kufanelekileyo alunqumamise ubhaliso lwebhanki yentsebenziswano xa ethe 35 wazanezisa ukuba ibhanki yentsebenziswano—
- (a) ayiqalanga ukusebenza njengebhanki yentsebenziswano emva kweenyanga ezintandathu zokubhalisa kwayo njengebhanki yentsebenziswano;
- (b) iyekile ukusebenza;
- (c) kwithuba eliqhubekayo leenyanga ezintathu, khangе ifezekise indlela 40 yokulinganisa ekubhekiswe kuyo kwicandelo 3(1) kwaye ngahle ingakwazi ukufezekisa indlela yokulinganisa kwixa elizayo;
- (d) ibhaliswe ngobuqhinga;
- (e) ayisahlangabezani neemfuno zobhaliso ezikwicandelo 7;
- (f) ayikwazi ukuhlangabezana okanye ukumelana neemfuno zobulumko 45 ezichatshazelwe kwicandelo lama-20 nelama23 (2);
- (g) ayiphumeleli ukuthobela iimeko eziwiswe phantsi kwalo Mthetho;
- (h) ayiphumeleli ukuthobela ulawulo oluwiswe ngulo Mthetho; okanye
- (i) icinyiwe kubhaliso okanye iye yaphethwa ngaphantsi koMthetho wama-Shishini amanyeneyo. 50
- (2) Xa ithe ibhanki yentsebenziswano ithe yathabatha isigqibo kwintlanganiso jikelele yokucima ubhaliso lwayo njengebhanki yentsebenziswano, umphathi kusakube kufakwe esi sigqibo kunye nengxelo yomphengululi zincwadi zemali ebonisa ukuba le bhanki yentsebenziswano ayinawo amatyala, ngaphandle kwemali ebekiweyo, angalucima ubhaliso lwale bhanki yentsebenziswano. 55
- (3) (a) Apho umphathi anqumamisa ubhaliso lwebhanki yentsebenziswano ngaphantsi kwecandelwana (1) kufuneka akwenze oku ngaphantsi kweemeko azibona zifanelekile.

(b) The supervisor may revoke any suspension under subsection (1) if he or she is satisfied that the co-operative bank has complied with all the conditions to which the suspension was made subject.

(4) (a) The supervisor may publish a notice of such de-registration or suspension in the *Gazette*. 5

(b) The de-registration of a co-operative bank takes effect on the date specified in the notice referred to in paragraph (a).

(c) Where a co-operative bank has appealed against the decision of the supervisor referred to in subsection (1), the supervisor must not publish the notice referred to in paragraph (a) until the appeal has been finalised. 10

Repayment of deposits on de-registration or lapsing of registration

12. (1) The supervisor may on the de-registration of a co-operative bank direct such co-operative bank—

(a) to repay any deposits, including interest thereon, held by that co-operative bank as at the date of de-registration within the period specified in the directive; and 15

(b) to change its name and its constitution within the period and in the manner required by the supervisor.

(2) A directive referred to in subsection (1) may—

(a) apply to all deposits generally; or 20

(b) differentiate between different types, kinds and amounts of deposits.

(3) A co-operative bank that fails to comply with a directive under subsection (1) is deemed not to be able to pay its debts.

Part 2

Constitution and functions of co-operative bank

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Constitution of co-operative bank and amendment to constitution

13. (1) The constitution of a co-operative bank must, in addition to the provisions of section 14(1) of the Co-operatives Act, provide—

(a) that none of its directors, other than the managing director, may be employees of the co-operative bank; 30

(b) that a director of a co-operative bank who is in arrears for such period and with such amount and type of debt payable to the co-operative bank as prescribed by the Minister is disqualified from continuing as a director and must vacate his or her office;

(c) for the determination of the remuneration and other benefits of directors, including the managing director, at the annual general meeting; and 35

(d) for the appointment of an audit committee consisting of members that are not directors, to—

(i) assist the board of directors in its evaluation of the adequacy and efficiency of internal control systems, accounting practices, information systems and auditing processes within that co-operative bank; 40

(ii) facilitate and promote communication regarding the matters referred to in subparagraph (i) or any other related matter between the members, board of directors, executive officers, auditor and the employee charged with the internal auditing of the transactions of the co-operative bank; and 45

(iii) introduce measures that in the committee's opinion may serve to enhance the credibility and objectivity of financial statements and reports prepared with reference to the affairs of the co-operative bank.

(2) Despite sections 14(2) 15(c) and 42(1) of the Co-operatives Act, the constitution of a co-operative bank must provide— 50

(a) for the establishment of a governance committee and the manner in which it must be constituted;

(b) for the appointment of a managing director of that co-operative bank;

(b) Umphathi angalurhoxisa unqunyanyiso ngaphantsi kwecandelwana (1) ukuba uyonela ukuba ibhanki yentsebenziswano iyazonelisa zonke iimeko ezazikhokelele kunqunyanyiso.

(4) (a) Umphathi unelungelo lokukhupha isaziso sorhoxiso okanye ucinyo lobhaliso kwiPhephandaba loMbuso. 5

(b) Ukucinywa kobhaliso lwebhanki yentsebenziswano kusukela ngomhla oxelwa kwisaziso ekuthethwa ngaso kumhlathi (a).

(c) Xa ibhanki yentsebenziswano isafake isibheni ngesigqibo somphathi esikhankanywe kwicandelwana (1), umphathi akakwazi ukukhupha isaziso esikhankanywe kumhlathi (a) de sigqitywe isibheni eso. 10

Ukuhlawulwa kwemali ebekiweyo emva kokucinywa kobhaliso okanye ukuphelelwa kobhaliso

12. (1) Umphathi ngexesha locinyo lobhaliso lwebhanki yentsebenziswano angayalela ibhanki—

(a) Ukuba ihlawule yonke imali ebekwe kwibhanki yentsebenziswano nenzala yayo njengoko injalo ngomhla wocinyo lobhaliso kwixesha elisikwe kumyalelo; 15

(b) Ukuba iguqule igama nomgaqo-siseko kwixesha elisikiweyo nangendlela efunwa ngumphathi.

(2) Umyalelo ochatshazelwe kwicandelwana (1)— 20

(a) unokubhekisa kuyo yonke imali ebekiweyo; okanye

(b) wahlule phakathi kweentlobo, iindidi nobungakanani bemali ebekiweyo.

(3) Ibhanki yentsebenziswano engawuthobeliyo umyalelo ophantsi kwecandelwana (1) ithatyathwa njengengakwaziyo ukuhlawula amatyala ayo.

Indima 2

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Umgqaqo-siseko nemisebenzi yebhanki yentsebenziswano

Ukusekwa kwebhanki yentsebenziswano nokulungiswa koMgaqo-siseko

13. (1) Umgqaqo siseko webhanki yentsebenziswano, ukongeza koko kuqulathwe kwicandelo 14(1) loMthetho weNtsebenziswano uqulethe—

(a) ukuba akukho namnye umlawuli ngaphandle komlawuli ophetheyo ofanele ukuba ngumqeshwa webhanki yentsebenziswano; 30

(b) ukuba umlawuli webhanki yentsebenziswano ongasemva ngentlawulo yexesha elibekiweyo nesambuku semali nohlobo lwetyala njengoko limiswe nguMphathiswa uyarhoxiswa kwisikhundla sobulwawuli kwaye kufuneka aphume kweso sikhundla; 35

(c) ukwenziwa kwezigqibo ngemivuzo nezinye izibonelelo zabalawuli, oku kuquka nomlawuli ophetheyo, kwintlanguiso jikelele yonyaka;

(d) nokumiswa kwekomiti yophengululo lweencwadi zemali enamalungu angengabo abalawuli, ukuze—

(i) ukuncedisa ibhodi yabalawuli ukuhlola impumelelo nokwanezisa kokumiselweyo kulawulo lwangaphakathi, ukuphathwa kwemali, amajelo olwazi nophendlo zincwadi ngaphakathi kwebhanki yentsebenziswano; 40

(ii) ukuxhasa nokukhuthaza unxibelelwano ngokuphathelele kokukhankanywe kumhlathana (i) nako konke okunye okunxulumene namalungu, ibhodi yolawulo, abaphathi abalawulayo, abaphicothi zincwadi zemali kunye nalo msebenzi onyulelwe ukwenza uphendlo lwangaphakathi ngendlela esetyenziswa ngayo imali kwibhanki yentsebenziswano; 45

(iii) ukuqala amanyathelo, ngokubona kwekomiti, angaphucula ukuthe mbeka nokunyaniseka kweengxelo zemali neengxelo ezilungiswe ngokubhekisele kwimicimbi yebhanki yentsebenziswano. 50

(2) Nangona ekho amacandelo 14(2), 15(c) nele 42(1) oMthetho weNtsebenziswano, umgaqo siseko webhanki yentsebenziswano mawubonelele—

(a) ukumiswa kwekomiti yolawulo nendlela emayisekwe ngayo; 55

(b) ukuqeshwa komlawuli ophetheyo webhanki yentsebenziswano;

- (c) for the settlement of disputes between members of the co-operative bank or between a member of the co-operative bank and the co-operative bank itself;
- (d) that any membership shares issued must be fully paid up; and
- (e) that certificates, share statements or any other proof of shareholding must be issued to members.

(3) (a) The supervisor must approve any amendment to the constitution of a co-operative bank prior to the co-operative bank submitting the amendment to the registrar for registration in accordance with section 18 of the Co-operatives Act.

(b) A co-operative bank must apply for approval referred to in paragraph (a) on the form prescribed by the supervisor.

(c) The supervisor may refuse to approve an amendment.

(4) (a) The supervisor may at any time and in accordance with section 48 direct a co-operative bank to amend its constitution to remove anomalies or undesirable divergences in the activities of different co-operative banks.

(b) Any directive referred to in paragraph (a) must be considered by the members of the co-operative bank at its next general meeting and, if approved, the amendment must be submitted to the registrar for registration in accordance with section 18 of the Co-operatives Act.

(c) If a co-operative bank refuses or fails to amend its constitution in accordance with paragraph (a) the supervisor may request the registrar to effect the required amendment to the constitution of the co-operative bank.

(d) The registrar must register the amendment to the constitution of the co-operative bank in accordance with section 18 of the Co-operatives Act.

Banking services provided by co-operative bank

14. (1) A primary savings co-operative bank may only provide, participate in or undertake the following banking services:

- (a) Solicit and accept deposits from its members;
- (b) open savings accounts for its members, in the name of each member, into which that member may deposit or withdraw money and from which that member may instruct the co-operative bank to transfer or pay money;
- (c) borrow money from the Agency and members, other than deposits referred to in paragraph (a), up to a percentage of the assets held by it as prescribed by the Minister;
- (d) open a savings account or cheque account in the name of that co-operative bank with any banking institution;
- (e) make, draw, accept, endorse, or negotiate negotiable instruments that are paid to the order of or made out and endorsed by that co-operative bank;
- (f) provide trust or custody services to members;
- (g) conduct any additional banking services as may be prescribed by the Minister; and
- (h) invest money deposited with it in investments prescribed by the Minister.

(2) A primary savings and loans co-operative bank may only provide the following banking services:

- (a) Any of the banking services referred to in subsection (1);
- (b) grant secured and unsecured loans to members to a maximum aggregate value prescribed by the Minister; and
- (c) conduct any additional banking services and invest money deposited with it in any investments prescribed by the Minister, in addition to those prescribed under subsection (1).

(3) A secondary co-operative bank may only provide the following banking services:

- (a) Any of the banking services referred to in subsection (2);
- (b) trading financial instruments on behalf of its members;
- (c) open an account with a bank registered under the Banks Act to facilitate foreign currency transactions;

- (c) ukuxazululwa kwempikiswano ngaphakathi kwamalungu ebhanki yentsebenziswano okanye ngaphakathi kwelungu lebhanki yentsebenziswano nebhanki ngokwayo;
- (d) ukuba izabelo zamalungu ezikhutshwayo mazihlawulwe ngokuzeleyo; kwaye
- (e) kufuneka kunikwe amalungu izatifiketi, iingxelo zezabelo okanye nabuphina obunye ubungqina bokuba nezabelo. 5
- (3) (a) Umphathi makamkele ulungiso lomgaqo siseko webhanki yentsebenziswano ngaphambi kokuba olo lungiso lugqithiselwe kumgcini zincwadi ukuze lubhaliswe njengoko kuchaziwe kwicandelo 18 loMthetho weNtsebenziswano.
- (b) Ibhanki yentsebenziswano mayifake isicelo sokwamkeleka esikhankanywe kumhlathi (a) kwifomu emiselwe ngumphathi. 10
- (c) Umphathi unako ukwala ukwenza olu lungiso.
- (4) (a) Umphathi, nangaliphi ixesha ngokwecandelo 48, angayalela ibhanki yentsebenziswano ukuba iguqule umgaqo-siseko wayo ukususa okungekho mgaqweni okanye okuphambukisayo kwimisebenzi yeebhanki zentsebenziswano ezohlukeneyo. 15
- (b) Nawuphi umyalelo ochatshazelwe kumhlathi (a) mawushukuxwe ngamalungu ebhanki yentsebenziswano kwintlanganiso jikelele elandelayo, ukuba uyamkelwa, makufakwe isicelo solu lungiso kumgcini zincwadi.
- (c) Ukuba ibhanki yentsebenziswano iyala okanye ayide iphumelele ukuguqula umgaqo siseko wayo ngokomhlathi (a) umongameli angacela umgcini zincwadi ukuba enze ngokwakhe olo lungiso kumgaqo siseko webhanki yentsebenziswano. 20
- (d) Umgcini zincwadi kufuneka alubhalise olo lungiso lomgaqo siseko lwebhanki yentsebenziswano ngokwecandelo 18 loMthetho weNtsebenziswano.

Iinkonzo zoshishino ezinikwa yibhanki yentsebenziswano

14. (1) Ibhanki yentsebenziswano ekudidi lokuqala inganika kuphela, okanye inqanaba inxaxheba okanye iqale ezi nkonzo zoshishino zilandelayo: 25
- (a) Ingafuna okanye yamkele imali ebekwayo ngamalungu ayo;
- (b) ingavulela amalungu ayo ii-akhawunti zogcino-mali, ngagama lelungu ngalinye, apho ilungu linokuthi likwazi ukubeka okanye litsale imali okanye linokuthi liyalele ibhanki yentsebenziswano ukuba ikhuphele okanye ihlawule imali ethile; 30
- (c) ingaboleka imali kwi-Arhente nakumalungu, ingezizo iimali ezigciniweyo ekubhekiswe kuzo kumhlathi (a), efikelela kumlinganiselo othile ekhulwini kwizinto enazo elugcinweni lwayo njengoko kumiselwe nguMphathiswa;
- (d) ukuvula i-akhawunti yogcino-mali okanye yetsheki ngegama lalo bhanki yentsebenziswano nalo naliphi iziko loshishino; 35
- (e) ukwenza, ukutsala, ukwamkela, ukuqiniseka nokwenza uthethathethwano ngotshintsho lwezinto ezihlawula izixelo okanye ezenziwa nezixhaswa yibhanki leyo yentsebenziswano;
- (f) ukunika amalungu iinkonzo zogcino novalelo; 40
- (g) ukunika ezinye iinkonzo ezongezelelekileyo zoshishino ngokokumiselwa nguMphathiswa;
- (h) nokutyala imali ebekwe kuyo kwiindlela zotyalo-mali ezimiswe ngu-Mphathiswa.
- (2) Ibhanki yentsebenziswano ekudidi lokugcina nelokubolekisa lokuqala inganika kuphela ezi nkonzo zilandelayo zoshishino: 45
- (a) Naluphi uhlobo lweenkonzo zoshishino ezimiswe kwicandelwana (1);
- (b) ivumele ukubolekisa okukhuselekileyo nolungakhuselekanga kumalungu ngokwesixa mali sohlanganiselo esikweyona ndawo iphezulu esimiselwe nguMphathiswa; 50
- (c) nokunika nezinye iinkonzo zoshishino nokutyala imali ebekwe kuyo kwiindlela zotyalo mali ezimiswe nguMphathiswa, ukongeza kwezo bezimiswe ngaphantsi kwecandelwana (1).
- (3) Ibhanki yentsebenziswano ekudidi lwesibini inganikezela ngezi nkonzo zoshishino zilandelayo: 55
- (a) Naluphi uhlobo lweenkonzo zoshishino ezimiswe kwicandelwana (2);
- (b) ukurhweba ngotshintsho mali egameni lamalungu ayo;
- (c) ukuvula i-akhawunti kwibhanki ebhaliswe phantsi koMthetho weeBhanki ukuze kuphenjlelwe iinkonzo zebhanki zeentlobo zeemali zangaphandle;

- (d) conduct such additional banking services and invest money deposited with it in any investments prescribed by the Minister, in addition to those prescribed under subsections (1) and (2).
- (4) A tertiary co-operative bank may provide the following banking services:
- (a) Any of the banking services referred to in subsections (2) and (3); and 5
- (b) conduct such additional banking services and invest money deposited with it in any investments prescribed by the Minister, in addition to those prescribed under subsections (1), (2) and (3).
- (5) The Minister or supervisor may prescribe the manner in which any of the banking services referred to in subsections (1), (2), (3) or (4) may be conducted, including, but not limited to, any fee, fine or charge that may be imposed on its members. 10
- (6) Section 45 of the Co-operatives Act does not apply to co-operative banks.

General functions of co-operative bank

15. A co-operative bank may, in addition to the functions referred to in section 19 of the Co-operatives Act— 15
- (a) receive grants and donations;
- (b) in relation to a secondary or tertiary co-operative bank, apply for registration as a representative body under section 31 or accreditation as a support organisation under section 36;
- (c) be a member of and enter into an agreement with a representative body or support organisation; 20
- (d) together with other co-operative banks of the same type establish a dispute resolution scheme within the meaning assigned to it in the Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004); and
- (e) subject to any conditions specified by the supervisor, act as an agent of its members or act in the interest of its members as an intermediary of a banking institution, other co-operative bank, co-operative, pension fund, provident fund, medical scheme, or insurance business as defined in the Long-term Insurance Act, 1998 (Act No. 52 of 1998), or the Short-term Insurance Act, 1998 (Act No. 53 of 1998). 25 30

Part 3

Management of co-operative bank

Duties of directors and officers of co-operative bank

16. (1) The provisions of Chapter 5 of the Co-operatives Act apply to this Part with respect to management of co-operative banks. 35
- (2) (a) The directors, managing director and executive officer of a co-operative bank must be appointed in accordance with the conditions provided for in the constitution of such co-operative bank.
- (b) The supervisor may object to the appointment of a director or the managing director and may, in accordance with section 48, direct the co-operative bank to remove the director within the period stated in the directive. 40
- (3) Each director, managing director and executive officer of a co-operative bank—
- (a) owes a fiduciary duty and a duty of care and skill to the co-operative bank of which such a person is director, managing director or executive officer;
- (b) must act *bona fide* for the benefit of the co-operative bank; 45
- (c) must avoid any conflict between the interests of the co-operative bank and the interests of such director, managing director or executive officer, as the case may be;

- (d) ukuqhuba iinkonzo zoshishino ezongezelelekileyo nokutyala imali ebekwe kuyo kwiindlela zotyalo ezimiselwe nguMphathiswa, ukongeza kwezo bezimiselwe phantsi kwecandelwana (1) nele (2).
- (4) Ibhanki yentsebenziswano ekudidi lwesithathu inganika ezi nkonzo zoshishino zilandelayo: 5
- (a) Naluphi uhlobo lweenkonzo zoshishino ezimiselwe kwicandelwana (2) nele (3);
- (b) ukuqhuba iinkonzo zoshishino ezongezelelekileyo nokutyala imali ebekwe kuyo kwiindlela zotyalo ezimiselwe nguMphathiswa, ukongeza kwezo bezimiselwe phantsi kwecandelwana (1) nele-(2) nele-(3). 10
- (5) UMphathiswa okanye umphathi angamisela indlela emakwenziwe ngayo iinkonzo zoshishino ekubhekiswe kuzi kumacandelwana (1), (2), (3) nele (4), oku kuquka, kodwa kungabekelwanga miqathango, imirhumo, imali yesohlwayo okanye intlawulo engamiselwa amalungu ayo.
- (6) Icandelo 45 loMthetho weNtsebenziswano lona alibhekisi kwiihbanki zentsebenziswano. 15

Imisebenzi jikelele yebhanki yentsebenziswano

15. Ibhanki yentsebenziswano, ukongeza kwimisebenzi ekhankanywe kwicandelo 19 loMthetho weNtsebenziswano—
- (a) ingamkela izibonelelo neminikelo; 20
- (b) ngokubhekiselele kwezikudidi lwesibini okanye olwesithathu, ingafaka isicelo sobhaliso njengebhodi yomelo phantsi kwecandelwana 31 okanye uqiniseko njengequmrhu elixhasayo phantsi kwecandelo 36;
- (c) ingaba lilungu ize ingene kwisivumelwano nebhodi yomelo okanye iqumrhu elixhasayo; 25
- (d) kunye nezinye iihbanki zentsebenziswano zohlobo olunye ziseke ulungiselelo lokucazulula impikiswano ngaphantsi kwentsingiselo eyinikiweyo kuMthetho woLungiselelo lokufaka izikhalazo zabantu ePalamente ngeenkonzo zemali ka-2004 (uMthetho onguNombolo 37 ka-2004);
- (e) ngokuphathalele kuzo naziphi iimeko ezinikwa ngumphathi, ingasebenza njengomenzeleli wamalungu ayo okanye asebenze ejonge inzuzo yamalungu njengomlamli weziko loshishino, enye ibhanki yentsebenziswano, indibaniselwano, ingxowa-mali yomhlala phantsi, okanye ushishino lwe-inshorensi njengoko kuchaziwe kuMthetho we-Inshorensi wexesha elide ka-1998 (uMthetho onguNombolo 52 ka-1998) okanye uMthetho we-Inshorensi Wexesha Elifutshane ka-1998 (uMthetho onguNombolo 53 ka-1998). 30 35

Indima 3

Ulawulo lwebhanki yentsebenziswano

Imisebenzi yabalawuli nabaphathi bebhanki yentsebenziswano 40

16. (1) Amalungiselelo eSahluko 5 soMthetho weNtsebenziswano ayasebenza kule nxenye ngokubhekisele kulawulo lwebhanki zentsebenziswano.
- (2) (a) Abalawuli, umlawuli ophetheyo namagosa alawulayo ebhanki yentsebenziswano kunyanzelekile bamiselwe phantsi kwemiqathango yomgaqo siseko walo bhanki yentsebenziswano. 45
- (b) Umphathi angaphikisana nokumiselwa komlawuli okanye umlawuli ophetheyo, kwaye, ngokwecandelo 48 angayalela ukuba ibhanki yebentsebenziswano imshenxise umlawuli lowo ngokwexesha elinikwa kumyalelo.
- (3) Umlawuli, ophetheyo okanye igosa eliphetheyo ngalinye lebhanki yentsebenziswano— 50
- (a) linoxanduva lentembeko nenkathalo nelesakhono kwibhanki yentsebenziswano;
- (b) lilindeleke ukubonisa ukunyaniseka lisenzela inzuzo yebhanki yentsebenziswano;
- (c) lithintele ungquzulwano phakathi komdla webhanki yentsebenziswano nelomlawuli, umlawuli ophetheyo okanye igosa elilawulayo ngokwemeko leyo; 55

- (d) must possess and maintain the knowledge and skill that may reasonably be expected of a person holding a similar position and carrying out similar functions as are carried out by the director, managing director or executive officer of that co-operative bank; and
- (e) must exercise such care in the carrying out of their functions in relation to that co-operative bank as may reasonably be expected of a diligent person holding a similar position, and who possesses both the knowledge and skill mentioned in paragraph (d) and any such additional knowledge and skill as the director, managing director or executive officer may have.

Details of directors and officers of co-operative bank 10

17. (1) A co-operative bank must submit the information referred to in section 39 of the Co-operatives Act to the supervisor.

(2) A co-operative bank must submit the same information referred to in subsection (1) in respect of each executive officer that is not a director to the supervisor.

Part 4 15

Auditor of co-operative bank

Functions of auditor in relation to supervisor

18. Despite the provisions of any other law, the auditor of a co-operative bank must—

- (a) provide the supervisor with a copy of any report submitted to the Regulatory Board in terms of section 45 of the Auditing Profession Act, 2005 (Act No. 26 of 2005), that contains a statement referred to in section 45(3)(c)(i)(cc) of that Act; and 20
- (b) inform the supervisor in writing of any matter relating to the affairs of a co-operative bank of which the auditor became aware in the performance of his or her functions as auditor of that co-operative bank that, in the opinion of the auditor, may— 25
 - (i) negatively impact on the co-operative bank's ability to continue as a going concern;
 - (ii) put deposits held by the co-operative bank at risk contrary to principles of sound management (including risk management). 30

Submission of documents to supervisor

19. (1) A co-operative bank must when informing, notifying or submitting notices, reports, returns and financial statements to the registrar in accordance with the Co-operatives Act submit the same documents to the supervisor within the same periods.

(2) A co-operative bank must within 30 days after a general meeting submit a copy of the minutes to be kept in terms of section 31(1)(a) of the Co-operatives Act to the supervisor. 35

CHAPTER III

PRUDENTIAL REQUIREMENTS AND LARGE EXPOSURES

Prudential requirements of co-operative bank 40

20. (1) A co-operative bank must meet and maintain such minimum—

- (a) capital requirements;
- (b) asset quality;
- (c) liquidity to be held in addition to any surplus reserves held in accordance with paragraph (d); and 45
- (d) surplus reserves as required by section 46 of the Co-operatives Act, as may be prescribed by the Minister.

(2) Regulations prescribed in terms of subsection (1) may—

UMTHETHO WEEBHANKI ZENTSEBENZISWANO KA-2007 Act No. 40, 2007

- (d) kufuneka abe nolwazi alugcinayo nesakhono esilindeleke kumntu okwisikhundla solu hlobo akwazi nokwenza imisebenzi efana naleyo yenziwa ngumlawuli, umlawuli oyintloko kunye negosa elilawulayo lebhanki yentsebenziswano; kunye
- (e) athabathele ingqalelo indlela yokwenza imisebenzi ngokunxulumene nebhanki yentsebenziswano njengokuba kulindelekile kumntu onenyameko obambe isikhundla esifana nesi, nonolwazi nesakhono esikhankanywe kumhlathi (d) nolunye ulwazi nesakhono esongezelelweyo esilindeleke kumlawuli, umlawuli ophetheyo okanye igosa elilawulayo.

Iinkcukacha zabalawuli nabaphathi bebhanki yentsebenziswano 10

17. (1) Ibhanki yentsebenziswano mayingenise kumphathi ulwazi ekubhekiswe kulo kwicandelo 39 loMthetho weNtsebenziswano.

(2) Ibhanki yentsebenziswano mayingenise kumphathi ulwazi olufanayo nekubhekiswe kulo kwicandelwana (1) ngegosa elilawulayo ngalinye elingengomlawuli.

Indima 4 15***Umphicothi zincwadi zemali yebhanki yentsebenziswano*****Imisebenzi yomphicothi zincwadi zemali ngokunxulumene nomongameli**

18. Ngaphandle kwamalungiselelo omnye umthetho, umphicothi zincwadi zemali zebhanki yentsebenziswano kufuneka—

- (a) anike umphathi ikopi yazo zonke iingxelo ezingeniswe kwiBhodi yoLawulo ngokwecandelo 45 loMthetho wabasebenzi bophicotho zincwadi zemali ka-2005 (uMthetho onguNombolo 26 ka-2005), oqulethe ibinzana ekubhekiswa kulo kwicandelo 45(3)(c)(i)(cc) lalo Mthetho;
- (b) nokwazisa umphathi ngembalelwano nangawuphi umba obhekisele kwimicimbi yebhanki yentsebenziswano ephawulwe ngumphicothi zincwadi zemali xa ebesenza umsebenzi wakhe wokuphicotha iincwadi zemali zebhanki yentsebenziswano, ukuba, ngokubona komphicothi zincwadi zemali—
- (i) kungakho iziphumo ezibi ekukwazini kwebhanki yentsebenziswano ukuqhubela phambili ngokungapheliyo;
- (ii) ukubeka imali ebekwe elugcinweni lwebhanki yentsebenziswano esichengeni ngokuthelekiswa nesiseko solawulo oluphilileyo (kuquka nolawulo lwesichenge).

Ukungeniswa kwamaxwebhu kumongali

19. (1) Ibhanki yentsebenziswano xa isazisa, okanye ifaka isaziso, iingxelo kunye nezo zemali kumgcinzi zincwadi ngokoMthetho weNtsebenziswano kufuneka ifake amaxwebhu afanayo kumongameli kwangelo xesha linye.

(2) Ibhanki yentsebenziswano kufuneka kwiintsuku ezingama-30 emva kwentlanganiso jikelele ingenise imizuzu efanele ukugcinwa ngokwecandelo 31(1)(a) loMthetho weNtsebenziswano kumphathi.

ISAHLUKO III**IIMFUNO ZOBULUMKO NEZIDANDALAZISO EZIKHULU****Imfuno zobulumko zebhanki yentsebenziswano**

20. (1) Ibhanki yentsebenziswano mayihlangabezane ize igcine obu buncinane—
- (a) inkunzi;
- (b) ubunjani bezinto zexabiso ezingathengiswayo;
- (c) imali yokuhlawula amatyala emayigcinwe ngaphezu kwentsalela eselugcinweni ngokomhlathi (d);
- (d) intsalela eselugcinweni njengoko kulindelekile ngokwecandelo 46 loMthetho weNtsebenziswano, ngendlela emiselwe nguMphathiswa.
- (2) Imimiselo emiselwe ngokwecandelwana (1)—

- (a) specify the—
- (i) type, form, components, composition, percentage and value of each matter referred to in subsection (1); and
 - (ii) method of calculating the values referred to in subparagraph (i); and
- (b) apply to co-operative banks generally; or 5
- (c) differentiate between different kinds of co-operative banks, which differentiation may be defined in relation to either a type or budgetary size of co-operative bank or to any other matter.

Inability to meet or maintain prudential requirements

21. (1) A co-operative bank that is unable to meet or maintain the prudential requirements referred to in section 20 or 23(2) must immediately report its inability and the reasons therefor to the supervisor. 10

(2) The supervisor may—

- (a) de-register or suspend the registration of a co-operative bank referred to in subsection (1) in accordance with section 11; or 15
- (b) condone the inability to meet or maintain the prudential requirements referred to in section 20 or 23(2) subject to such conditions as the supervisor may impose.

Reporting on prudential requirements

22. A co-operative bank must at the intervals prescribed by the supervisor submit a report on its prudential requirements to the supervisor in the form and manner prescribed by the supervisor. 20

Large exposures of co-operative bank

23. (1) A co-operative bank may not, without the approval of the supervisor— make an investment with any one person or grant a loan to any one member, which investment or loan, alone or together with all previous investments or loans made or granted to that person or member, will exceed such percentage of its total investments or loans as may be prescribed by the Minister. 25

(2) The supervisor may, when approving a loan or investment referred to in subsection (1), impose prudential requirements on the co-operative bank in addition to those referred to in section 20. 30

(3) For the purposes of subsection (1) the following loans or investments must be regarded as a single loan or investment:

- (a) Loans or investments to more than one persons or members who are directly or indirectly controlled by the same person or member; and 35
- (b) loans or investments to more than one persons or members who are so interconnected that should one of them experience financial difficulties, another one or all of them would be likely to experience a lack of liquidity.

CHAPTER IV

DEPOSIT INSURANCE FUND 40

Deposit insurance obligations of co-operative bank

24. A co-operative bank must pay to the Fund such deposit insurance contributions as may be prescribed by the Minister.

Establishment of Co-operative Banks Deposit Insurance Fund

25. The Agency must establish, and must manage, a fund to be known as the Co-operative Banks Deposit Insurance Fund. 45

- (a) ingabalula—
- (i) uhlobo, ubume, amalungu, ukwakheka, isixa esithile ekhulwini, nexabiso lombandela ngamnye ekubhekiselwe kuwo kwicandelwana (1);
- (ii) indlela yokubala amaxabiso ekubhekiswe kuwo kumhlathana (i); 5
- (b) isebenza kuzo zonke iibhanki zentsebenziswano jikelele; okanye
- (c) ingenza umahluko phakathi kweendidi ezahlukeneyo zeebhanki zentsebenziswano nezineyantlukwano engachazwayo ngokunxulumene nohlobo okanye ubungakanani bolwabiwo mali lwebhanki yentsebenziswano okanye eminye imibandela. 10

Ukungahlangabezani nokungagcini iimfuno zobulumko

21. (1) Ibhanki yentsebenziswano engakwazi ukuhlangabezana okanye ukugcina iimfuno zobulumko ekubhekiswe kuzo kwicandelo 20 okanye 23(2) kufuneka yenze ingxelo kwangoko inike nezizathu zoku kumphathi. 15

(2) Umphathi—

- (a) unokulucima okanye aluxhome ubhaliso lwebhanki yentsebenziswano ekubhekiswe kuyo kwicandelwana (1) ngokwecandelo 11; okanye
- (b) alunyusele ukuze lukwazi ukufikelela nokugcina iimfuno zobulumko ekubhekiswe kuzo kwicandelo 20 okanye 23(2) phantsi kweemeko ezingamiswa ngumphathi. 20

Ukunika ingxelo ngeemfuno zobulumko

22. Ibhanki yentsebenziswano kumathuba ashiyanayo amiswa ngumphathi kulindeleke ukuba ifake ingxelo ngeemfuno zobulumko kumphathi ngobume nangendlela emiswe ngumphathi.

Ukungakhuseleki okukhulu kwebhanki yentsebenziswano

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23. (1) Ibhanki yentsebenziswano ngaphandle kwemvume yomphathi ayikwazi—

- (a) ukwenza utyalo mali nomntu omnye okanye inike imali-mboleko ilungu elinye, apho utyalo mali okanye imali-mboleko, lulodwa utyalo-mali okanye luhlangene nolwangaphambili okanye imali-mboleko enikwe umntu okanye ilungu elo, idlula isixa esithile ekhulwini sotyalo-mali ludityanisiwe okanye lwemali mboleko njengoko kumiswe nguMphathiswa. 30

(2) Umphathi xa evumela ubolekiso-mali okanye utyalo-mali ekubhekiswe kulo kwicandelwana (1), kufuneka amise imiqathango yeemfuno zobulumko kwibhanki yentsebenziswano ngaphezu kwaleyo kubhekiswe kuyo kwicandelo 20.

(3) Ngeenjongo zecandelwana (1) imali-mboleko okanye utyalo-mali olulandelayo maluthatyathwe njengolunye: 35

- (a) imali-mboleko okanye utyalo-mali olunikwa ngaphezu komntu omnye alawulwa ngokuthe ngqo okanye ngokungathanga ngqo ngumntu omnye okanye ilungu elinye;
- (b) imali-mboleko okanye utyalo-mali olunikwa ngaphezu komntu omnye okanye amalungu asondelelene kangokuba ukuba omnye uneengxaki zemali nomnye okanye xa bebonke bayachaphazeleka ngemali yokuhlawula. 40

ISAHLUKO IV

INGXOWA-MALI NOLUNGISELELO LOKHUSELO LWEMALI EBEKIWEYO

45

Uxanduva lwebhanki zentsebenziswano lwe-inshorensi yokufaka imali

24. Ibhanki yentsebenziswano kufuneka ihlawule kwiNgxowa-mali loo mirhumo ye-inshorensi yemali ebekiweyo enokuqingqwa nguMphathiswa.

Ukusekwa kweNgxowa-mali ye-Inshorensi yeMali eFakiweyo yeeBhanki zeNtsebenziswano

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25. I-arhente kufuneka iseke, kwaye kufuneka ilawule, ingxowa-mali eyakubizwa ngokuba yiNgxowa-mali ye-Inshorensi yeMali eFakiweyo yeeBhanki zeNtsebenziswano.

Control of Co-operative Banks Deposit Insurance Fund

- 26.** (1) The Agency must annually report on the Fund to the Minister.
- (2) The Fund shall vest in and be administered by the Agency.
- (3) The Fund shall be held in trust by the Agency for the purposes mentioned in subsection (7). 5
- (4) The Fund is under the control and management of the Agency, which—
- (a) must utilise the money in the Fund in accordance with subsection (7) only;
- (b) is responsible for accounting for money received in, and payments made from, the Fund; and
- (c) must cause the necessary accounting and other related records to be kept. 10
- (5) The Fund consists of—
- (a) the contributions referred to in section 24;
- (b) interest derived from investment made in accordance with subsection (9);
- (c) funds appropriated by Parliament; and
- (d) money accruing to the Fund from any other source. 15
- (6) The money in the Fund must be utilised for—
- (a) compensating members of co-operative banks, that paid contributions to the fund, for deposits lost as a result of a co-operative bank having been unable to repay the deposits from its members, up to a percentage or amount determined by the Minister; and 20
- (b) the expenses involved in the control and management of the Fund.
- (7) (a) Money in the Fund shall, before utilisation in terms of subsection (7), be paid into an account to be known as “The Risk Equalisation Fund” at a financial institution.
- (b) The financial institution where the account contemplated in paragraph (a) is kept, shall not in respect of any liability of the Fund, not being a liability arising out of or in connection with any such account, have or obtain recourse or any right, whether by set-off, counter-claim, charge or otherwise, against money standing to the credit of such account. 25
- (8) (a) Any money of the Fund which is not required for immediate allocation may be invested by the Agency in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), and may be withdrawn when required. 30
- (b) Any unexpended balance of the money of the Fund at the end of any financial year shall be carried forward as a credit to the next financial year.
- (9) (a) The Fund must maintain separate accounting records for the bank account referred to in subsection (8), from the transactions, including investment transactions, undertaken by the Fund and annually prepare separate annual financial statements for the Fund in accordance with generally accepted accounting practice. 35
- (b) The Fund and the records referred to in paragraph (a) must be audited by the Auditor-General.

CHAPTER V 40**AMALGAMATION, DIVISION, CONVERSION, TRANSFER, JUDICIAL MANAGEMENT AND WINDING-UP OF CO-OPERATIVE BANKS****Prohibited transactions**

- 27.** (1) A co-operative bank may not convert into any other form of corporate or unincorporated body. 45
- (2) A co-operative bank may only amalgamate with another co-operative bank and transfer assets, rights, liabilities and obligations to another co-operative bank in accordance with section 57 of the Co-operatives Act.

Conversion of primary savings co-operative bank

- 28.** (1) A primary savings co-operative bank may convert to a primary savings and loans co-operative bank. 50

Ukulawulwa kweNgxowa-mali yokhuselo lwemali ebekiweyo yeeBhanki zentsebenziswano

26. (1) I-Arhente mayinike ingxelo yonyaka yeNgxowa-mali kuMphathiswa.
 (2) Inxowa-mali iya kuba phantsi kwegunya nolawulo lwe-Arhente.
 (3) INgxowa-mali iyakubanjwa kugcino lwe-Arhente ukufezekisa iinjongo 5 ezikhankanywe kwicandelwana 7.
 (4) INgxowa-mali iphantsi kolawulo nophatho lwe-Arhente, ethi—
 (a) kufuneka iyisebenzise imali ekwiNgxowa-mali ngendlela emiselwe kwicandelwana (7) kuphela;
 (b) ibe noxanduva lokuchaza imali engenileyo, neentlawulo ezenziwe ngemali 10 ekwiNgxowa-mali;
 (c) kufuneka ukuba inike ingcaciso efunekayo yemali nezinye iingxelo ezimele ukugcinwa.
 (5) Ingxowa-mali iqulethe—
 (a) imirhumo ekubhekiswe kuyo kwicandelo 24; 15
 (b) inzuzo efunyenwe kutyalo mali olwenziwe ngokwecandelwana (9);
 (c) imali ebekelwe yona yiPalamente; kunye
 (d) nemali eyongezeleke kwiNgxowa-mali evela kweminye imithombo.
 (6) Imali ekwiNgxowa-mali kufuneka isetyenziselwe—
 (a) ukubuyekeza amalungu eebhanki zentsebenziswano ebehlawule imirhumo 20 kwingxowa mali, ukubuyekeza ilahleko yemali ebekiweyo ezalwe kukuba ibhanki yentsebenziswano ingakwazi ukubuyekeza amalungu ayo imali ebekiweyo ebeyihlawule, ukufika kwisixa esithile ekhulwini okanye ubungakanani bemali ebekwe nguMphathiswa; kunye
 (b) neendleko zolawulo nophatho lweNgxowa-mali. 25
 (7) (a) Imali ekwiNgxowa-mali phambi kokuba isetyenziswe ngokwecandelwana (7), mayifakwe kuqala kwi-akhawunti eyaziwa njenge-“Ngxowa yokulinganisela ubungozi” kwiziko lemali.
 (b) Iziko lemali eligcina i-akhawunti ecetywa kumhlathi (a), malunga namatyala eNgxowa-mali engengawo avele ngenxa nangokudibene nale akhawunti, alisayi kuba 30 noncedo okanye lifune uncedo okanye ilungelo nokuba kungokuhlasela okanye ukufaka ibango elichasayo, isimangalo nokunye ngakwimali ekhoyo kule akhawunti.
 (8) (a) Nayiphi imali yeNgxowa engazukusetyenziswa kulwabiwo lakamsinya ingafakwa kutyalo yi-Arhente ngokoMthetho woLawulo lweMali yoLuntu ka-1999 (uMthetho onguNombolo 1 ka-1999), kwaye ingakhutshwa ngexesha efuneka ngalo. 35
 (b) Intsalela yemali engasetyenziswanga yeNgxowa-mali ekupheleni kwawo nawuphi unyaka mali iya kuwezelwa njengemali ekhoyo kunyaka olandelayo.
 (9) (a) INgxowa-mali mayigcine iingxelo zemali ze-akhawunti ekubhekiselwe kuyo kwicandelwana (8) ukusukela kwintengiselwano eziquka ezotyalo mali, ezamkelwe yiNgxowa-mali nokulungiswa kweengxelo zemali zonyaka ezohlukeneyo 40 zeNgxowamali ngokwemigaqo eyamkelekileyo yokuphathwa kwemali.
 (b) INgxowa-mali neengxelo ekubhekiswe kuzo kumhlathi (a) kufuneka ziphicothwe nguMphicothi zincwadi-Jikelele.

ISAHLUKO V**UKUDITYANISWA, UKOHLULWA, UKUGUQULWA, UKUNIKELWA, 45
ULAWULO LWASEMTHETHWENI NOKUPHETHWA KWEEBHANKI
ZENTSEBENZISWA****Iintengiselwano ezingavumelekanga**

27. (1) Ibhanki yentsebenziswano ayikwazi ukuguqulwa ibe kwesinye isimo 50 sequmrhu okanye ingabi nalo umanyano.
 (2) Ibhanki yentsebenziswano ingamanywa kuphela nenye ibhanki yentsebenziswano apho kude kukhutshelwe izinto enazo, amalungelo amatyala nezibophelelo kwenye ibhanki yentsebenziswano ngokwecandelo 57 loMthetho weNtsebenziswano.

Ukuguqulwa kwebhanki yentsebenziswano ekudidi lokuqala lolamkelo mali

28. (1) Ibhanki yentsebenziswano ekudidi lokuqala lokwamkela imali ingaguqulwa 55 ibe yibhanki yentsebenziswano yogcino nobolekiso-mali.

(2) A primary savings co-operative bank that wishes to convert to a primary savings and loans co-operative bank must—

- (a) apply to the supervisor to convert to such a primary savings and loans co-operative bank in accordance with this Act; and
- (b) request the supervisor to cancel its registration as a primary savings co-operative bank and to record its conversion. 5

Amalgamation or division of or transfer by co-operative bank

29. (1) Before an amalgamation, division or transfer of assets, rights, liabilities and obligations by a co-operative bank, such co-operative bank must apply to the supervisor for the approval of the amalgamation, division or transfer. 10

(2) Chapter 8 of the Co-operatives Act applies with regard to the amalgamation, division or transfer, by a co-operative bank, referred to in subsection (1).

(3) If an amalgamation, division of or transfer by a co-operative bank will result in more than 25% of the assets, rights, liabilities or obligations of a co-operative bank being transferred to another co-operative bank, the supervisor may not approve that amalgamation, division of or transfer or issue a certificate of registration in respect thereof without the written consent of the Minister to that amalgamation, division or transfer. 15

Winding-up or judicial management of co-operative bank

30. (1) Despite the provisions of sections 72(1), 73(1) and 77(2) of the Co-operatives Act— 20

- (a) the supervisor may—
 - (i) apply to a court that a co-operative bank be wound-up;
 - (ii) recommend to the Minister of Trade and Industry that a co-operative bank be wound-up; and 25
 - (iii) apply to a court for a judicial management order; and
- (b) the Minister of Trade and Industry may not order that a co-operative bank be wound-up without the written concurrence of the supervisor.

(2) Any application to a court for the winding-up, including the voluntary winding-up, of a co-operative bank must be served on the supervisor. 30

(3) Despite any other law, the Master of the High Court may only appoint a person recommended by the supervisor as a provisional liquidator or liquidator of a co-operative bank, unless the Master is of the opinion that the recommended person is not fit and proper to be appointed as a provisional liquidator or liquidator of the co-operative bank concerned. 35

(4) A liquidator of a co-operative bank that is voluntarily wound-up must submit to the supervisor any documents that the co-operative bank being wound-up would have been obliged to submit in terms of this Act.

CHAPTER VI

REPRESENTATIVE BODIES 40

Application for registration as representative body

31. (1) A representative body must apply, on the application form prescribed by the Agency, to the Agency for registration.

(2) The representative body must submit the following together with an application form referred to in subsection (1): 45

- (a) A list of co-operative banks it represents;
- (b) documentary proof that it represents the co-operative banks included in the list referred to in paragraph (a); and
- (c) the application fee prescribed by the Agency.

(3) The supervisor may require a representative body to furnish him or her with additional information or documents. 50

(2) Ibhanki yentsebenziswano ekudidi lokuqala enqwenela ukuquka ibe yibhanki yentsebenziswano yogcino nobolekiso-mali kufuneka—

- (a) ifake isicelo sokuguqukela kwibhanki yentsebenziswano yogcini nobolekiso mali kumphathi ngokwalo Mthetho; kwaye
- (b) kufuneka icele umphathi ukuba alurhoxise ubhaliso lwayo njengebhanki yentsebenziswano yodidi lokuqala logcino-mali. 5

Ukudityaniswa okanye ukohlulwa okanye ukinikelwa yibhanki yentsebenziswano

29. (1) Phambi kodityaniso, ukohlulwa okanye ukutshintshelwa kwempahla nezinto, amalungelo, amatyala kunye noxanduva yibhanki yentsebenziswano, loo bhanki yentsebenziswano kufuneka yenze isicelo kumphathi sokuba kuvunywe olu dityaniso, ukohlulwa okanye ukutshintshelwa. 10

(2) Isahluko 8 soMthetho weNtsebenziswano siso esisebenzayo ngokuphathelele kudityaniso, ukohlulwa okanye ukhutshelo lwebhanki yentsebenziswano ekubhekiswe kuyo kwicandelwana (1).

(3) Ukubangaba udityaniso, ukohlulwa okanye ukutshintshelwa yibhanki yentsebenziswano kuyakukhokelela ekubeni kutshintshelwe kwenye ibhanki yentsebenziswano impahla nezinto, amatyala okanye uxanduva ngesixa esingaphezulu kwe 25%, umphathi akanakuluvuma olo dityaniso, ukohlulwa okanye ukutshintshelwa okanye akhuphe isatifiketi sobhaliso ngokuphathelelene noko ngaphandle kwemvume ebhaliweyo yoMphathiswa ngolo dityaniso, ukohlulwa okanye ukutshintshelwa. 20

Ukuvalwa okanye ulawulo lwasemthethweni lwebhanki yentsebenziswano

30. (1) Ngaphandle kwamalungiselelo akumacandelo 72(1), 73(1) no-77(2) oMthetho weNtsebenziswano—

- (a) Umphathi anga—
 - (i) faka isicelo kwinkundla yomthetho ukuba ibhanki yentsebenziswano mayivalwe; 25
 - (ii) angenza isiphakamiso kuMphathiswa woRhwebo namaSishini sokuba ibhanki yentsebenziswano emanyeneyo ivalwe;
 - (iii) aze afake isicelo kwinkundla yamatyala soyalelo lowulo olusemthethweni; 30
- (b) uMphathiswa woRhwebo noShishino akakwazi ukuyalela ukuba ibhanki yentsebenziswano mayivalwe ngaphandle kwembhalelwano yomphathi evumelana noku.

(2) Nasiphi isicelo kwinkundla yamatyala, nokuba sesokuvalwa oluquka nelo lokuzithandela kwebhanki yentsebenziswano kufuneka sithunyelwe kumphathi. 35

(3) Ngaphandle kwawo nawuphi omnye umthetho, uMlawuli weNkundla ePhakamileyo unokumisa kuphela umntu ophakanyiswe ngumphathi njengomphelisi wethutyana okanye umphelisi, ngaphandle kokuba uMlawuli weNkundla ePhakamileyo ubona ukuba lo mntu ebephakanyiswe ngumphathi akafanelekanga kwaye akawulungelanga umsebenzi wokuba ngumphelisi wethutyana okanye umphelisi webhanki yentsebenziswano ekungayo. 40

(4) Umphelisi webhanki yentsebenziswano ezithandele ukuvala kufuneka engenise kumphathi onke amaxwebhu ekufuneka ukuba iwangenise ibhanki yentsebenziswano evalwayo ngokubotshelelwa ngulo Mthetho.

ISAHLUKO VI 45

IIBHODI ZOMELO

Ukufaka isicelo sobhaliso njengebhodi yomelo

31. (1) Ibhodi yomelo kufuneka ifake isicelo sobhaliso kwi-Arhente ngefomu emiselwe yi-Arhente.

(2) Ibhodi yomelo kufuneka ingenise oku kulandelayo nefomu yesicelo ekubhekiswe kuyo kwicandelwana (1): 50

- (a) Uludwe lwebhanki zentsebenziswano ezimelayo;
- (b) ubungqina obukumaxwebhu bokuba iyazimela ibhanki zentsebenziswano ezikuludwe ngokubhekiselele kumhlathi (a);
- (c) intlawulo yesicelo njengoko kumiselwe yi-Arhente. 55

(3) Umphathi angafuna ukuba ibhodi yomelo ingenise kuyo ulwazi namaxwebhu ongezelelekileyo.

Requirements for registration

32. In order to qualify for registration a representative body must demonstrate, to the satisfaction of the Agency, that it—

- (a) represents two or more co-operative banks in interactions with organs of state, the private sector and stakeholders; and 5
- (b) has the requisite experience, knowledge, qualifications and competence to represent co-operative banks; and
- (c) has sufficient human, financial and operational capacity to function efficiently and competently.

Registration of representative body 10

33. (1) The Agency must grant an application for registration on payment of the fee, prescribed by the Agency, if the Agency is satisfied that—

- (a) the application has been made in accordance with this Act; and
- (b) the representative body complies with the requirements for registration referred to in section 32. 15

(2) The Agency must, on registration, issue a certificate of registration to a representative body and publish a notice to that effect in the *Gazette*.

Requirements for continued registration

34. In order to retain its registration, a registered representative body must annually, within three months of the end of its financial year, satisfy the Agency that it continues to comply with the requirements for registration listed in section 32. 20

Cancellation or suspension of registration

35. (1) (a) The Agency must, subject to paragraph (b), cancel the registration of a representative body if that body ceases to comply with any requirement for registration or continued registration referred to in sections 32 and 34. 25

(b) The Agency must, prior to cancellation of registration, give notice in writing to the representative body concerned of its intention to cancel registration and the reasons on which such intention is based, and must afford the representative body a period of not less than 21 days and not more than 30 days in which to submit grounds for not proceeding with cancellation. 30

(c) The Agency, pending the outcome of the process referred to in paragraph (b), may suspend the registration of a representative body if it considers it in the best interests of the public or co-operative banking, and may make such alternative arrangements to accommodate the needs of the members of such body during the period of suspension as it may consider necessary. 35

(d) If the Agency considers that cancellation of registration would not be in the best interests of the public, co-operative banking or the members of a representative body, it may extend the registration of the representative body concerned on such conditions as it considers appropriate.

(2) A representative body may, by written notice to the Agency, renounce its registration. 40

(3) The registration of a representative body lapses automatically if it ceases to exist or if it renounces its registration.

(4) The Agency must, on cancellation or lapsing of a registration, publish a notice to that effect in the *Gazette*. 45

CHAPTER VII**SUPPORT ORGANISATIONS****Application for accreditation as support organisation**

36. (1) A support organisation must apply, on the application form prescribed by the Agency, to the Agency for accreditation. 50

(2) The support organisation must submit the following together with an application form referred to in subsection (1):

Iimfuno zobhaliso

- 32.** Ukulungela ukubhalisa njengebhodi yomelo kufuneka ibhodi yomelo ibonise ngokwanelisa i-Arhente ukuba—
- (a) imele iibhanki zentsebenziswano ezimbini nangaphezulu ukusebenzisana namqumrhu aseburhulumenteni, amaziko abucala nabanye abantu abachaphazelekayo; kwaye 5
 - (b) inamava, ulwazi, imfundo nezakhono eziyimfuneko zokumela iibhanki zentsebenziswano; kwaye
 - (c) inabantu aboneleyo, imali namandla okusebenza ngempumelelo nangokwanelisayo. 10

Ubhaliso lwebhodi yomelo

- 33.** (1) I-Arhente mayisivume isicelo sobhaliso xa kukhutshwe intlawulo emiselwe yi-Arhente ukuba i-Arhente iyonela ukuba—
- (a) isicelo senziwe ngokwalo Mthetho; kwaye
 - (b) ibhodi yomelo iyamelana nazo zonke iimfuno zobhaliso ekubhekiswe kuzo kwicandelo 32. 15
- (2) I-Arhente ngexesha lobhaliso, mayikhuphe isiqinisekiso kwibhodi yomelo ize ipapashe isaziso kwiPhepha-ndaba loMbuso.

Iimfuno zobhaliso oluqhubekayo

- 34.** Ukugcina ubhaliso lwayo, ibhodi yomelo ebhalisiweyo kufuneka kwiinyanga ezintathu minyaka yonke ekupheleni konyaka-mali yonezise i-Arhente ukuba iyaqhubeka nokwanelisa iimfuno zobhaliso ezidweliswe kwicandelo 32. 20

Ukurhoxiswa okanye ukuxhonywa kobhaliso

- 35.** (1) (a) I-Arhente, ngokomhlathi (b), mayirhoxise ubhaliso lwebhodi yomelo ukuba lo bhodi iyoyiswa kukumelana neemfuno zobhaliso okanye zokuqhubeka kobhaliso ekubhekiswe kulo kumacandelo 32 no24. 25
- (b) I-Arhente kufuneka phambi konqunyanyiso lobhaliso, ikhuphele ibhodi yomelo isaziso esibhaliweyo ngenjongo yayo yokurhoxisa ubhaliso inika nezizathu esekwe kuzo le njongo, ize inike ibhodi yomelo ithuba elingekho ngaphantsi kweentsuku ezingama-21 kodwa zingekho ngaphezu kweentsuku ezingama-30 ukungenisa izizathu zokuba lungaqhutyelwa phambili urhoxiso. 30
- (c) I-Arhente, isalindele iziphumo zenkqubo echazwe kumhlathi (b), ingaluxhoma ubhaliso lwebhodi yomelo ukuba ibona ukuba oku kuya kuba lulutho kuluntu okanye kwibhanki yentsebenziswano, kwaye ingenza amalungiselelo angamanye ukubonelela iimfuno zamalungu ale bhodi ngexesha lokuxhonywa njengokubona kwayo. 35
- (d) Xa i-Arhente igqibe kwelokuba ukurhoxiswa kobhaliso alusayi kuba lulutho kuluntu okanye kwibhanki yentsebenziswano okanye kumalungu ebhodi yomelo, inganako ukulandisa ubhaliso lwale bhodi yomelo ngaphantsi kweemeko ebona zifanelekile. 40
- (2) Ibhodi yomelo ngesaziso esibhalelwa i-Arhente ingalulahla ubhaliso lwayo. 40
- (3) Ubhaliso lwebhodi yomelo luyaphelelwa xa ingasekho okanye yazise ukulahla kwayo olo bhaliso.
- (4) I-Arhente kufuneka ekurhoxisweni okanye ekupheleni kobhaliso ipapashe isaziso soku kwiPhepha-ndaba loMbuso.

ISAHLUKO VII

45

AMAQUMRHU AXHASAYO**Ukufaka isicelo sokuqinisekiswa njengequmrhu elixhasayo**

- 36.** (1) Iqumrhu elixhasayo malifake isicelo kwi-Arhente soqiniseko kwifomu emiselwe yi-Arhente.
- (2) Iqumrhu elixhasayo malingenise kunye nesicelo esikwifomu ekubhekiswe kuyo kwicandelwana (1) oku kulandelayo: 50
- (a) Iikopi zemvumelwano yoxhaso;

- (a) Copies of any support agreements;
 - (b) documentary proof in respect of the matters referred to in section 37(c) and (d);
 - (c) a business plan;
 - (d) a certified copy of its certificate of registration as a co-operative under the Co-operatives Act; 5
 - (e) a certified copy of its constitution;
 - (f) a list of its members and its directors; and
 - (g) the application fee prescribed by the Agency.
- (3) The supervisor may require a support organisation to furnish him or her with— 10
- (a) additional information or documents; or
 - (b) a report by an auditor or by any other knowledgeable person, approved by the supervisor, on aspects relating to the application.

Requirements for accreditation

37. In order to qualify for accreditation a support organisation must demonstrate, to the satisfaction of the Agency, that— 15
- (a) it has two or more co-operative banks as members;
 - (b) support agreements have been entered into with at least two co-operative banks, which support agreements may provide for— 20
 - (i) development and support;
 - (ii) ongoing education and training of members, directors and personnel; and
 - (iii) assistance in managing and maintaining prudential requirements, establishment of risk management systems, improvement of governance arrangements and audits;
 - (c) it has the requisite experience, knowledge, qualifications and competence to give effect to its obligations in terms of the support agreements; and 25
 - (d) it has sufficient human, financial, and operational capacity to function efficiently and competently.

Accreditation of support organisation

38. (1) The Agency must grant an application for accreditation on payment of the fee, prescribed by the Agency, if the Agency is satisfied that— 30
- (a) the application has been made in accordance with this Act; and
 - (b) the support organisation complies with the requirements for accreditation referred to in section 37.
- (2) The Agency must, on accreditation, issue a certificate of accreditation to a support organisation and publish a notice of the accreditation in the *Gazette*. 35

Requirements for continued accreditation

39. In order to retain its accreditation, an accredited support organisation must—
- (a) at least twice a year, submit performance reports to each co-operative bank it represents; and 40
 - (b) annually within three months of the end of its financial year—
 - (i) satisfy the Agency that it continues to comply with the requirements for accreditation listed in section 37; and
 - (ii) submit a report to the Agency, in the form and with the content required by the Agency, on its performance during the relevant financial year. 45

Cancellation or suspension of accreditation

40. (1) (a) The Agency may, subject to paragraph (b), cancel the accreditation of a support organisation if that body ceases to comply with any requirement for accreditation or continued accreditation referred to in sections 37 and 39.
- (b) The Agency must, prior to cancellation of accreditation, give notice in writing to the support organisation concerned of its intention to cancel accreditation and the reasons on which such intention is based, and must afford the support organisation a period of not less than 21 days and not more than 30 days in which to submit grounds for not proceeding with cancellation of accreditation. 50

- (b) ubungqina bamaxwebhu mayelana memibandela ekubhekiswe kuyo kwicandelo 37(c) no (d);
 - (c) isicwangciso soshishino;
 - (d) ikopi eqinisekisiweyo yesiqinisekiso sobhaliso njengeshishini elimanyeneyo ngaphantsi koMthetho weNtsebenziswano; 5
 - (e) ikopi eqinisekisiweyo yomgaqo siseko;
 - (f) uludwe lamalungu nabalawuli;
 - (g) nentlawulo yesicelo emiselwe yi-Arhente.
- (3) Umphathi angafuna ukuba iqumrhu elixhasayo limnike—
- (a) ulwazi olongeziweyo okanye amaxwebhu; okanye 10
 - (b) ingxelo ngumphicothi zincwadi zemali okanye omnye umntu onolwazi ovunywe ngumphathi ngemibandela ebhekisele kwisicelo.

Imfuno zokuqinisekiswa

37. Ukuze lilungele ukuqinisekiswa iqumrhu kufuneka libonakalise ngokwanelisa i-Arhente ukuba— 15
- (a) lineebhanki zentsebenziswano ezimbini nangaphezulu njengamalungu;
 - (b) izivumelwano zoxhaso kungenwe kuzo nobuncinane beebhanki zentsebenziswano ezimbini, ezi mvumelwano zoxhaso zilungiselela—
 - (i) uphuhliso nenkxaso;
 - (ii) imfundo noqeqesho oluqhubekayo lwamalungu, abalawuli nabasebenzi; kunye 20
 - (iii) nokuxhasa ulawulo nogcino lweemfuno zobulumko, ukusekwa kweenkqubo zolawulo lobungozi, ukuphuculwa kolawulo nophicotho;
 - (c) inamava, ulwazi, imfundo nezakhono ezifunekayo zokuphumeza izibophelelo ngokokulungiselelwe zimvumelwano zoxhaso; kunye 25
 - (d) nabantu aboneleyo, imali namandla okusebenza ngempumelelo nangokwanelisayo.

Ukuqinisekiswa kwamaqumrhu axhasayo

38. (1) I-Arhente kufuneka ivume isicelo sokuqinisekiswa kusakuhlululwa intlawulo emiselwe yi-Arhente, isakuba i-Arhente yonelisekile ukuba— 30
- (a) isicelo sifakwe ngokwalo Mthetho; kwaye
 - (b) iqumrhu elixhasayo liyazanelisa iimfuno zoqinisekiso ekubhekiswe kuzo kwicandelo 37.
- (2) I-Arhente kufuneka xa isenza ukuqinisekiso ikhuphe isiqinisekiso sokuqinisekiswa kwequmrhu elixhasayo ize ipapashe nesaziso soqinisekiso kwiPhepha-ndaba loMbuso. 35

Imfuno zokuqhubeka koqinisekiso

39. Ukuze likugcine ukuqinisekiswa iqumrhu elixhasayo kufuneka—
- (a) kabini ngonyaka ubuncinane, lifake ingxelo zokusebenza kwalo kwibhanki nganye yentsebenziswano eliyimeleyo; ize 40
 - (b) ngonyaka kwiinyanga ezintathu emva kokuphela konyaka mali—
 - (i) lanelise iArhente ukuba liyaqhubeka nokwanelisa iimfuno zokuqinisekiswa ezidweliswe kwicandelo 37;
 - (ii) lingenise ingxelo kwiArhente, kwifomu nangokuqulathwe koko kufunwa yiArhente, ngendlela yokusebenza kwalo kuloo nyaka mali. 45

Ukurhoxiswa okanye ukuxhonywa kokuqinisekiswa

40. (1) (a) I-Arhente, ngokomhlathi (b), ingakurhoxisa ukuqinisekiswa kwequmrhu elixhasayo ukuba elo qumrhu alimelani nazo zonke iimfuno zokuqinisekiswa okanye ukuqinisekiswa okuqhubekayo ekubhekiswe kulo kumacandelo 37 no39.
- (b) I-Arhente kufuneka, ngaphambi kokulurhoxisa uqinisekiso, ikhuphele iqumrhu elixhasayo isaziso esibhaliweyo esazisa injongo yokurhoxisa ukuqinisekiswa inika nezizathu esekwe kuzo le njongo, kwaye kufuneka inike iqumrhu elixhasayo ithuba elingekho nganeno kweentsuku ezingama-21 kodwa lingekho ngaphezu kweentsuku ezingama-30 ukuba lingenise izizathu zokuba lungaqhutyelwa phambili urhoxiso lokuqinisekiswa. 55

(c) The Agency, pending the outcome of the process referred to in paragraph (b), may suspend the accreditation of a support organisation if it considers it in the best interests of the public or co-operative banking, and may make such alternative arrangements to accommodate the needs of the members of such body during the period of suspension as it may consider necessary. 5

(d) If the Agency considers that cancellation of accreditation would not be in the best interests of the public, co-operative banking or the members of a support organisation, it may extend the accreditation of the support organisation concerned on such conditions as it considers appropriate.

(2) A support organisation may, by written notice to the Agency, renounce its accreditation. 10

(3) The accreditation of a support organisation lapses automatically if it ceases to exist or if it renounces its accreditation.

(4) The Agency must on cancellation or lapsing of an accreditation publish a notice to that effect in the *Gazette*. 15

CHAPTER VIII

ADMINISTRATION OF ACT

Supervisors of co-operative banks

41. (1) The South African Reserve Bank must, subject to the approval of the Minister, appoint a suitable employee in its service as the supervisor of co-operative banks with the authority to exercise the powers and perform the functions conferred on the supervisor by or in terms of this Act in respect of— 20

(a) primary co-operative banks that hold deposits in excess of 20 million Rand;

(b) secondary co-operative banks; and

(c) tertiary co-operative banks. 25

(2) The Agency must, subject to the approval of the Minister, appoint a suitable employee in its service as the supervisor of co-operative banks with the authority to exercise the powers and perform the functions conferred on the supervisor by or in terms of this Act in respect of primary co-operative banks that that hold deposits of 20 million Rand or less. 30

(3) If a primary co-operative bank holds deposits in excess of 20 million Rand for a continuous period of three months, the Agency must inform the South African Reserve Bank within one month of the expiry of that three month period that the primary co-operative bank is subject to its authority and provide the South African Reserve Bank with the necessary information. 35

(4) If a primary co-operative bank holds deposits of less than 20 million Rand for a continuous period of three months the South African Reserve Bank must inform the Agency within one month of the expiry of that three month period that the primary co-operative bank is subject to its authority and provide the Agency with the necessary information. 40

Co-operation and co-ordination between supervisors

42. (1) The supervisors appointed under section 41(1) and section 41(2) must co-operate with each other and co-ordinate their approach to exercising their powers and functions in terms of the Act to ensure the consistent application of this Act.

(2) The supervisors must, in addition to subsection (1)— 45

(a) engage with each other in activities of research, publication, education, staff development and training; and

(b) engage with each other in staff exchanges or secondments; and

(c) provide technical assistance or expertise to each other.

(3) The supervisors must annually prepare a co-operation and co-ordination plan in respect of the matters referred to in subsections (1) and (2) and submit such co-operation and co-ordination plan to the Minister. 50

(c) I-Arhente, isalindele iziphumo zenkqubo echazwe kumhlathi (b), ingakuxhoma ukuqinesikiswa kwequmrhu elixhasayo ukuba ibona ukuba oku kuya kuba lulutho kuluntu okanye kwibhanki yentsebenziswano, kwaye ingenza amalungiselelo angamanye ukubonelela iimfuno zamalungu eli qumrhu ngexesha lokuxhonywa njengokokubona kwayo. 5

(d) Xa i-Arhente igqibe kwelokuba ukurhoxiswa kokuqinisekiswa akusayi kuba lulutho kuluntu okanye kwibhanki yentsebenziswano okanye kumalungu ebhodi yomelo, inganako ukulandisa ubhaliso lweli qumrhu loxhaso ngaphantsi kweemeko ebona zifanelekile.

(2) Iqumrhu lenkxaso ngesaziso esibhalelwa i-Arhente ingalulahla ubhaliso lwayo. 10

(3) Ubhaliso lwequmrhu lenkxaso luyaphelelwa xa lingasekho okanye lazise ukulahla kwalo oko kuqinisekiswa.

(4) I-Arhente kufuneka ekurhoxisweni okanye ekupheleni kokuqinisekiswa ipapashe isaziso soku kwiPhepha-ndaba loMbuso.

ISAHLUKO VIII 15

ULAWULO LOMTHETHO

Abongameli beebhanki zentsebenziswano

41. (1) IBhanki enguVimba yoMzantsi Afrika kufuneka, ngemvume yoMphathiswa imisele umsebenzi wayo ofanelekileyo njengomphathi weebhanki zentsebenziswano onegunya lokusebenzisa amandla nokwenza imisebenzi athweswe umphathi okanye ngokolungiselelo ngulo Mthetho ngokubhekisele— 20

(a) kwiibhanki zentsebenziswano zodidi lokuqala ezibambe imali ebekiweyo engaphezu kwezigidi ezingama-20 zeerandi;

(b) iibhanki zentsebenziswano ezikudidi lwesibini;

(c) neebhanki zentsebenziswano ezikudidi lwesithathu. 25

(2) I-Arhente kufuneka, ngemvume yoMphathiswa, imisele umsebenzi wayo ofanelekileyo njengomphathi weebhanki zentsebenziswano onegunya lokusebenzisa amandla nokwenza imisebenzi athweswe umphathi okanye ngokolungiselelo ngulo Mthetho ngokubhekisele kwiibhanki zentsebenziswano zodidi lokuqala ezibambe imali ezizigidi zeerandi ezingama-20 nangaphantsi. 30

(3) Ukubangaba ibhanki yentsebenziswano ekudidi lokuqala inemali ebekiweyo edlula izigidi zeerandi ezingama-20, kwithuba eliqhubekayo leenyanga ezintathu, i-Arhente kufuneka yazise iBhanki enguVimba yaseMzantsi Afrika kwisithuba senyanga enye yokuphela kwelo thuba leenyanga ezintathu zokuba ibhanki yentsebenziswano ekudidi lokuqala iphantsi kwegunya layo kwaye inike iBhanki enguVimba yaseMzantsi Afrika inkcazelo eyimfuneko. 35

(4) Ukubangaba ibhanki yentsebenziswano ekudidi lokuqala inemali ebekiweyo engaphantsi kwezigidi zeerandi ezingama-20, kwithuba eliqhubekayo leenyanga ezintathu, i-Arhente kufuneka yazise iBhanki enguVimba yaseMzantsi Afrika kwisithuba senyanga enye yokuphela kwelo thuba leenyanga ezintathu zokuba ibhanki yentsebenziswano ekudidi lokuqala iphantsi kwegunya layo kwaye inike iBhanki enguVimba yaseMzantsi Afrika inkcazelo eyimfuneko 40

Intsebenziswano nolungelelaniso phakathi kwabaphathi

42. (1) Abaphathi abaqeshwe ngaphantsi kwecandelo 41(1) nele 41(2). Kufuneka basebenzisane balungelelanise indlela yokusebenzisa amagunya abo nokwenza imisebenzi ngokokulungiselelwe ngulo Mthetho ukuqinisekisa ukusetyenziswa kwalo Mthetho ngokufanayo. 45

(2) Abaphathi kufuneka, ukongeza koko kukwicandelwana (1)—

(a) babonise ngokubhekisele kuphando, upapasho, imfuno, ukuphuhlisa kwabasebenzi noqeqesho; 50

(b) babonise ngotshintshiselwano ngabasebenzi okanye ukuthunyelwa kwabasebenzi kwezinye iindawo;

(c) ukunikana inkxaso yobugcisa okanye yobungcaphephe.

(3) Abaphathi kufuneka ngonyaka benze isicwangciso sentsebenziswano nolungelelaniso ngokumayela nemibandela ekubhekiswe kuyo kumacandelwana (1) no 55

(2) baze balungenise olu cwangciso kuMphathiswa.

Deputy co-operative bank supervisors and designated employees

43. The South African Reserve Bank and Agency may, subject to the approval of the Minister—

- (a) appoint not more than four employees in its service as deputy co-operative banks supervisors, to assist the supervisor in the performance of his or her duties; and 5
- (b) from time to time designate such other employees of the Agency as may be necessary to assist the supervisor.

Delegation and assignment

44. (1) The supervisor may, in writing, delegate any of the powers entrusted to him or her in terms of this Act and assign any of the duties imposed on him or her in terms of this Act to a deputy supervisor or any other person. 10

(2) A delegation or assignment in terms of subsection (1)—

- (a) is subject to any limitations or conditions that the supervisor may impose;
- (b) may authorise sub-delegation; and 15
- (c) does not divest the supervisor of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

(3) The supervisor may confirm, vary or revoke any decision taken by a deputy supervisor or any other person, subject to any rights that may have vested as a consequence of the delegation or assignment. 20

General powers and functions of supervisor

45. The supervisor, in addition to other functions conferred on the supervisor by or in terms of any other provision of this Act—

- (a) must take steps he or she considers necessary to protect the public in their dealings with co-operative banks; 25
- (b) may, on the written request of a co-operative bank, a representative body, support organisation or auditor, extend any period within which any documentation, information or report must be submitted to him or her;
- (c) must determine the form, manner and period, if a period is not specified in this Act, within which any documentation, information or report that a co-operative bank, a representative body, support organisation or auditor is required to submit to the supervisor under this Act must be submitted; 30
- (d) may, despite the provisions of any law, furnish information acquired by him or her under this Act to any person charged with the performance of a function under any law; 35
- (e) may issue guidelines to co-operative banks, members, supporting institutions and auditors on the application and interpretation of this Act and provide them with information on market practices or market or industry developments within or outside the Republic;
- (f) may publish a journal or any other publication, and issue newsletters and circulars containing information relating to co-operative banks; and 40
- (g) may take any measures he or she considers necessary for the proper performance and exercise of his or her functions or duties or for implementation of this Act.

Power to make rules

45

46. (1) The supervisor may prescribe rules with regard to—

- (a) any matter that is required or permitted to be prescribed in terms of this Act; and
- (b) any other matter for the better implementation of this Act or a function or power provided for in this Act. 50

(2) Rules referred to in subsection (1) may—

- (a) apply to co-operative banks generally; or

Oosekela baphathi beebhanki zentsebenziswano nabasebenzi abonyuliweyo

43. IBhanki enguVimba yoMzantsi Afrika ne-Arhente, ngemvume yoMphathiswa—

- (a) ingamisela abasebenzi bayo abangekho ngaphezu kwesine njengoosekela baphathi beebhanki zentsebenziswano ukuncedisa umphathi ekwenzeni imisebenzi yakhe; kunye 5
- (b) kuze kumaxesha ngamaxesha yalathe abanye abasabenzi abalolu hlobo be-Arhente njengokuba kuyimfuneko.

Ukuthuma nemisebenzi emiselweyo

44. (1) Umphathi, ngokubhaliweyo, anganikela ngegunya analo ngokolungiselelo lalo Mthetho aze ayalele ukwenziwa kwemisebenzi athwaliswe yona ngokolungiselelo lalo Mthetho kusekela mongameli okanye komnye umntu. 10

(2) ukunikela ngegunya okanye ukuyalela kokwenziwa komsebenzi ngomnye umntu ngokwecandelwana (1)—

- (a) kuxhomekeka kwimida okanye iimeko eziyalelwa ngumphathi;
- (b) kunika imvume onegunya ukuba anikele ngalo komnye umntu; kunye 15
- (c) oku akumohluthi umphathi uxanduva olumayela nokusebenzisa amagunya anikelweyo okanye ukwenziwa komsebenzi omiselweyo.

(3) Umphathi angaqiniseka, aguqule okanye arhoxise nasiphi isigqibo esithatyathwe ngusekela mphathi okanye omnye umntu, ngokuxhomekeke kumalungelo agunyaziswe njengesiphumo sokunikela ngegunya okanye uyalelo lokwenziwa komsebenzi omiselweyo. 20

Amagunya jikelele nemisebenzi yomphathi

45. Umphathi, ngaphezu kwemisebenzi athwaliswe yona ngokolungiselelo olulolunye lwalo Mthetho—

- (a) kufuneka athabathe amanyathelo awabona efanelekile okukhusela uluntu kwiintsebenziswano neebhanki zentsebenziswano; 25
- (b) ngokwesicelo esibhaliweyo sebhanki yentsebenziswano, ibhodi yomelo, iqumrhu elixhasayo, umphicothi zincwadi zemali, angongeza ithuba lokungeniswa kwamaxwebhu, ulwazi okanye iingxelo kuye;
- (c) angathabatha isigqibo ngemo, indlela nexesha, ukuba ixesha alisekwanga ngulo Mthetho, lokungeniswa kumphathi amaxwebhu, ulwazi okanye iingxelo yibhanki yentsebenziswano, ibhodi yomelo, iqumrhu lenkxaso okanye umphicothi zincwadi zemali ngaphantsi kwalo Mthetho; 30
- (d) ngaphandle kolungiselelo lomnye umthetho, aganikezela ngolwazi aluqokeleleyo ngokwalo Mthetho kumntu obekwa ityala ngomsebenzi othile awenza ngaphantsi kwawo nawuphi umthetho; 35
- (e) angakhupha umkhomba ndlela kwiibhanki zentsebenziswano, amalungu, amaziko enkxaso nakubaphicothi beencwadi zemali ngokusetyenziswa nokutolikwa kwalo Mthetho anike nolwazi lweenkqubo zeemalike okanye iimalike okanye inkqubela yamashishini ngaphakathi okanye ngaphandle kweRiphabliki; 40
- (f) angapapasha ijenali okanye olunye ushicilelo, akhuphele amalungu iimbalelwano neesetyhula eziqulethe ulwazi olumayela neebhanki zentsebenziswano;
- (g) angathabatha amanyathelo abona efanelekile ukuze asebenze ngokukuko ekwenzeni imisebenzi yakhe okanye ekusetyenzisweni kwalo Mthetho. 45

Igunya lokwenza imithetho

46. (1) Umphathi angamisela imithetho ngokuphathelene—

- (a) nawuphi umbandela ofunwa okanye ovunyelwe ukuba umiswe ngokwalo Mthetho; 50
- (b) neminye imibandela ngokusetyenziswa kakuhle kwalo Mthetho okanye ukwenziwa kwemisebenzi okanye ngamagunya alungiselelwe ngulo Mthetho.

(2) Imithetho ekubhekiswe kuyo kwicandelwana (1)—

- (a) ingasebenza kwiibhanki zentsebenziswano; okanye 55

- (b) be limited in application to a particular co-operative bank or kind of co-operative bank, which may be defined in relation to either a type or budgetary size of co-operative bank or to any other matter.
- (3) (a) Before the supervisor prescribes any rule under this section, he or she must— 5
- (i) publish a draft of the proposed rule in the *Gazette* together with a notice calling for public comment in writing within a period stated in the notice, which period may not be less than 30 days from the date of publication of the notice; and
 - (ii) secure the written approval of the Minister.
- (b) If the supervisor alters a draft rule because of any comment, he or she need not 10
publish the alteration before prescribing the rule.
- (4) The supervisor may, if circumstances necessitate the immediate publication of a rule, publish that rule without the approval as contemplated in subsection (3)(a)(ii).

Inspections

47. (1) (a) The supervisor may at any time of his or her own accord, on application by 15
at least 10 per cent of the members of or at the request of the judicial manager of a co-operative bank inspect the business of a co-operative bank if the supervisor has reason to believe that the co-operative bank is not conducting its affairs in accordance with the provisions of this Act or is contravening a provision of this Act.
- (b) The supervisor has for the purposes of subsection (2) the powers and duties 20
conferred or imposed upon a registrar by the Inspection of Financial Institutions Act, 1988 (Act No. 80 of 1988), and any reference in that Act to “registrar” must be construed as a reference to “supervisor” and any reference to “financial institution” must be construed as a reference to “co-operative bank”, provided that no warrant is 25
required for search and seizure activities aimed at establishing regulatory compliance.
- (2) The supervisor may take any measures and make any recommendation he or she considers appropriate following an inspection in terms of subsection (1), including a recommendation to—
- (a) the co-operative bank; and
 - (b) the relevant prosecuting authority if the inspection was done on the authority 30
of a warrant.

Directives

48. (1) The supervisor may, in order to ensure the implementation and administration 35
of this Act or to protect members and the public in general, issue a directive to a co-operative bank—
- (a) to implement specific practices, procedures or processes;
 - (b) to take specific actions or measures;
 - (c) to desist from undertaking specific practices, procedures, processes, actions or measures; or
 - (d) prohibiting certain practices, procedures, processes, actions or measures. 40
- (2) A directive referred to in subsection (1) may—
- (a) apply to co-operative banks generally; or
 - (b) be limited in its application to a particular co-operative bank or kind of 45
co-operative bank, which may be defined either in relation to a type or budgetary size of co-operative bank or to any other matter.
- (3) A directive issued in terms of subsection (1) takes effect on the date determined by the Reserve Bank in the directive, and may take effect immediately.
- (4) (a) The supervisor must issue a directive in terms of subsection (1), in accordance 50
with the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (b) In the event of a departure from the provisions of the Promotion of Administrative Justice Act, 2000, in accordance with sections 3(4) and 4(4) of that Act, the directive must include a statement to that effect and a motivation for the departure.
- (5) The supervisor may cancel or revoke any previously issued directives.

- (b) isikelwe imida yokusetyenziswa kwibhanki yentsebenziswano ethile okanye yohlobo oluthile, engachazwa ngokohlobo okanye ubungakanani bolwabiwo mali lwebhanki yentsebenziswano okanye eminye imibandela.
- (3) (a) Ngaphambi kokuba umphathi amisele umthetho ngaphantsi kweli candela, kufuneka— 5
- (i) apapashe uyilo lokuqala olubhaliweyo lomthetho ocetywayo kwiPhephandaba loMbuso kunye nesaziso esimema izimvo ezibhaliweyo zoluntu ngexesha elichazwa kwisaziso, thuba elo emalingabikho ngaphantsi kweentsuku ezingama-30 ukususela kumhla wopapasho lwesaziso;
- (ii) afune imvume ebhaliweyo yoMphathiswa. 10
- (b) Ukuba umphathi wenza inguqu kuyilo lomthetho lokuqala ngenxa yezimvo zabantu, akunyanzelekanga ukuba ayipapashe lo nguqu ngaphambi kokuba awumisele umthetho.
- (4) Umhloli iimeko zinyanzelisa ukupapashwa ngokukhawuleza komthetho, angawupapasha ngaphandle kwemvume ecetywe kwicandelwana (3)(a)(ii). 15

Ukuhlola

47. (1) (a) Umphathi ngexesha abone lifanelekile kusakufakwa isicelo ngamalungu ali-10 ekhulwini okanye isicelo esifakwe ngumlawuli wasemthethweni webhanki yentsebenziswano angahlola ishishini lebhanki yentsebenziswano ukuba umphathi unezizathu ezenza ukuba akholelwe ekubeni ibhanki yentsebenziswano ayiyiqhubi ngendlela imicimbi yayo ngokolungiselelo lwalo Mthetho okanye ukungathobeli ulungiselelo ngulo mthetho. 20
- (b) Umphathi, ngeenjongo zecandelwana (2) unamagunya nemisebenzi enikwe okanye ethweswe umgcini zincwadi nguMthetho wohlolo lwamaziko email ka-1988 (uMthetho onguNombolo 80 ka-1988), kwaye ukusingisela kwalo Mthetho “kumgcini zincwadi” kuthatyathwe njengokubhekisa “kumphathi” kuze ukusingisela “kwiziko lemali” makuthatyathwe njengokubhekisa “kwibhanki yentsebenziswano” ngokuxhokekeke ekubeni akukho siqinisekiso sifunekayo sokukhangela nokuthimba imisebenzi ejoliswe ekusekweni kolawulo lothotyelo. 25
- (2) Umphathi angathabatha amanyathelo enze neziphakamiso abona zifanelekile emva kohlolo ngokwecandelwana (1), oku kuquka nesiphakamiso sokuba— 30
- (a) ibhanki yentsebenziswano; kunye
- (b) negunya lotshutshiso ukuba uhlobo belwenziwe ngegunya lesiqinisekiso.

Imigaqo

48. (1) Umphathi ukuqinisekisa ukusetyenziswa nokulawulwa kwalo mthetho okanye ukukhusela uluntu jikelele, angawisa umgaqo kwibhanki yentsebenziswano— 35
- (a) ngendlela yokusetyenziswa kweenkqubo neendlela zokwenza nokwenziwa kwezinto ezithile;
- (b) ngokuthatyathwa kwamanyathelo athile;
- (c) ngokuyekisa ukwamkeleka kweenkqubo neendlela zokwenza nokwenziwa kwezinto ezithile okanye amanyathelo; okanye 40
- (d) ngokuthintela iinkqubo neendlela ezithile zokwenza okanye ukwenziwa kwezinto okanye amanyathelo.
- (2) Umgaqo ekubhekiswe kuwo kwicandelwana (1)—
- (a) ungasingiselwa kwibhanki zentsebenziswano ngokubanzi; okanye 45
- (b) usikelwe umda wokusetyenziswa ubhekise kwibhanki yentsebenziswano okanye kwibhanki yentsebenziswano yohlobo oluthile, olungachazwa mayela nohlobo okanye ubungakanani bolwabiwo mali bebhanki yentsebenziswano okanye eminye imibandela.
- (3) Imigaqo ekhutshwe ngokwecandelwana (1) iqala ukusebenza ukusukela kumhla ogqitywe yiBhanki enguVimba kulo mgaqo, kwaye ungaqalisa kwangoko ukusebenza. 50
- (4) (a) Umongameli kufuneka akhuphe umgaqo ngokwecandelwana (1) ngokolungiselelo loMthetho woXhaso loLawulo loBulungisa ka-2000 (uMthetho onguNombolo. 3 ka-2000).
- (b) Xa kukho ukuphambuka kulungiselelo loMthetho woXhaso loLawulo lobuLungisa ngokwamacandelo 3(4) no 4(4) lwaloo Mthetho, umgaqo kufuneka ukuchaze oku uze unike nezizathu zoku kuphambuka. 55
- (5) Umhloli unako ukurhoxisa okanye ukutshitshisa imigaqo ebikhutshwe kwilixa elingaphambili.

(6) The supervisor must, where a directive is issued to ensure the protection of the members and the public in general, publish the directive in the *Gazette* and any other media that the supervisor deems appropriate.

Administrative penalties

49. (1) The supervisor may, despite and in addition to taking any step he or she may take under this Act, impose an administrative penalty on the co-operative bank for any failure to comply with a provision of this Act. 5

(2) An administrative penalty referred to in subsection (1) may not exceed the amount prescribed by the Minister for every day during which such failure continues.

(3) An administrative penalty imposed under subsection (1) must be paid to the supervisor within the period specified by the supervisor. 10

(4) If a co-operative bank fails to pay an administrative penalty within the specified period the supervisor may by way of civil action in a competent court recover the amount of the administrative penalty from the co-operative bank.

Information and reports

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50. (1) (a) The supervisor may on written notice require a co-operative bank, a representative body or support organisation of a co-operative bank to submit to him or her—

(i) the information specified in the notice; or

(ii) a report by an auditor or by any other person with appropriate professional skill, designated by the supervisor, on any matter specified in the notice. 20

(b) A report required under subsection (1) must be prepared at the expense of the co-operative bank, representative body or support organisation.

Records and register of co-operative banks

51. (1) (a) The supervisor must keep records of the following documents for a period of at least 10 years: 25

(i) Alterations to the constitution or name of a co-operative bank;

(ii) constitutions of co-operative banks;

(iii) copies of all documents submitted to him or her by a co-operative bank or its auditor; and 30

(iv) financial statements of co-operative banks.

(b) Despite paragraph (a), the supervisor is not required to keep documents relating to a co-operative bank whose registration was cancelled for a period longer than five years from the date of the cancellation.

(2) The supervisor must keep a register of co-operative banks in the manner prescribed by the Minister, in which particulars of all registered co-operative banks must be entered. 35

(3) The register of co-operative banks or any extract therefrom or copy thereof signed by the supervisor is, on the face of it, proof of the particulars contained in the register.

Reporting

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52. (1) The supervisor must provide the Minister with access to any information as may be reasonably requested.

(2) (a) The supervisor must annually, at the intervals prescribed by the Minister, submit to the Minister a report on—

(i) the exercise and performance of his or her powers and functions in terms of this Act; and 45

(ii) the implementation of the co-operation and co-ordination plan referred to in section 42.

(b) The Minister must table the report referred to in subsection (2) in Parliament within two months of submission thereof. 50

Relationship with other regulatory authorities

53. (1) The supervisor may—

(a) liaise with any regulatory authority on matters of common interest;

(6) Umhloli, xa umgaqo ukhutshwe ngenjongo yokukhusela amalungu noluntu ngokubanzi, makawupapashe lo mgaqo kwiPhepha-ndaba loMbuso nakuluphi olunye uhlobo losasazo alubona lufanelekile umphathi.

Izohlwayo zolawulo

49. (1) Umphathi, ngaphandle nangaphezu kokuthabatha amanyathelo ngokwalo mthetho, angawisa isohlwayo solawulo kwibhanki yentsebenziswano ngokungaphumeleli ukuthobela ulungiselelo lwalo Mthetho. 5

(2) Isohlwayo solawulo ekubhekiswe kuso kwicandelwana (1) masingedluli kwimali emiselwe nguMphathiswa ngosuku ngalunye kusaqhubeka ukungaphunyezwa.

(3) Isohlwayo solawulo esiwiswe ngaphantsi kwecandelwana (1) kufuneka sihlawulwe kumphathi kwixesha elichazwe ngumphathi. 10

(4) Ukuba ibhanki yentsebenziswano ayiphumeleli ukuhlawula isohlwayo kwixesha elibekiweyo umphathi angathabatha amanyathelo omthetho kwinkudla yamatyala ukufumana imali yesohlwayo kwibhanki yentsebenziswano.

Ukwazisa neengxelo

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50. (1) (a) Umphathi ngesaziso esibhaliweyo angafuna ukuba ibhanki yentsebenziswano, ibhodi yomelo okanye iqumrhu elixhasayo lebhanki yentsebenziswano lingenise kuye—

(i) ulwazi olucaciswe kwisaziso;

(ii) ingxelo ngumphicothi zincwadi zemali okanye omnye umntu onesakhono omiselwe ngumphathi, ngawo nawuphi umbandela ocaciswe kwisaziso. 20

(b) Ingxelo efunwa ngaphantsi kwecandelwana (1) kufuneka ilungiswe ngeendleko zebhanki yentsebenziswano, ibhodi yomelo okanye iqumrhu elixhasayo.

Ubungqina obubhaliweyo neencwadi ekubhalwe kuzo

51. (1) (a) Umphathi makagcine iinkcukacha zala maxwebhu alandelayo kangangeminyaka eli-10: 25

(i) Inguqu kumgaqo siseko okanye igama lebhanki yentsebenziswano;

(ii) umgaqo siseko webhanki yentsebenziswano;

(iii) ikopi zawo onke amaxwebhu angeniswe kuye yibhanki yentsebenziswano okanye umphicothi zincwadi; 30

(iv) ingxelo zemali zebhanki zentsebenziswano.

(b) Ngaphandle komhlathi (a), umphathi akulindelekanga ukuba agcine amaxwebhu ebhanki yentsebenziswano erhoxisiweyo ithuba elingaphezu kweminyaka emihlanu ukusukela mhla lwarhoxiswa ubhaliso lwayo.

(2) Umphathi kufuneka incwadi ezibhaliswe kuyo iibhanki zentsebenziswano ngendlela emiselwe nguMphathiswa, apho zonke iinkcukacha zazo zonke iibhanki zentsebenziswano ezibhalisileyo kufuneka zigcinwe kuyo. 35

(3) Umgcini zincwadi webhanki zentsebenziswano okanye isicatshulwa okanye ikopi esayinwe ngumphathi, xa ijongiwe, bubungqina benkcukacha eziqulethwe kwiincwadi.

Iingxelo

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52. (1) Umphathi kufuneka alungiselele uMphathiswa ukuba afikelele lula kulwazi xa lucelwa.

(2) (a) Umphathi kufuneka ngonyaka, ngamathuba ashianayo amiselwe nguMphathiswa, angenise ingxelo kuMphathiswa—

(i) ngokusebenzisa nokusebenza kwamagunya nemisebenzi ngokwalo Mthetho; kanye 45

(ii) ukusetyenziswa kwesicwagciso sentsebenziswano nolungelelaniso ekubhekiswe kulo kwicandelo 42.

(b) UMphathiswa kufuneka ayinike ingxelo ekubhekiswe kuyo kwicandelwana (2) ePalamente kwiinyanga ezimbini ingeniswe kuye. 50

Unxulumano namanye amagunya olawulo

53. (1) Umphathi—

(a) angaqhakamshelana namanye amagunya olawulo ngemibandela omdla omnye;

- (b) negotiate agreements with any regulatory authority to co-ordinate and harmonise the reporting obligations of co-operative banks;
 - (c) participate in the proceedings of any regulatory authority; and
 - (d) advise or receive advice from any regulatory authority.
- (2) A regulatory authority may negotiate agreements with the supervisor as anticipated in subsection (1) and may exercise its jurisdiction by way of such an agreement. 5
- (3) The President may assign to the supervisor any duty of the Republic to exchange information with a similar foreign agency in terms of an international agreement relating to the purpose of this Act. 10
- (4) The supervisor may—
- (a) liaise with any foreign or international bodies and authorities having any objects similar to the functions and powers of the supervisor;
 - (b) participate in the activities of international bodies and authorities whose main purpose is to develop, advance and promote the sustainability of co-operative banks; and 15
 - (c) may co-operate with international bodies and authorities in respect of matters relating to co-operative banks.

CHAPTER IX

CO-OPERATIVE BANKS DEVELOPMENT AGENCY 20

Part 1

Establishment, legal status, functions and powers of Agency

Establishment and legal status

54. (1) The Co-operative Banks Development Agency is hereby established, and— 25
- (a) is a juristic person; and
 - (b) must exercise its functions in accordance with this Act and any other relevant law.
- (2) The Agency is subject to the Public Finance Management Act.

General functions

55. (1) The Agency must, in addition to its other functions provided for in this Act— 30
- (a) support, promote and develop co-operative banking, including, despite section 3(1), deposit-taking co-operatives;
 - (b) appoint a supervisor in accordance with section 41(2) and support the supervisor in exercising and performing his or her powers and functions;
 - (c) promote the establishment of representative bodies and support organisations; 35
 - (d) register and regulate representative bodies;
 - (e) accredit and regulate support organisations;
 - (f) provide financial support to co-operative banks through loans or grants;
 - (g) manage the Fund in accordance with section 26;
 - (h) assist co-operative banks with liquidity management; 40
 - (i) facilitate, promote and fund education, training and awareness in connection with, and research into, any matter affecting the effective, efficient and sustainable functioning of co-operative banks;
 - (j) consult with the South African Qualifications Authority established by the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), or any body established by it and liaise with the relevant National Standards Body established in terms of Chapter 3 of the regulations under the South African Qualifications Authority Act, 1995, in respect of co-operative banks and support organisations; 45

- (b) angenza uthethwano lweemvumelwano namanye amagunya olawulo ukulungelelanisa nokwenza imvisiswano kwizibophelelo zokunika iingxelo zeebhanki zentsebenziswano;
- (c) angathabatha inxaxheba kwiinkqubo zamagunya olawulo; kunye
- (d) angacebisa okanye amkele iingcebiso ezivela kumagunya olawulo. 5
- (2) Igunya lolawulo lingathethathethana ngeemvumelwano nomphathi njengoko kucetyiwe kwicandelwana (1) kwaye lingasebenzisa ulawulo lobulungisa ngolu vumelwano.
- (3) UMongameli wesizwe anganika umphathi nawuphi na umsebenzi weRiphabliki wokwabelana ngolwazi nee-arhente zangaphandle zohlobo olunye 10 ngokwemvumelwano yamazwe ehlabathi mayela nenjongo yalo Mthetho.
- (4) Umphathi—
- (a) angaqhakamshelana nawo nawaphi na amaqumrhu amazwe angaphandle okanye awezizwe ngezizwe nogunyaziwe abanzo nantoni na ezifanayo ngemisebenzi namagunya okuphatha; 15
- (b) angathabatha inxaxheba kwimisebenzi yamaqumrhu namagunya ehlabathi anjongo ziphambili ikukuphuhlisa, ukuqhubela phambili nokuxhasa uzinzo lweebhanki zentsebenziswano; kunye
- (c) angasebenzisana namanye amaqumrhu ehlabathi namagunya ngemibandela ebhekisele kwiibhanki zentsebenziswano. 20

ISAHLUKO IX

I-ARHENTE YENKQUBELA YEEBHANKI ZENTSEBENZISWANO

Indima 1

Ukusekwa, ubume basemthethweni, imisebenzi namagunya ee-Arhente

- Ukusekwa nobume basemthethweni** 25
- 54.** (1) I-Arhente yeNkqubela yeeBhanki zeNtsebenziswano isekwa—
- (a) ngumntu ongumqondisi mthetho;
- (b) kufuneka yenze umsebenzi ngokwalo Mthetho neminye imithetho.
- (2) I-Arhente ingaphantsi koMthetho woLawulo lweMali yoLuntu.
- Imisebenzi jikelele** 30
- 55.** (1) I-Arhente kufuneka, ukongeza kweminye imithetho emiselwa ngulo Mthetho—
- (a) ixhase, ikhuthaze ize iphuhlise iinkonzo zebhanki zentsebenziswano, kubandakanywa, nangona nje kukho icandelo 3(1), iintsebenziswano ezithabatha imali efakiweyo; 35
- (b) imisele umphathi ngokwecandelo 41(2) ize ixhase umphathi ekusebenziseni amagunya nasekwenzeni imisebenzi;
- (c) ixhase ukusekwa kweebhodi zomelo namaqumrhu axhasayo;
- (d) ibhalise ize ilawule iibhodi zomelo;
- (e) yenze ukuqinisekiswa nokulawulwa amaqumrhu axhasayo; 40
- (f) inike inkxaso yemali kwiibhanki zentsebenziswano ngemali-mboleko nangeminikelo;
- (g) ilawule iNgxowa-mali ngokwecandelo 26;
- (h) incedise iibhanki zolawulo ngolawulo lwemali yokuhlalula;
- (i) ilungise, ikhulise inike inkxaso kwimifundo, uqeqesho nokuqonda 45 okunxulumene nophando lwawo nawuphi umbandela ochaphazela ukusebenza ngempumelelo, ngokufanelekileyo nangokuzinzileyo kweebhanki zentsebenziswano;
- (j) isebenzisane neGunya leziNgqini loMzantsi Afrika elasekwa nguMthetho weGunya leziNgqini loMzantsi Afrika ka-1995 (uMthetho onguNombolo 58 ka-1995), okanye elinye iqumrhu elisekwe lilo lisebenzisana neBhodi yeMigangatho yeSizwe emiselwe ngokweSahluko 3 solawulo phantsi koMthetho weGunya leziNgqini loMzantsi Afrika ka-1995, mayela neebhanki zentsebenziswano namaqumrhu axhasayo; 50

- (k) interact with any regulatory authority to ensure appropriate regulation of co-operative banking and co-operative banks; and
- (l) monitor trends and patterns in the development of co-operative banking and co-operative banks.
- (2) The Agency may— 5
- (a) participate in the activities of international bodies whose main purpose is to develop, promote and support co-operative banks;
- (b) assist co-operative banks in auditing their financial statements; and
- (c) take any measures it considers necessary for the proper performance and exercise of its functions or duties or to achieve the objects of this Act. 10

General powers

56. The Agency may—
- (a) determine its own staff establishment and may appoint a managing director, subject to the approval of the Minister, and employees in posts on the staff establishment on such conditions, including the payment of remuneration and allowances, as it may determine; 15
- (b) in consultation with the Minister, determine the remuneration and allowances payable to its members or the members of any committee of the Agency;
- (c) collect fees and invest funds; 20
- (d) finance publications; 20
- (e) acquire, hire, maintain, let, sell or otherwise dispose of movable or immovable property for the effective performance and exercise of its functions, duties and powers;
- (f) enter into and decide upon the manner in which agreements must be entered into; 25
- (g) obtain the services of any person, including any organ of state or institution, to perform any specific act or function;
- (h) determine where its head office must be situated;
- (i) confer with any organ of state;
- (j) open and operate its own bank accounts; 30
- (k) perform legal acts, or institute or defend any legal action in its own name; and
- (l) do anything that is incidental to the performance or exercise of any of its functions or powers.

Power to make rules

57. (1) The Agency may prescribe rules with regard to— 35
- (a) the matters referred to in section 55(1)(d) to (h);
- (b) any matter that is required or permitted to be prescribed in terms of this Act; and
- (c) any other matter for the better execution of this Act or a function or power provided for in this Act. 40
- (2) Rules referred to in subsection (1) may—
- (a) apply to co-operative banks, representative bodies or support organisations generally; or
- (b) be limited in application to a particular co-operative bank, representative body or support organisation, or kind of co-operative bank, which may be defined either in relation to a type or budgetary size of co-operative bank or to any other matter. 45
- (3) (a) Before the Agency prescribes any rule under this section, it must—
- (i) secure the written approval of the Minister; and
- (ii) publish a draft of the proposed rule in the *Gazette* and such other electronic and printed media as the Agency considers appropriate together with a notice calling on the public to comment in writing within a period stated in the notice, which period may not be less than 30 days from the date of publication of the notice. 50
- (b) If the Agency alters a draft rule because of any comment, it need not publish the alteration before prescribing the rule. 55

- (k) isebenzisane namagunya olawulo ukuqinisekisa ulawulo olululo loshishino olumanyeneyo neebhanki zentsebenziswano;
- (l) ijonge iindlela zokwenzeka kwezinto ekuphuhleni koshishino olumanyeneyo nakwiibhanki zentsebenziswano.
- (2) I-Arhente— 5
- (a) ingathabatha inxaxheba kwimisebenzi yamaqumrhu ehlabathi ajongo yawo ephambili ikukuphuhlisa, ukukhulisa nokuxhasa iibhanki zentsebenziswano;
- (b) ingancedisa iibhanki zentsebenziswano ekuphengululeni iingxelo zazo zemali; kwaye
- (c) ithabathe amanyathelo ebona efanelekile ukusebenza ngokukuko nokwenza imisebenzi yayo ukufezekisa iinjongo zalo Mthetho. 10

Amagunya jikelele

56. I-Arhente—
- (a) mayenze izigqibo ngokwakheka kwabasebenzi kwaye inokumisela umlawuli ophetheyo, ngemvume yoMphathiswa, nabasebenzi kwizithuba ezikhoyo phantsi kweemeko, eziquka ukuhlululwa kwemivuzo nezibonelelo, ngokokubona kwayo; 15
- (b) ngokubonisana noMphathiswa, ingenza izigqibo ngemivuzo nezibonelelo ezihlawulwa amalungu okanye amalungu ezinye iikomiti ze-Arhente;
- (c) iqokelele iintlawulo ize ityale imali; 20
- (d) ihlawulele okupapashwayo;
- (e) ifumane, iqeshe, igcine iqeshise, ithengise okanye ichithe impahla ehambayo okanye engahambiyo ukusebenza ngempumelelo ekwenzeni imisebenzi nasekusebenziseni amagunya;
- (f) ingangenela izivumelwano kwaye yenze isigqibo ngendlela ekungangenelwa ngayo izivumelwano; 25
- (g) ukuzuza iinkonzo komnye umntu okuquka umbuso okanye iziko lokwenza umsebenzi okanye isenzo esithile;
- (h) igqibe ngendawo apho iofisi eyintloko mayibe khona;
- (i) isebenzisane nombuso; 30
- (j) ivule ize isebenzise i-akhawunti yayo yebhanki;
- (k) yenze izenzo ezisemthethweni, ikhuphe okanye ikhusele amanyathelo omthetho egameni layo;
- (l) yenze obe kungacwangciselwanga kwimisebenzi namagunya.

Igunya lokwenza imithetho 35

57. (1) I-Arhente ingamisela imithetho ebhekisele—
- (a) imibandela ekubhekiswe kuyo kwicandelo 55(1)(d) no (h);
- (b) nawuphi umbandela ofunekayo okanye ovunyelwe ngulo Mthetho;
- (c) neminye imibandela engenza lo Mthetho okanye imisebenzi okanye amagunya alungiselelwe ngulo Mthetho asebenze kakuhle. 40
- (2) Imithetho ekubhekiswe kuyo kwicandelwana (1)—
- (a) inokusebenza kwiibhanki zentsebenziswano, iibhodi zomelo okanye amaqumrhu axhasayo ngokubanzi;
- (b) okanye isetyenziswe kuphela kwibhanki yentsebenziswano ethile, ibhodi yomelo okanye iqumrhu elixhasayo, okanye uhlobo lwebhanki yentsebenziswano enokucacazwa ngohlobo okanye ulwabiwo mali lwebhanki yentsebenziswano okanye eminye imibandela. 45
- (3) (a) Phambi kokuba i-Arhente imisele umthetho ngaphantsi kweli candela kufuneka—
- (i) izuze imvume ebhaliweyo yoMphathiswa; ize 50
- (ii) ipapashe ubhalo lokuqala lalo mthetho ucetywayo kwiPhephandaba loMbuso nakuwo nawaphina amaziko eendaba ezikhutshwa ngokobuxhakaxhaka bombane nezishicilelwayo njengoko i-Arhente ibona kufanelekile ndawonye nesaziso esicela uluntu ukuba luphawule ngeencwadi ezibhaliweyo kwithuba elichazwe kwisaziso, elingekho ngaphantsi kweentsuku ezingama-30 ukusukela kumhla wokupapashwa kwesaziso. 55
- (b) Ukuba i-Arhente yenza iinguqu kubhalo lokuqala lomthetho ngenxa yezimvo, akunyanzelekanga ukuba ilupapashe utshintsho ngaphambi kokuba umiselwe umthetho.

(4) The Agency may, if circumstances necessitate the immediate publication of a rule, publish that rule without consultation as contemplated in subsection (3)(a)(ii).

Part 2

Governance of Agency

Appointment of board members of Agency 5

58. (1) The board of the Agency consists of not less than six but not more than 10 non-executive members appointed by the Minister.

(2) The Minister must appoint competent persons to effectively manage and guide the activities of the Agency based on their knowledge and experience.

(3) When making the appointments, the Minister must take into consideration, 10 amongst other factors—

(a) the need for transparency and representivity within the broader demographics of the South African population;

(b) any nominations received in terms of subsection (4); and

(c) the availability of persons to serve as members of the Agency. 15

(4) (a) Before the Minister makes the appointments, the Agency must, by notice in the *Gazette* and in any national newspaper, invite nominations from members of the public.

(b) The Minister must invite nominations from members of the public for the appointment of the first board of the Agency following the commencement of this Act.

(5) (a) The Minister may appoint an alternate member for every member of the 20 Agency, and an alternate member may attend and take part in the proceedings at any meeting of the Agency whenever the member for whom he or she has been appointed as an alternate is absent from that meeting.

(b) The provisions of sections 59 and 60 apply, with the necessary changes, to 25 alternate members.

Term of office of members of Agency

59. (1) A member of the Agency appointed in terms of section 58 holds office for such period, but not exceeding three years, as the Minister may determine at the time of his or her appointment.

(2) A member of the Agency may be reappointed but may not serve more than two 30 consecutive terms of office.

(3) Despite subsection (1), the Minister may, by notice in the *Gazette* and after consultation with the Agency, terminate the period of office of a member of the Agency—

(a) if the performance of the member is unsatisfactory; 35

(b) if the member, either through illness or for any other reason, is unable to perform the functions of office effectively; or

(c) if the member, whilst holding office, has failed to comply with or breached any 40 legislation regulating the conduct of members, including any applicable code of conduct.

(4) Despite subsection (1), the Minister may, if the performance of the Agency is unsatisfactory, terminate the period of office of all the members of the Agency.

(5) (a) In the event of the dismissal of all the members of the Agency, the Minister 45 may appoint persons to act as caretakers until competent persons are appointed in terms of section 58.

(b) The Minister must appoint new members in terms of section 58 within three months of the dismissal referred to in paragraph (a).

Disqualification from membership and vacation of office

60. (1) A person may not be appointed as a member of the Agency if that person—

(a) is not a South African citizen; 50

(b) is not resident in the Republic;

(c) is an unrehabilitated insolvent;

(d) within the previous 10 years has been, or is, convicted in the Republic or 55 elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004

(4) I-Arhente, ukuba iimeko zinyanzelisa ukupapashwa ngokukhawuleza komthetho ingawupapasha umthetho ngaphandle kokubhekisa ebantwini njengokuba bekucetywa kwicandelwana (3)(a)(ii).

Indima 2

Ulawulo lwe-Arhente

5

Ukumiselwa kwamalungu ebhodi ye-Arhente

58. (1) Ibhodi ye-Arhente inamalungu angenamandla olawulo angekho ngaphantsi kwesithandathu kodwa engekho ngaphezu kweshumi amiselwa nguMphathiswa.

(2) UMphathiswa kufuneka amisele abantu abanesakhono sokulawula nokukhokela imisebenzi ye-Arhente ngokwanelisayo ngokusebenzisa ulwazi namava abo. 10

(3) Ngethuba esenza umiselo, uMphathiswa kufuneka athabathele ingqalelo, ngaphakathi kwezinye izinto—

(a) ukubeka izinto elubala nomelo olwanelisayo kujongwe bonke abantu baseMzantsi Afrika;

(b) abantu abaphakanyisiweyo ngokwecandelwana (4); 15

(c) ukuphumelela kwabantu ukusebenza njengamalungu e-Arhente.

(4) (a) Phambi kokuba uMphathiswa amisele abantu, i-Arhente kufuneka, ngesaziso kwiPhepha-ndaba loMbuso nakumaphephandaba elizwe, imeme iziphakamiso kuluntu.

(b) UMphathiswa makameme iziphakamiso kuluntu ukumisela ibhodi yoluqala ye-Arhente emva kokuqala ukusebenza kwalo Mthetho. 20

(5) (a) UMphathiswa unokumisela ilungu lokumela ilungu ngalinye kulawo ebhodi, kwaye ilungu lomelo linokuya lithabathe inxaxheba kwiinkqubo zayo nayiphi intlanganiso, nanini na xa ilungu anyulelwe ukulimela lingekeho kwintlanganiso.

(b) Ulungiselelo lwamacandelo 59 no 60 luyasebenza, lenziwe iinguqu eziyimfuneko, kuwo onke amalungu omelo. 25

Ixesha elisekiweyo lesikhundla samalungu e-Arhente

59. (1) Ilungu le-Arhente elimiselwe ngokwecandelo 58 libamba eso sikhundla ithuba elingadluli iminyaka emithathu, nanjengesigqibo soMphathiswa ngexesha lokumiselwa.

(2) Ilungu le-Arhente linako ukubuyiselwa esikhundleni kwakho kodwa akuvumelekanga ukuba oku kube ngaphezu kwezihlandlo ezibini. 30

(3) Ngaphandle kwecandelwana (1), uMphathiswa, ngesaziso kwiPhephandaba loMbuso nasemva kokubonisana ne-Arhente, angalinqumamisa ilungu le-Arhente—

(a) ukuba ukusebenza kwalo akwanelisi;

(b) ukuba ilungu, ngenxa yokugula okanye esinye isizathu, alikwazi ukwenza umsebenzi wesikhundla ngokwanelisayo; okanye 35

(c) ukuba ilungu, ngexesha elibambe isikhundla, liye alaphumelela ukuthobela okanye lithe lophula umthetho olawula ukuziphatha, oku kuqaka nemimiselo yokuziphatha.

(4) Ngaphandle kwecandelwana (1), uMphathiswa, ukuba indlela esebenza ngayo i-Arhente ayonelisi angawanqumamisa onke amalungu e-Arhente. 40

(5) (a) Xa ethe agxothwa onke amalungu e-Arhente, uMphathiswa angamisela amalungu njengabagcini de amisele amalungu anesakhono ngokwecandelo 58.

(b) UMphathiswa kufuneka amisele amalungu amatsha ngokwecandelo 58 kwiinyanga ezintathu emva kwalawo agxothiweyo kubhekiswe kuwo kumhlathi (a). 45

Ukuthintelwa kobulungu nokuphuma esikhundleni

60. (1) Umntu akakwazi ukumiselwa njengelungu le-Arhente ukuba lo mntu—

(a) akanguye ummi waseMzantsi Afrika;

(b) akangomhlali waseMzantsi Afrika;

(c) akakabuyiseleki emva kokutshona; 50

(d) kwiminyaka edlulileyo eli-10 ukhe okanye uye wafunyanwa enetyala kwiRiphabliki okanye kwenye indawo ngobusela, ubuqhinga, inkohliso okanye ukunikeza amaxwebhu enkohliso, ukuxoka phantsi kwesifungo, ulwaphulo mthetho phantsi koMthetho wokuKhusela noKulwa iZenzo zoRhwaphilizo ka-2004 (uMthetho onguNombolo 12 ka-2004), ulwaphulo 55

- (Act No. 12 of 2004), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), or an offence involving dishonesty;
- (e) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect, and sentenced to imprisonment without the option of a fine; or 5
- (f) has, as a result of improper conduct, been removed from an office of trust.
- (2) The membership of a member of the Agency ceases if he or she—
- (a) becomes disqualified in terms of subsection (1) from being appointed as a member of the Agency;
- (b) resigns by written notice addressed to the Agency; 10
- (c) is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973);
- (d) has, without the leave of the Agency, been absent from more than two consecutive meetings of the Agency; or
- (e) ceases to be permanently resident in the Republic. 15
- (3) If a member of the Agency becomes disqualified on a ground mentioned in subsection (1) or (2), such member ceases to be a member of the Agency from the date of becoming disqualified.
- (4) (a) If a member of the Agency dies or vacates his or her office before the expiration of his or her term of office, the Minister must consider appointing a person to fill the vacancy for the unexpired portion of the period for which that member was appointed. 20
- (b) If the Minister appoints a person to fill the vacant seat, the appointment must be made within 60 days from the date on which the vacancy occurred.

Chairperson and deputy chairperson

61. (1) (a) The Minister appoints the chairperson and deputy chairperson from among the members of the Agency appointed under section 58. 25
- (b) The chairperson and deputy chairperson each hold office for a period of two years from the date of their appointment.
- (2) If the chairperson is absent or for any reason unable to perform his or her functions as chairperson, the deputy chairperson must act as chairperson, and while he or she so acts he or she has all the powers and must perform all the duties of the chairperson. 30

Meetings

62. (1) The Agency meets as often as circumstances require, but at least four times every year, at such time and place as the Agency may determine.
- (2) The chairperson may at any time convene a special meeting of the Agency at a time and place determined by the chairperson. 35
- (3) Upon a written request signed by not less than three members of the Agency, the chairperson must convene a special meeting of the Agency to be held within three weeks after the receipt of the request, and the meeting must take place at a time and place determined by the chairperson. 40
- (4) A majority of the members of the Agency constitutes a quorum at a meeting.
- (5) (a) Every member of the Agency, including the chairperson, has one vote.
- (b) In the event of an equality of votes, the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.

Decisions

63. (1) A decision of the majority of members present at a duly constituted meeting is a decision of the Agency. 45
- (2) No decision taken by or act performed under the authority of the Agency is invalid only by reason of—
- (a) a casual vacancy on the Agency; or 50
- (b) the fact that any person who did not qualify to sit as a member of the Agency participated in the meeting at the time the decision was taken or the act was authorised, if the members who were present and acted at the time followed the required procedure for decisions.

- umthetho ngaphantsi koMthetho weZiko loBuntlola weMali ka-2001 (uMthetho onguNombolo 38 ka-2001), okanye naluphi na ulwaphulo mthetho olunokungathembeki;
- (e) ufunyenwe enetyala lolwaphulo mthetho emva kokusebenza koMgaqo siseko weRiphabliki yoMzantsi Afrika ka-1993 (uMthetho onguNombolo 200 ka-2003), waze wagwetyelwa ukuvalelwa entolongweni ngaphandle kokuvunyelwa intlawulo yemali; okanye 5
- (f) ngokungaziphathi kakuhle, ushenxiswe kwisikhundla sentembeko.
- (2) Ubungu belungu le-Arhente buyaphela ukuba ilungu— 10
- (a) liyathintelwa ngokwecandelwana (1) ukumiselwa njengelungu le-Arhente;
- (b) liyarhoxa ngesaziso elisibhalela i-Arhente;
- (c) waziswa yiNkundla ePhakamileyo ukuba aliphilanga okanye liphazamisekile engqondweni okanye libanjwe ngokoMthetho weMpilo yeNgqondo ka-1973 (uMthetho onguNombolo 18 ka-1973);
- (d) ngaphandle kwemvume ye-Arhente liye alabikho kwiintlanganiso ezimbini ezilandelelanayo ze-Arhente; okanye 15
- (e) liyekile ukuba ngummi osisigxina seRiphabliki.
- (3) Ukuba ilungu lithintelwa yimihlaba ekhankanywe kumacandelwana (1) no (2), eli lungu liyaphelelwa bubungu balo lwe-Arhente ukusukela kumhla elithinteleke ngawo. 20
- (4) (a) Ukuba ilungu le-Arhente liyafa okanye liyaphuma esikhundleni ngaphambi kokuphela kwexesha ebelimiselwe, uMphathiswa kufuneka amisele omnye umntu ukuvala eso sithuba esiphambi kokufika esiphelweni kwexesha ebelimiselwe lona ilungu elo.
- (b) Ukuba uMphathiswa umisela umntu wokuvala isithuba, olo miselo malwenzeke kwiintsuku ezingama-60 ukusukela kumhla wokuvuleka kwesithuba. 25

Usihlalo nosekela-sihlalo

61. (1) (a) UMphathiswa umisela usihlalo nosekela sihlalo kumalungu e-Arhente amiselwe ngaphantsi kwecandelo 58.
- (b) Usihlalo nosekela sihlalo baziphatha ezo zikhundla ixesha leminyaka emibini ukusukela kumhla. 30
- (2) Ukuba usihlalo akaphumeleli ukuya entlanganisweni okanye nangasiphi isizathu akakwazi ukwenza imisebenzi yakhe njengosihlalo, usekela sihlalo kufuneka angene njengosihlalo, kwaye ngeli xesha unawo onke amagunya kwaye kufuneka enze yonke imisebenzi kasihlalo. 35

Iintlanganiso

62. (1) I-Arhente ihlangana kangokuba iimeko zidinga, ubuncinane kane ngonyaka, ngexesha nakwindawo emiswa yi-Arhente.
- (2) Usihlalo nangaliphi ixesha angabiza intlanganiso eyodwa yeArhente nangaliphi ixesha nendawo emiswa yi-Arhente. 40
- (3) Ngesicelo esisayinwe ngamalungu e-Arhente angekho ngaphantsi kwesithathu, usihlalo kufuneka abize inlanganiso eyodwa eyakuthi ibanjwe kwiveki ezintathu emva kokufumana isicelo, kwaye intlanganiso iyakubangexesha nakwindawo eya kumiswa ngusihlalo.
- (4) Ubuninzi bamalungu e-Arhente kunika inani elifunekayo lokuqhubela phambili kwentlanganiso. 45
- (5) (a) Lonke ilungu le-Arhente, kuquka nosihlalo, linevoti enye.
- (b) Xa inani lilingana emva kokuvota, usihlalo wentlanganiso unevoti eyongezelele-kileyo yokwenza isigqibo xa iivoti zilingana kumacala amabini.

Izigqibo

63. (1) Isigqibo soninzi lwamalungu akwintlanganiso ngokusemthethweni sisigqibo se-Arhente.
- (2) Akukho sigqibo esithatyathwe okanye esenziwe ngegunya leArhente ekufanele ukuba sibhangiswe ngenxa yezi zizathu— 50
- (a) isithuba sethutyana kwi-Arhente; okanye
- (b) ngenxa yokuba umntu obengavumelekanga achophe njengelungu le-Arhente uthabathe inxaxheba kwintlanganiso ngethuba ebekuthatyathwa ngalo 55

Duties of members

- 64.** The board of the Agency is the accounting authority of the Agency within the meaning of the Public Finance Management Act and must, in addition to the duties and responsibilities provided for in the Public Finance Management Act—
- (a) provide effective, transparent, accountable and coherent corporate governance and conduct effective oversight of the affairs of the Agency; 5
 - (b) comply with all applicable legislation and agreements;
 - (c) communicate openly and promptly with the Minister and any ministerial representatives;
 - (d) deal with the Minister and any ministerial representatives in good faith; and 10
 - (e) at all times act in accordance with the code of conduct for members of the Agency as may be prescribed by the Minister.

Managing director

- 65.** (1) The managing director is responsible for the day-to-day management of the Agency and is accountable to the board of the Agency. 15
- (2) The managing director must enter into a performance agreement with the Agency on acceptance of his or her appointment.

Delegations

- 66.** (1) The Agency must develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances, and, in accordance with that system, may— 20
- (a) in writing delegate appropriate powers, excluding the power to prescribe rules, to a committee, the managing director, an employee or any member of the Agency; and
 - (b) assign any committee, the managing director, any employee or member of the Agency to perform any of its duties. 25
- (2) A delegation or assignment in terms of subsection (1)—
- (a) is subject to such limitations and conditions as the Agency may impose;
 - (b) may authorise sub-delegation; and
 - (c) does not divest the Agency of the delegated power or the performance of the assigned duty. 30
- (3) The Agency may confirm, vary or revoke any decision taken by a committee, the managing director, a member of the Agency or an employee as a result of a delegation or assignment in terms of subsection (1).

Establishment of committees

35

- 67.** (1) The Agency may establish committees to assist it in the performance of its functions and it may at any time dissolve or reconstitute any such committee.
- (2) (a) A committee consists of as many members as the Agency considers necessary.
- (b) The Agency, taking into account, amongst other factors, the need for transparency and representivity within the broader demographics of the South African population, may appoint any person as a member of a committee, on such terms and conditions as the Agency may determine. 40
- (c) The Agency may terminate the membership of a member of a committee if—
- (i) the exercise and performance by the member of the powers and functions of that committee is unsatisfactory; 45
 - (ii) the member, either through illness or for any other reason, is unable to perform the functions of the committee effectively; or
 - (iii) the member has failed to comply with or breached any legislation regulating the conduct of members, including any applicable code of conduct.

isigqibo okanye ebekugunyaziswa ngalo isenzo esithile, ukuba amalungu ebekulo ntlanganiso aze enza ngelo xesha elandela inkqubo ebilindelekile ukufikelela kwisigqibo.

Imisebenzi yamalungu

- 64.** Ibhodi ye-Arhente yiyo enegunya lokusetyenziswa kwemali ye-Arhente ngokoMthetho woLawulo lweMali yoLuntu kwaye kufuneka, ukongeza kwimisebenzi noxanduva olumiswa nguMthetho woLawulo lweMali yoLuntu— 5
- (a) inike ulawulo lobushishini olusebenzayo, oluselubala, oluziphendulelayo nolungagungqiyo ize iphonononge neenkqubo ze-Arhente; 10
- (b) ithobele yonke imithetho neemvumelwano ezisetyenziswayo; 10
- (c) inxibelelane ngokuphandle nangokukhawuleza noMphathiswa nabameli bakhe; 10
- (d) isebenzisane nomphathiswa nabameli bakhe ngentembeke; ize 15
- (e) ngalo lonke ixesha yenze ngokwemiqathango yokuziphatha kwamalungu e-Arhente emiselwe nguMphathiswa. 15

Umlawuli ophetheyo

- 65.** (1) Umlawuli ophetheyo nguye ojongene nolawulo lwemihla ngemihla le-Arhente kwaye ungaphantsi kwebhodi ye-Arhente. 20
- (2) Umlawuli ophetheyo kufuneka angene kwisivumelwano ngomgangatho womsebenzi ekulindeleke ukuba awenze xa esamkela ukumiselwa emsebenzini. 20

Ukuthumela

- 66.** (1) I-Arhente kufuneka iseke inkqubo yokuthumela eya kufikisa kwelona nqanaba liphezulu ulawulo okanye ukunikela kokwenziwa kwemisebenzi ngempumelelo ize izinike ithuba lokukhangela impumelelo yoko ngokwalo nkqubo— 25
- (a) ngokubhaliweyo mayinikele amagunya, ngaphandle kwalawo okumisela imithetho, kwikomiti, umlawuli ophetheyo, umsebenzi okanye naliphi ilungu le-Arhente; 25
- (b) inike ikomiti, umlawuli ophetheyo, umsebenzi okanye ilungu le-Arhente ithuba lokwenza nayiphi kulo misebenzi yayo. 25
- (2) Ukuthumela okanye ukunikela kokwenziwa kwemisebenzi ngokwecandelwana (1)— 30
- (a) kunemida nemiqathango eya kumiswa yi-Arhente; 35
- (b) kungavumela ukuthumela omnye umntu; 35
- (c) akuwohluthi kwi-Arhente amagunya anikelweyo okanye okwenziwa kwemisebenzi eyabiweyo. 35
- (3) I-Arhente ingaqinisekisa, itshintshe okanye irhoxise nasiphi isigqibo esithatyathwe yikomiti, umlawuli ophetheyo, ilungu le-Arhente okanye umsebenzi ngexesha lokuthumela okanye ukunikela ukwenziwa kwemisebenzi ngokwecandelwana (1).

Ukusekwa kweekomiti

- 67.** (1) I-Arhente ingaseka iikomiti zokuncedisana nayo ekwenzeni umsebenzi wayo kwaye nangaliphi ixesha inako ukuzichitha okanye ukuzihlanganisa ezi komiti. 40
- (2) (a) Ikomiti inamalungu alinani elibonwa lifanelekile yi-Arhente. 40
- (b) I-Arhente, ithabatha ingqalelo, phakathi kwezinye izinto, imfuneko yokubeka elubala nokumelwa ngokupheleleyo kwabantu ngokweemeko zabantu boMzantsi Afrika, ingamisela nawuphi umntu njengelungu lekomiti, ngeemeko eziya kugqitywa yi-Arhente. 45
- (c) I-Arhente ingaburhoxisa ubulungu kwikomiti ukuba—
- (i) ukusetyenziswa kwamagunya lilungu nokwenziwa kwemisebenzi ekomiti akwanelisi; 50
- (ii) ilungu, ngokugula okanye esinye isizathu, alikulungelanga ukwenza imisebenzi yekomiti ngokwanelisayo; okanye 50
- (iii) ilungu aliphumeleli ukuthobela okanye liye lophula imithetho elawula ukuziphatha kwamalungu, oku kuquka nayiphi imiqathango yokuziphatha esebenzayo. 50

(d) If the Agency does not designate a chairperson for a committee the committee may elect a chairperson from among its members.

(3) The Agency must provide funding to its committees in such a way that the committees are able to perform their functions effectively.

(4) Sections 62 and 63 relating to meetings and decisions of the Agency, respectively, apply with the necessary changes in respect of any committee. 5

Part 3

Funding and financial management of Agency

Funding

68. The Agency is funded by— 10
- (a) the collection of fees;
 - (b) all other monies which may accrue to the Agency from any other legal source; and
 - (c) moneys appropriated for that purpose by Parliament.

Annual budget and strategic plan 15

69. The annual budget and strategic plan of the Agency must be submitted to the Minister in terms of the Public Finance Management Act.

Financial management, financial statements and annual report

70. The financial management and the preparation and submission of financial statements and annual reports must be in accordance with the Public Finance Management Act. 20

Part 4

National government oversight and executive authority

Executive authority

71. (1) The Minister is the executive authority for the Agency in terms of the Public Finance Management Act and the Agency is accountable to the Minister. 25

(2) The Minister must—

- (a) ensure that the Agency complies with this Act, the Public Finance Management Act and any other applicable legislation;
- (b) ensure that the Agency is managed responsibly and transparently and meets its contractual and other obligations; 30
- (c) establish and maintain clear channels of communication between him or her and the Agency; and
- (d) monitor and annually review the performance of the Agency.

Ministerial representatives 35

72. (1) The Minister may designate officials of the National Treasury as his or her representatives to the Agency.

(2) Ministerial representatives designated in terms of subsection (1) represent the Minister as participating observers at meetings of the Agency.

(3) The Minister or his or her designated representative or representatives may at any time call or convene a meeting of the Agency in order for the Agency to give account for actions taken by it. 40

(4) (a) A ministerial representative must represent the Minister faithfully at meetings of and with the Agency, without consideration of personal interest or gain, and must keep the Minister informed of what transpired at meetings of the Agency. 45

(b) A ministerial representative must act in accordance with the instructions of the Minister and may be reimbursed by the Minister for expenses in connection with his or her duties as a ministerial representative, but may not receive any additional compensation or salary for such duties.

(d) Ukuba i-Arhente ayimiseli usihlalo wekomiti, ikomiti ingonyula usihlalo ngaphakathi kwamalungu ayo.

(3) I-Arhente kufuneka ixhase ngemali iikomiti zayo ukuze zikwazi ezo komiti ukusebenza ngokwanelisayo.

(4) Amacandelo 62 no 63 abhekisa kwiintlanganiso nezigqibo ze-Arhente, ekunye, 5
asebenza enze iinguqulelo ezifunekayo, kuzo zonke iikomiti.

Indima 3

Ukuxhaswa ngemali nolawulo lwemali yi-ArhenteFunding

Inkxaso-mali

68. I-Arhente ifumana inkxaso yemali— 10

- (a) ngokuqokelela iintlawulo;
- (b) nazo zonke iimali ezongezeleka kwi-Arhente ezivela kumajelo asemthethweni; kwaye
- (c) kwimali eyabelwe injongo yayo yiPalamente.

Ulabiwo-mali lonyaka nesicwangciso esakhiwe ngobuchule 15

69. Ulabiwo-mali lonyaka nesicwangciso esakhiwe ngobuchule se-Arhente kufuneka singeniswe kuMphathiswa ngokoMthetho woLawulo lweMali yoLuntu.

Ulawulo lemali, iingxelo zemali nengxelo yonyaka

70. Ulawulo lemali ulungiso nongeniso lweengxelo zemali nezonyaka malwenziwe ngokoMthetho woLawulo lweMali yoLuntu. 20

Indima 4

Ukongamela kukaRhulumente wesizwe namagunya olawulo

Igunya lolawulo

71. (1) UMphathiswa ligunya lolawulo le-Arhente ngokoMthetho woLawulo lweMali yoLuntu kwaye i-Arhente ingaphantsi koMphathiswa. 25

(2) UMphathiswa kufuneka—

- (a) aqinisekise ukuba i-Arhente iyawuthobela lo Mthetho, uMthetho woLawulo lweMali yoLuntu neminye imithetho esebenzayo;
- (b) aqinisekise ukuba i-Arhente ilawulwa ngokukuko nangokuselubala kwaye iyahlangabezana nezigqibo nezinye izibophelelo; 30
- (c) aseke agcine unxibelelwano oluvulekileyo phakathi kwakhe ne-Arhente;
- (d) akhangele aze ahloolisise ngonyaka indlela i-Arhente esebenza ngayo.

Abameli bomphathiswa

72. (1) UMphathiswa angamisela amagosa eNdyabo eSizwe njengabameli bakhe kwi-Arhente. 35

(2) Amagosa amele uMphathiswa ngokwecandelwana (1) amela uMphathiswa njengababukeli abathabatha inxaxheba kwiintlanganiso ze-Arhente.

(3) UMphathiswa okanye abameli bakhe abamiselweyo okanye abameli nangaliphi ixesha bangangathi babize intlanganiso ye-Arhente ukuze i-Arhente inike inkcazelo ngezenzo ezithile. 40

(4) (a) Ummeli womphathiswa kufuneka amele uMphathiswa ngokunyanisekileyo kwiintlanganiso ze-Arhente okanye kunye nayo, ngaphandle kokujonga inzuzo yakhe, kufuneka agcine uMphathiswa esazi konke okwenzeke kwiintlanganiso ze-Arhente.

(b) Ummeli womphathiswa kufuneka enze ngokwemiyalelo yoMphathiswa kwaye angahlawulwa nguMphathiswa ngeendleko ezimayela nemisebenzi yakhe njengommeli 45
womphathiswa, kodwa akasayi kuzuza imbuyekezo okanye umvuzo owengeziweyo ngale misebenzi.

Investigations

73. (1) The Minister may at any time request the Agency to investigate any matter at the Agency's own cost or against full or partial payment.

(2) The Minister may at any time investigate the affairs or financial position of the Agency and may recover from the Agency reasonable costs incurred as a result of an investigation. 5

Information

74. The Agency must provide the Minister or his or her ministerial representative with access to any information as may be reasonably requested.

CHAPTER X

10

APPEALS AND APPEAL BOARD**Appeal against decision of supervisor**

75. (1) (a) A co-operative bank, representative body or support organisation may appeal to the appeal board against any decision of the supervisor or a decision of the Agency on the registration or accreditation or cancellation of registration or accreditation of a representative body or support organisation. 15

(b) An appeal must be lodged within 30 days of the co-operative bank, representative body or support organisation affected by the decision becoming aware thereof, in the manner and on payment of the fees prescribed by the Minister.

(2) An appeal under subsection (1) shall take place on the date and at the place and time fixed by the appeal board. 20

(3) The appeal board may for the purposes of an appeal under subsection (1)—

(a) summon any person who, in its opinion, may be able to give information for the purposes of the appeal or who it believes has in his or her possession or custody or under his or her control any document which has any bearing upon the decision under appeal, to appear before it at a time and place specified in the summons, to be questioned or to produce that document, and retain for examination any document so produced; 25

(b) administer an oath to or accept an affirmation from any person called as a witness at the appeal; and 30

(c) call any person present at the appeal proceedings as a witness and interrogate such person and require such person to produce any document in his or her possession or custody or under his or her control, and such a person shall be entitled to legal representation at his or her own expense.

(4) The procedure at the appeal shall be determined by the chairperson of the appeal board. 35

(5) The appeal board may confirm, set aside or vary the relevant decision of the supervisor.

(6) The decision of a majority of the members of the appeal board shall be the decision of that board. 40

(7) The decision of the appeal board must be in writing, and a copy thereof must be made available to the appellant and the supervisor.

(8) If the appeal board sets aside any decision of the supervisor, the fees referred to in subsection (1)(b) paid by the appellant in respect of the appeal in question shall be refunded to the appellant, and if the appeal board varies any such decision, it may in its discretion direct that the whole or any part of such fees be refunded to the appellant. 45

(9) An appeal lodged in terms of this section does not suspend any decision of the supervisor pending the outcome of an appeal.

Establishment and composition of appeal board

76. (1) (a) An appeal board is hereby established. 50

(b) The appeal board consists of at least three members appointed by the Minister.

(2) The Minister must appoint competent persons as members of the appeal board, who must include, at least—

Uphando

73. (1) UMphathiswa, nangaliphi ixesha, angacela i-Arhente ukuba iphande nawuphi umbandela ngeendleko ze-Arhente okanye kwintlawulo ezeleyo okanye eyinxalenye.

(2) UMphathiswa, nangaliphi ixesha, angaphanda imibandela nobume bezimali be-Arhente aze alindele ukuba i-Arhente ibuyise imali echithwe kolu phando. 5

Ulwazi

74. I-Arhente mayinikele kuMphathiswa okanye abameli bakhe iindlela zokufikelela kulwazi ngokokucelwa okufanelekileyo.

ISAPHLUKO X**IZIBHENO NEBHODI YEZIBHENO**

10

Ukubhena kwisigqibo somphathi

75. (1) (a) Ibhanki yentsebenziswano, ibhodi yomelo okanye iqumrhu elixhasayo lingafaka isibheno kwibhodi yezibheno nangasiphi isigqibo somphathi okanye se-Arhente ngobhaliso, ukuqinisekiswa okanye ukunqunyanyiswa kobhaliso okanye ukuqinisekiswa kwebhodi yomelo okanye iqumrhu elixhasayo. 15

(b) Isibheno kufuneka sifakwe kwiintsuku ezingama-30 ibhanki yentsebenziswano okanye ibhodi yomelo okanye iqumrhu elixhasayo elichatshazelwa sisigqibo ithe yakuqonda oku, ngendlela nangentlawulo emiselwa nguMphathiswa.

(2) Isibheno esingaphantsi kwecandelwana (1) siya kuba ngomhla, indawo nangexesha eliya kugqitywa yibhodi yezibheno. 20

(3) Ibhodi yezibheno ngenjongo yesibheno ngaphantsi kwecandelwana (1)—

(a) ingabiza nowuphi umntu, ngokubona kwayo, onganako ukunika ulwazi ngesibheno okanye ekholelwa ukuba ubambe okanye ugcine amaxwebhu anento yokwenza nesigqibo esibhenelweyo, ukuba avele phambi kwayo ngexesha nakwindawo echazwa kwisamani, ukuze abuzwe okanye akhuphe lo maxwebhu enokuthi iwagcinele ukuwaphonononga; 25

(b) ithathise isifungo okanye yamkele isiqiniseko esivela komnye umntu obebizwe jengengqina kwisibheno;

(c) ibize nawuphi umntu okhoyo ngexesha lokuqhuba kwesibheno njengengqina ize imhlome imibuzo ifune ukuba lo mntu akhuphe amaxwebhu akuye okanye awagcinileyo okanye aphantsi kolawulo lwakhe, kwaye lo mntu uvumelekile ukuba abenomelo lwasemthethweni ngendleko zakhe. 30

(4) Inkqubo yesibheno iyakugqitywa ngusihlalo webhodi yezibheno.

(5) Ibhodi yezibheno ingaqinisekisa, ibekele bucala okanye itshintshe isigqibo somphathi. 35

(6) Isigqibo soninzi lwamalungu ebhodi yezibheno iya kuba sisigqibo sebhodi.

(7) Isigqibo sesibheno kufuneka sibhalwe phantsi, ize kwiikopi zaso kunikwe umbheni nomphathi.

(8) Ukuba ibhodi ibekela bucala nasiphi isigqibo sikamongameli, intlawulo ekubhekiswe kuyo kwecandelwana (1)(b) ebihlawulwe ngumbheni iyakubuyiselwa kuye, kodwa ukuba ibhodi ithe yasiguqula esi sigqibo, ingathi ngokubona kwayo, iyalele ukuba yonke okanye inxalenye yentlawulo ibuyiselwe kumbheni. 40

(9) Isibheno esifakwe ngokweli candela asisixhomi isigqibo somphathi ngexesha ekulindwe iziphumo zobheno.

Ukusekwa nokwakheka kwebhodi yezibheno

45

76. (1) (a) Ibhodi yezibheno iyamiselwa.

(b) ibhodi yezibheno inamalungu amathathu ubuncinane amiselwa nguMphathiswa.

(2) UMphathiswa kufuneka amisele abantu abanesakhono njengamalungu ebhodi, ekufuneka ekuqaleni ubuncinane—

(a) umntu omnye oligqwetha onamava eminyaka eli-10 emthethweni njengosihlalo; 50

(b) umntu omnye onolwazi okanye onamava eebhanki zentsebenziswano;

- (a) one person that is an advocate or attorney with at least 10 years' experience in the practice of law as the chairperson;
- (b) one person that is a person with knowledge and experience of co-operative banks; and
- (c) one person that is a registered auditor under the Auditing Profession Act, 2005 (Act No. 26 of 2005). 5
- (3) A member of the appeal board shall hold office for a period of three years and is on the expiration of such member's term of office eligible for reappointment.
- (4) The Minister may terminate the period of office of a member of the appeal board—
- (a) if the performance of the member is unsatisfactory; or 10
- (b) if the member, either through illness or for any other reason, is unable to perform the functions of office effectively.
- (5) The Minister may, if the performance of the appeal board is unsatisfactory, terminate the period of office of all the members of the appeal board.
- (6) In the event of the termination of office of all the members of the appeal board, the Minister may appoint persons to act as caretakers until competent persons are appointed in terms of subsection (1). 15
- (7) The Minister must, subject to subsection (1), appoint a temporary replacement member for an appeal, if before or during an appeal it transpires that any member of the appeal board— 20
- (a) has any direct or indirect personal interest in the outcome of that appeal; or
- (b) will, due to illness, absence from the Republic or for any other *bona fide* reason be unable to participate or continue to participate in that appeal.
- (8) A member of the appeal board may be paid the remuneration and allowances the Minister may from time to time determine. 25
- (9) Administrative support for the appeal board must be provided by officials of the National Treasury designated by the Minister.
- (10) The National Treasury is responsible for the expenditure of the appeal board.

CHAPTER XI

OFFENCES AND PENALTIES 30

Unlawful use of word "co-operative bank" or conduct of banking business of co-operative bank

77. (1) It is an offence for any person who is not registered as a co-operative bank under this Act to—
- (a) in connection with any business conducted by him, her or it— 35
- (i) use or refer to himself, herself or itself by any name, description or symbol indicating, or calculated to lead persons to infer, that such person is a co-operative bank registered as such under this Act; or
- (ii) in any manner purport to be a co-operative bank registered as such under this Act; or 40
- (b) use in respect of any business a name or description that includes the expression "co-operative bank", "co-op bank" or any derivative thereof.
- (2) It is an offence for any person to conduct the business of any co-operative bank unless such person is registered as a co-operative bank in terms of this Act.
- (3) It is an offence for a co-operative bank to provide, participate in or undertake banking services other than the services authorised in respect of the type of co-operative bank it is registered as in terms of this Act. 45

Untrue information in connection with applications

78. It is an offence for any person in connection with an application for registration as a co-operative bank to provide any information that to the knowledge of such person is untrue or misleading in any material respect. 50

Criminal liability of director, managing director, executive officer and other persons

79. (1) It is an offence for any director, managing director or executive officer of a co-operative bank to, directly or indirectly, be involved in or take part in the 55

- (c) umntu omnye ongumphicothi zincwadi zemali obhalisiweyo ngaphantsi koMthetho womsebenzi woPhicotho zincwadi zemali ka-2005 (uMthetho onguNombolo 26 ka-2005).
- (3) Ilungu lebhodi yezibheno liya kuba kweso sikhundla ithuba leminyaka emithathu kodwa lakufikelela esiphelweni eli xesha, ilungu liyakwazi ukuphinda limiselwe. 5
- (4) UMphathiswa angasinqumamisa isikhundla selungu lebhodi yezibheno—
- (a) ukuba umsebenzi welungu elo awonelisi; okanye
- (b) ukuba ilungu ngenxa yokugula okanye esinye isizathu lithe alakwazi ukwenza umsebenzi weso sikhundla ngokwanelisayo.
- (5) UMphathiswa, ukuba akoneliswa ngumsebenzi webhodi yezibheno, 10 angawanqumamisa onke amalungu ebhodi yezibheno.
- (6) Xa enqunyanyiswe onke amalungu ebhodi yezibheno, uMphathiswa unokumisela abantu bokuba ngabagcini de kumiselwe abantu abanesakhono ngokwecandelwana (1).
- (7) UMphathiswa, kufuneka ngaphantsi kwecandelwana (1), amisele ilungu lokuvala isithuba sethutyana lesibheno, ukuba ngaphambi okanye ngexesha lokuqhutywa 15 kwesibheno kuye kwabonakala ukuba elinye kumalungu ebhodi yezibheno—
- (a) linomdla ongqalileyo okanye ongangqalanga kwisiphumo sesibheno; okanye
- (b) ngenxa yokugula, ukuba ngaphandle kwiRiphabliki okanye esinye isizathu esinyanisekileyo alikwazi ukuthabatha inxaxheba okanye ukuqhubeka 20 nokuthabatha inxaxheba kweso sibheno.
- (8) ilungu lebhodi yezibheno linokuhlululwa umvuzo nezibonelelo ezigqitywa nguMphathiswa kumaxesha ngamaxesha.
- (9) Inkxaso ekulawulweni kwebhodi yezibheno kufuneka inikwe ngamagosa kaNondyebo weSizwe amiselwa nguMphathiswa.
- (10) UNondyebo weSizwe inkcitho yebhodi yezibheno yeyakho. 25

ISIAHLUKO XI

ULWAPHULO-MTHETHO NEZOHLWAYO

Ukungasetyenziswa ngokusemthethweni kwegama elithi “ibhanki yentsebenziswano” okanye indlela yokuziphatha ekwenzeni ushishino yibhanki yentsebenziswano 30

77. (1) Lulwaphulo-mthetho nabani na ongabhaliswanga njengebhanki yentsebenziswano phantsi kwaloMthetho—
- (a) ngokubhekisele nakuluphi ushishino alenzayo—
- (i) ukusebenzisa okanye ukuzinika elinye igama, inkcazelo okanye umelo oluchaza okanye olwenzelwe ukuba likhokelele kwinkolo yokuba umntu 35 lowo uyibhanki yentsebenziswano ebhaliswe ngaphantsi kwalo Mthetho; okanye
- (ii) ngezinye iindlela wenza ngathi uyibhanki yentsebenziswano ebhaliswe ngaphantsi kwalo Mthetho; okanye
- (b) usebenzisa kushishino igama okanye inkcazelo equka ibinzana elithi “ibhanki 40 yentsebenziswano” okanye “ibhanki-yeNtse” okanye okwakhelwe kuko.
- (2) Lulwaphulo-mthetho ukuba umntu enze ushishino lwebhanki yentsebenziswano ngaphandle kokuba lo mntu ubhalise njengebhanki yentsebenziswano ngokwalo Mthetho.
- (3) Lulwaphulo-mthetho ukuba ibhanki yentsebenziswano yenze, ithabathe inxaxheba okanye yamkele iinkonzo zoshishino ngaphandle kwezo zigunyaziswe ngokohlobo lwebhanki yentsebenziswano ebhaliswe njengayo ngokwalo Mthetho. 45

Ukunika ingxelo enganyanisekanga ngokunxulumene nezicelo

78. Lulwaphulo-mthetho nabani onxulumene nokufakwa kwesicelo sobhaliso njengebhanki yentsebenziswano ukunika ulwazi alaziyo ukuba aluyiyo inyani 50 nolulahlekisayo ngenjongo yenzuzo.

Uxanduva lolwaphulo mthetho lomlawuli, umlawuli ophetheyo, igosa lolawulo nabanye abantu

79. (1) Lulwaphulo-mthetho ukuba umlawuli, umlawuli ophetheyo okanye igosa lolawulo lebhanki yentsebenziswano, ngokungqalileyo okanye ngokungangqalanga, 55

management of a co-operative bank while the business of the co-operative bank is carried on recklessly, with intent to defraud creditors of the co-operative bank or creditors of any other person, or for any fraudulent purpose.

(2) It is an offence for any person other than a director, managing director or executive officer to knowingly, directly or indirectly, benefit from, be involved in or take part in the management of a co-operative bank while the business of the co-operative bank is carried on recklessly, with intent to defraud creditors of the co-operative bank or creditors of any other person, or for any fraudulent purpose. 5

General offences

80. It is an offence for any co-operative bank, representative body, support organisation or other person to— 10

- (a) fail to comply with a directive under this Act;
- (b) contravene or fail to comply with section 3(2), 10, 21(1), 23 or 25(4);
- (c) submit a document or information or make a statement under this Act that to the knowledge of such person is untrue or misleading. 15

Penalties

81. Any person convicted of an offence in terms of this Act is liable on conviction to a fine or to imprisonment for a period not exceeding 10 years.

CHAPTER XII

GENERAL PROVISIONS 20

Fair administrative action

82. Any decision or other step of an administrative nature taken by the supervisor, Agency or appeal board that affects the rights of another person, the supervisor, Agency or appeal board must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless another fair administrative procedure has been provided for in this Act. 25

Certification of documents

83. Any document that must be submitted to the supervisor by a co-operative bank in terms of this Act must be certified as correct by the managing director and, in the case of financial information, also by the auditor of the co-operative bank. 30

Access to records, register and other documentation

84. A regulatory authority must, despite the provisions of any other law, at the request of the supervisor or Agency make information regarding a co-operative bank, representative body or support organisation available to the supervisor or Agency.

Indemnity 35

85. Neither the supervisor, Agency or appeal board or any board member or employee or managing director thereof, nor a committee of the Agency or any member thereof incurs any liability in respect of any act or omission performed in good faith under or by virtue of a provision in this Act, unless that performance was grossly negligent.

lingene okanye libe yinxalenye yolawulo lebhanki yentsebenziswano ngexesha ushishino lwebhanki yentsebenziswano luphethwe ngokungakhathali nangenjongo yokuqhatha abatyali zimali bebhanki yentsebenziswano okanye abanye abantu, okanye ngeenjongo zobunye ubuqhinga.

(2) Lulwaphulo-mthetho ukuba umntu ongomnye ongenguye umlawuli, umlawuli ophetheyo okanye igosa lolawulo likwazi ngokungqalileyo okanye okungangqalanga, ukuzuza, okanye lingene okanye libe yinxalenye yolawulo lwebhanki yentsebenziswano ngexesha ushishino lwebhanki yentsebenziswano luphethwe ngokungakhathali ngenjongo yokuqhatha abatyali zimali bebhanki yentsebenziswano okanye abanye abantu, okanye ngeenjongo zobunye ubuqhinga.

Ulwaphulo-mthetho jikelele

80. Lulwaphulo-mthetho ukuba ibhanki yentsebenziswano, ibhodi yomelo, iqumrhu elixhasayo okanye omnye umntu—

- (a) angathobeli imiqathango yalo Mthetho;
- (b) ophule okanye angathobeli amacandelo (2), 10, 21(1), 23 no 25(4);
- (c) angenise amaxwebhu okanye ulwazi okanye enze ingxelo ngaphantsi kwalo Mthetho ayaziyo ukuba asiyiyo inyani okanye iyalahlekisa.

Izohlwayo

81. Nawuphi umntu ofunyenwe enetyala lokwaphula umthetho ngokwalo Mthetho akufunyanwa enetyala angohlwaywa ngentlawulo yemali okanye uvalelo entolongweni ixesha leminyaka engekho ngaphezu kwe-10.

ISAPHLUKO XII

AMALUNGISELELO JIKELELE

Izenzo zolawulo ezifanelekileyo

82. Isigqibo okanye elinye inyathelo lolawulo oluthatyathwe ngumongameli, i-Arhente okanye ibhodi yezibheno elichaphazela amalungelo omnye umntu, umphathi, i-Arhente okanye ibhodi yezibheno kufuneka lithobele uMthetho wokuPhakanyiswa koLawulo loBulungisa ka-2000. (uMthetho onguNombolo 3 ka-2000), ngaphandle kokuba inkqubo yolawulo olulungileyo lomthetho lwenze amalungiselelo alulungiselelwe kulo Mthetho.

Ukuqiniselwa kwamaxwebhu

83. Onke amaxwebhu angeniswa kumongameli yibhanki yentsebenziswano ngokwalo Mthetho kufuneka aqinisekise njenganyanisekileyo ngumlawuli ophetheyo kuze okuphathelele kulwazi olungemali lona luqinisekise ngumphicothi zincwadi zemali yebhanki yentsebenziswano.

Ukufikelela kubungqina obubhaliweyo neencwadi obubhalwe kuzo namanye amaxwebhu

84. Igunya elilawulayo kufuneka, ngaphandle kokulungiselelwa ngomnye umthetho, ngesicelo somphathi okanye i-Arhente yenze ulwazi olungebhanki yentsebenziswano, ibhodi yomelo okanye iqumrhu elixhasayo lufumaneka kumphathi okanye kwi-Arhente.

Ukhuselo

85. Umphathi, i-Arhente okanye ibhodi yezibheno okanye ilungu lebhodi okanye umsebenzi okanye umlawuli ophetheyo wayo okanye ikomiti ye-Arhente okanye elinye ilungu layo abanakuthwaliswa ityala elizalwe sisenzo okanye impazamo eyenzeke ngaphantsi okanye ngokulunga kwalo Mthetho, ngaphandle kokuba eso senzo sizalwe kukungabikho kwenkathalo okukhulu.

Regulations

- 86.** (1) The Minister may by notice in the *Gazette* make regulations regarding—
- (a) anything which must or may be prescribed in terms of this Act;
 - (b) the conduct of a member of the board of directors of a co-operative bank in the performance of his or her functions; 5
 - (c) the manner in which any payment in terms of this Act must be made to the supervisor;
 - (d) documents, in addition to those contemplated in any other provision of this Act that must be submitted to the supervisor;
 - (e) the manner in which the financial statements of a co-operative bank must be prepared; 10
 - (f) the manner in which records must be kept by a co-operative bank; and
 - (g) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act. 15
- (2) A regulation in terms of this section may—
- (a) apply to co-operative banks generally; or
 - (b) differentiate between co-operative banks, which may be defined either in relation to a type or budgetary size of co-operative bank or to any other matter; 20
 - or
 - (c) be limited in its application to a particular kind of co-operative bank, which may be defined either in relation to a type or budgetary size of co-operative bank or to any other matter.
- (3) A regulation made under subsection (1) may, in respect of any contravention thereof or failure to comply therewith, prescribe a penalty or a fine, or imprisonment for a period not exceeding five years. 25
- (4) Before regulations in terms of this Act are made, the Minister must publish the draft regulations in the *Gazette* for public comment and submit the regulations to Parliament, while it is in session, for parliamentary scrutiny at least one month before their promulgation. 30

Powers of Minister

87. The Minister may delegate any of his or her powers in terms of this Act, excluding the power to make regulations and the power to appoint the members of the Agency or appeal board to the Director-General or any other official of the National Treasury.

Civil liability of director or managing director 35

88. (1) Any director or managing director that knew or knows that the business of a co-operative bank was or is being carried on recklessly, with intent to defraud creditors of the co-operative bank or creditors of any other person, or for any fraudulent purpose is personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the co-operative bank. 40

(2) The supervisor may institute legal action against any director or managing director (whether it be in a winding-up, judicial management or otherwise) when it appears that the business of a co-operative bank was or is being carried on recklessly, with intent to defraud creditors of the co-operative bank or creditors of any other person, or for any fraudulent purpose, for all or any of the debts or other liabilities of the co-operative bank. 45

(3) Despite the common law, any amount recovered as a result of proceedings instituted by the supervisor in terms of subsection (1), may be utilised—

- (a) first to reimburse all expenses reasonably incurred by the supervisor in bringing such proceedings; 50
- (b) thereafter to off-set any amount paid to depositors by the registrar, as part or full compensation for the losses suffered by depositors as a result of the co-operative bank having been unable to repay its deposits; and
- (c) thereafter for the pro rata repayment of the losses of depositors.

Imimiselo

- 86.** (1) UMphathiswa ngesaziso kwiPhepha loMbuso wenza imimiselo ebhekisela—
- (a) nakuyiphi into efunekayo okanye engapapashwa phantsi kwalo Mthetho;
 - (b) kukuziphatha kwelungu lebhodi yabalawuli bebhank. yentsebenziswano ekwenzeni imisebenzi yalo; 5
 - (c) kwindlela ekwenziwa ngayo nayiphi intlawulo ngokwalo Mthetho kumphathi;
 - (d) kumaxwebhu, ukongeza kulawo acetywe kulungiselelo olulolunye lalo Mthetho ekufuneka engeniswe kumphathi;
 - (e) kwindlela yokulungiswa kweengxelo zemali yebhanki yentsebenziswano; 10
 - (f) kwindlela yokugcinwa kweenkcukhacha yibhanki yentsebenziswano; kunye
 - (g) nokunye okuncedisayo okanye okungumbandela wezehlo zolawulo okanye inkqubo efunekayo ukuqinisekisa ukusetyenziswa nokulawulwa kwalo Mthetho.
- (2) Imimiselo ngokweli candelo— 15
- (a) isebenza kwiibhanki zentsebenziswano jikelele; okanye
 - (b) yahlula iibhanki zentsebenziswano ezinokuchazwa ngokohlobo okanye ubungakanani bolwabiwo mali lwazo okanye omnye umbandela; okanye
 - (c) isikelwe imida yokusetyenziswa ngokohlobo lwebhanki yentsebenziswano, engachazwa ngokohlobo okanye ubungakanani bolwabiwo mali lwebhanki yentsebenziswano okanye enye ingongoma. 20
- (3) Nawuphi ummiselo owenziwe ngaphantsi kwecandelwana (1) ngokwaphulwa okanye ukungathotyelwa kwayo, ingamisela isohlwayo okanye intlawulo okanye ukuvalelwa entolongweni kangangeminyaka engadluliyo kwiminyaka emihlanu. 25
- (4) Phambi kokuba kwenziwe imigqaliselo ngokwalo Mthetho, uMphathiswa kufuneka apapashe imigqaliselo esaxongxwayo *kwiGazethi* ukuze uluntu luphawule ngayo kwaye athi thaca le migqaliselo epalamente, xa ihleli, ukuze ipalamente iyiphonononge kuseyinyanga enye nangaphezulu phambi kokuba imiselwe.

Amagunya oMphathiswa

- 87.** UMphathiswa anganikela nangaliphi igunya ngokwalo Mthetho, ngaphandle kwegunya lokwenza imiqathango okanye ukumisela amalungu e-Arhente okanye ebhodi yezibheni ukuya kuMlawuli-Jikelele okanye namanye amagosa kaNondyabo weSizwe. 30

Uxanduva lomlawuli okanye umlawuli owongameleyo kuluntu

- 88.** (1) Umlawuli okanye umlawuli ophetheyo owaziyo ukuba ushishino lwebhanki yentsebenziswano aluphathwanga ngenkathalo, kukho injongo yokuqhatha abatyali zimali bebhanki yentsebenziswano okanye abanye abantu, okanye ezinye iinjongo zobunye ubuqhinga, unoxanduva ngaphandle kwemiqathango yetyala, awo onke amatyala ebhanki yentsebenziswano. 35
- (2) Umphathi angathabathela amanyathelo asemthethweni umlawuli, umlawuli ophetheyo (nokuba kukuphathwa, ulawulo lomthetho njalonzalo) xa kubonakala ukuba ushishino lwebhanki yentsebenziswano luthelwa laqhutywa ngokungenankathalo ngenjongo yokuqhatha abatyali zimali bebhanki yentsebenziswano okanye abanye abantu, okanye ngeenjongo zobunye ubuqhinga ngamatyala ebhanki yentsebenziswano. 40
- (3) Ngaphandle komthetho oqhelekileyo, imali ebuyiswe ngenxa yeenkqubo eziqalwe ngumphathi ngokwecandelwana (1), ingasetyenziswa— 45
- (a) okokuqala ukuhlawula iindleko zomphathi ekuziseni ezo nkqubo;
 - (b) ize emva koko ibuyise imali ehlawulwe kubabeki mali ngumgcini zincwadi, ngokungazelanga okanye ngokuzuleyo ngelahleko yabo kuba ibhanki yentsebenziswano ingakwazi ukuhlawula imali ebekiweyo; kuze 50
 - (c) emva koko ihlawulele ilahleko yababeki mali.

Ukhululo

- 89.** (1) UMphathiswa, apho abona kufaneleke inkqubela kwibhanki yentsebenziswano okanye apho amalungiselelo oMthetho okuthobela angazisa iziphumo ezibi kwinkqubela yebhanki yentsebenziswano, ngesaziso kwiPhepha-ndaba loMbuso ibhanki yentsebenziswano ngokwexesha alinikayo angayikhulula— 55

Exemptions

89. (1) The Minister may, where he or she considers it necessary for the development of a co-operative bank or where compliance may be detrimental to the development of a co-operative bank, by notice in the *Gazette* exempt a co-operative bank for a specific period— 5

- (a) from any provision of this Act or any other Act administered by him or her; or
- (b) with the concurrence of the relevant Minister, from any provision of any other Act administered by that Minister.

(2) An exemption in terms of subsection (1) may—

- (a) apply to co-operative banks generally; or 10
- (b) be limited in its application to a particular co-operative bank or kind of co-operative bank, which may be defined either in relation to a kind, type or budgetary size of co-operative bank or to any other matter.

Amendment of laws

90. The laws mentioned in the Schedule are hereby amended to the extent set out in the third column of that Schedule. 15

Transitional provisions

91. (1) Any co-operative that meets the criteria set out in section 3(1) and is exempted from the provisions of the Banks Act at the commencement of this Act must apply for registration under this Act within one year of the commencement of this Act. 20

(2) The supervisor may initiate the winding-up of any co-operative that fails to comply with subsection (1).

Short title and commencement

92. This Act is called the Co-operative Banks Act, 2007, and comes into operation on a date determined by the Minister by notice in the *Gazette*. 25

- (a) kumalungiselelo alo Mthetho okanye omnye uMthetho olawulwa nguye; okanye
 - (b) ngentsebenziswano nabanye abaphathiswa, kumalungiselelo omnye umthetho olawulwa ngomnye uMphathiswa.
- (2) Olu khululo ngokwecandelwana (1)— 5
- (a) lungasebenza kuzo zonke iibhanki zentsebenziswano ngokubanzi: okanye
 - (b) lunganemiqathango ekusetyenzisweni kwibhanki yentsebenziswano ethile okanye yohlobo oluthile olungachazwa ngokohlobo, udidi okanye ubungakanani bolwabiwo mali okanye enye ingongoma.

Izihlomelo zomthetho 10

90. Imithetho ekhankanywa kuludwe lwenkqubo iyalungiswa ukufikelela kubungakanani obunikwe kuluhlu lwesithathu loludwe.

Amalungiselelo ethutyana

91. (1) Ibhanki yentsebenziswano ehlangabezana nemiba enikwe kwicandelo (3)(1) kwaye ingabotshelelwa ngamalungiselelo oMthetho weeBhanki, xa uqala ukusebenza lo Mthetho kufuneka ifake isicelo ngaphantsi kwalo Mthetho kwithuba lonyaka phambi kokuba uqale ukusebenza. 15

(2) Umphathi angaqalisa ukuvala ibhanki yentsebenziswano engaphumeleliyo ukuthobela icandelwana (1).

Isihloko esifutshane nesiqalo 20

92. Lo Mthetho waziswa njengoMthetho weeBhanki zeNtsebenziswano ka-2007 kwaye uqala ukusebenza ngomhla oya kumiswa nguMphathiswa ngesaziso kwiPhephandaba loMbuso.

SCHEDULE

LAWS AMENDED

(Section 90)

No. and year of Act	Short Title	Extent of repeal or amendment	5
Act No. 94 of 1990	Banks Act, 1990	1. Amendment of section 2 by insertion in paragraph (b) of the following paragraph: “(viA) a co-operative bank registered under the Co-operative Banks Act, 2007; or”.	10
Act No. 78 of 1998	National Payment System Act, 1998	1. Amendment of section 1 by— (a) by the insertion after the definition “company” of the following definitions: “ ‘co-operative bank’ has the meaning assigned to it in section 1 of the Co-operative Banks Act, 2007; ‘Co-operative Banks Act’ means the Co-operative Banks Act, 2007;”; (b) the substitution for the definition of “Reserve Bank settlement system participant” of the following definition: “ ‘Reserve Bank settlement system participant’ means— (a) the Reserve Bank; (b) a bank, a mutual bank, a co-operative bank or a branch of a foreign institution; or (c) a designated settlement system operator, that participates in the Reserve Bank settlement system;”; (c) the insertion after the definition of “Reserve Bank settlement system participant” of the following definition: “ ‘secondary co-operative bank’ means a secondary co-operative bank as defined in section 1 of the Co-operative Banks Act, 2007;” (d) the insertion after the definition of “system operator” of the following definition: “ ‘tertiary co-operative bank’ means a tertiary co-operative bank as defined in section 1 of the Co-operative Banks Act, 2007;”. 2. Amendment of section 3 by— (a) the substitution in subsection (3) for paragraph (a) of the following paragraph: “(a) A bank, mutual bank, a co-operative bank or branch of a foreign institution; and	15 20 25 30 35 40 45 50

ULUDWE LWENKQUBO

IMITHETHO ELUNGISIWEYO

INombolo nonyaka woMthetho	Isihloko esifutshane	Ubungakanani bokubhangiswa okanye bokulungisa	
UMthetho onguNom. 94 ka-1990	UMthetho weeBhanki ka-1990	1. Ukulungiswa kwecandelo 2 ngokufakela kumhlathi (b) lo mhlathi ulandelayo: “(viA) <u>ibhanki yentsebenziswano ebhaliswe ngaphantsi koMthetho weeBhanki zeNtsebenziswano ka-2007; okanye</u> ”.	5 10
UMthetho onguNom. 78 ka-1998	UMthetho wendlela emisiweyo yeSizwe yokuHlawula ka-1998	<p>1. Ukulungiswa kwecandelo 1—</p> <p>(a) ngokufakela emva kwenkcazelo “yenkampani” ezi nkcazelo zilandelayo: “‘ibhanki yentsebenziswano’ inentsingiselo eyinikwe kwicandelo 1 loMthetho weeBhanki zeNtsebenziswano, 2007; ‘UMthetho weeBhanki zeNtsebenziswano’ uthetha uMthetho weeBhanki zeNtsebenziswano, 2007;</p> <p>(b) ukufakela endaweni yenkcazelo ethi, “Umthabathi nxaxheba kwindlela emisiweyo yentlawulo yeBhanki enguVimba” kwinkcazelo ethi “‘Umthabathi nxaxheba kwindlela emisiweyo yentlawulo yebhanki enguVimba’ uthetha—</p> <p>(a) IBhanki enguVimba</p> <p>(b) Ibhanki, ibhanki ezifanayo, <u>ibhanki yentsebenziswano okanye isebe leziko lelinye ilizwe; okanye</u></p> <p>(c) umntu omiselwe ukusebenza ngendlela emisiweyo yentlawulo, othabatha inxaxheba kwindlela emisiweyo yentlawulo yeBhanki enguVimba;”</p> <p>(c) Inani leekopi ezenziweyokufakelwa emva kwenkcazelo ethi, “yomntu omiselwe ukusebenza ngendlela emisiweyo yeBhanki enguVimba” le nkcazelo; “‘ibhanki yentsebenziswano ekudidi lwesibini’ ithetha ibhanki yentsebenziswano ekudidi lwesibini njengoko ichazwe kwicandelo 1 loMthetho weeBhanki zeNtsebenziswano ka-2007;”</p> <p>(d) ukufakela emva kwenkcazelo ethi, “yomntu osebenza ngendlela emisiweyo” le nkcazelo ilandelayo: “‘ibhanki yentsebenziswano ekudidi lwesithathu’ ithetha ibhanki yentsebenziswano ekudidi lwesithathu njengoko ichazwe kwicandelo 1 loMthetho weeBhanki zeNtsebenziswano ka-2007;”</p> <p>2. Ukulungiswa kwecandelo 3—</p> <p>(a) ngokufakela kwicandelwana (3) lomhlathi (a) lo mhlathi ulandelayo: “(a) Ibhanki, ibhanki efanayo, ibhanki yentsebenziswano okanye isebe leziko lelinye ilizwe;</p>	15 20 25 30 35 40 45 50 55 60 65

No. and year of Act	Short Title	Extent of repeal or amendment
		<p>(b) the substitution in subsection (4) for paragraph (a) of the following paragraph: “(a) such person is the Reserve Bank, a bank, a mutual bank, a co-operative bank or a branch of a foreign institution and, in the case where a payment system management body has been recognised by the Reserve Bank as contemplated in subsection (1), such person is a member of the payment system management body so recognised; or”</p> <p>5</p> <p>10</p>
		<p>3. Amendment of section 4 by—</p> <p>(a) the substitution in subsection (1) for paragraph (b) of the following paragraph: “(b) to act as a medium for communication by its members with the South African Government, the Reserve Bank, the Registrar of Banks, the Co-operative Bank Supervisors, the Registrar of Financial Institutions, any financial or other exchange, other public bodies, authorities and officials, the news media, the general public and other private associations and institutions; and”;</p> <p>15</p> <p>20</p> <p>25</p>
		<p>(b) the substitution in subsection (2) for paragraph (d) of the following paragraph: “(d) to recommend for approval by the Reserve Bank criteria subject to and in accordance with which a member that is also a Reserve Bank settlement system participant may be authorised to—</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>(i) allow a bank, mutual bank, co-operative bank or branch of a foreign institution that is not a Reserve Bank settlement system participant to clear; or</p> <p>(ii) clear on behalf of a bank, a mutual bank, co-operative bank or a branch of a foreign institution that is not a Reserve Bank settlement system participant: Provided that the member shall settle payment obligations on behalf of such bank, mutual bank, co-operative bank or branch of a foreign institution referred to in subparagraphs (i) and (ii).”</p> <p>50</p>
		<p>4. Amendment of section 6 by the substitution in subsection (1) for paragraph (b) of the following paragraph: “(b) bank, mutual bank, co-operative bank or branch of a foreign institution that is allowed to clear in terms of section 4(2)(d)(i).”</p> <p>55</p> <p>60</p>
		<p>5. Amendment of section 7 by the substitution for paragraph (a) of the following paragraph: “(a) the first-mentioned person is the Reserve Bank, a bank, mutual bank, a co-operative bank, branch of a foreign institution, or a designated settlement system operator; or”</p> <p>65</p>

INombolo nonyaka woMthetho	Isihloko esifutshane	Ubungakanani bokubhangiswa okanye bokulungisa
		(b) nokufakela kwicandelwana (4) lomhlathi (a) lo mhlathi ulandelayo: 5
		“(a) Lo mntu yiBhanki enguVimba, ibhanki, ibhanki efanayo, ibhanki yentsebenziswano okanye isebe leziko lelinye ilizwe kuze apho ibhodi yolawulo yendlela emisiweyo yentlawulo isebenzayo njengoko kucetyiwe kwicandelwana (1), lo mntu abe lilungu lebhodi yolawulo yendlela emisiweyo yentlawulo esebenzayo; okanye” 10
		3. Ukulungiswa kwecandelo 4 ngoku— 15
		(a) fakela kwicandelwana (1) lomhlathi (b) lomhlathi ulandelayo: 15
		“(b) ukuze abeyibhulorho yonxibelelwano ngamalungu ayo kuRhulumente waseMzantsi Afrika, iBhanki enguVimba, iZiko loBhaliso lweeBhanki, aBaphathi beeBhanki zeNtsebenziswano, iZiko loBhaliso lwaMaziko ezeMali, amanye amaziko emali okanye otshintshiselwano, amanye amaqumrhu oluntu, oogunyaziwe namagosa, amaziko eendaba, uluntu ngokubanzi kunye namanye amaqumrhu namaziko azimele bucala; kunye” kunye 20
		(b) nokufakelwa kwicandelwana (2) lomhlathi (d) lo mhlathi ulandelayo: 25
		“(d) ukuphakanyiswa kwemvume yiBhanki enguVimba ngokubhekisele kwilungu elikwangumntu omiselwe ukusebenza ngendlela emisiweyo yentlawulo ongagunyaziswa ukuba— 30
		(i) avumele ibhanki, ibhanki efanayo, ibhanki yentsebenziswano okanye isebe leziko lelinye ilizwe elingathabathi nxaxheba kwindlela emisiweyo yentlawulo yeBhanki enguVimba ukucima; okanye 35
		(ii) ukucima egameni lebhanki, ibhanki efanayo, ibhanki yentsebenziswano okanye isebe leziko lelinye ilizwe elingathabathi nxaxheba kwindlela emisiweyo yentlawulo yeBhanki enguVimba: 40
		Ukuba ilungu elo lizimisele ukuhlawula egameni lale bhanki, ibhanki efanayo, ibhanki yentsebenziswano okanye isebe leziko lelinye ilizwe ekubhekiswe kulo kwimihlathana (i) no (ii).” 45
		4. Ukulungiswa kwecandelo 6 ngokufakela kwicandelwana (1) lomhlathi (b) lo mhlathi ulandelayo: 50
		“(b) Ibhanki, ibhanki efanayo, ibhanki yentsebenziswano okanye isebe leziko lelinye ilizwe elivunyelwe ukucima ngokwecandelo 4(2)(d)(i).” 55
		60
		65

Act No. 40, 2007

CO-OPERATIVE BANKS ACT, 2007

No. and year of Act	Short Title	Extent of repeal or amendment	
		<p>6. Amendment of section 8 by—</p> <p>(a) the substitution for the heading of the following heading: “Curatorship, judicial management or liquidation”; and</p> <p>(b) the substitution for subsection (1) of the following subsection: “(1) The provisions of this section apply despite anything to the contrary in the law relating to insolvency or in the Companies Act, the Co-operative Banks Act, the Banks Act or the Mutual Banks Act.”.</p> <p>7. Amendment of section 10 by the substitution for subsection (2) of the following subsection: “(2) Subject to subsection (3), any information—</p> <p>(a) obtained by the Reserve Bank in terms of subsection (1); and</p> <p>(b) identifying a specific Reserve Bank settlement system participant, is confidential and may not be disclosed by any director or officer of the Reserve Bank to any person, except to an officer of the Reserve Bank who requires that information for purposes of the execution of his or her duties in terms of this Act, the South African Reserve Bank Act, the Co-operative Banks Act, the Banks Act or the Mutual Banks Act.”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p>
Act 89 of 1998	Competition Act, 1998	<p>1. Amendment of section 18 by—</p> <p>(a) the substitution in subsection (2)(a) for subparagraph (ii) of the following subparagraph: “(ii) a transaction for which consent is required in terms of section 54 of the Banks Act, 1990 (Act No. 94 of 1990), or section 29 of the Co-operative Banks Act, 2007; and”; and</p> <p>(b) the substitution in subsection (2)(b) for subparagraph (ii) of the following subparagraph: “(ii) it is in the public interest that the merger is subject to the jurisdiction of the Banks Act, 1990 (Act No. 94 of 1990), or section 29 of the Co-operative Banks Act, 2007, only.”.</p>	<p>35</p> <p>40</p> <p>45</p> <p>50</p>
Act No. 37 of 2004	Financial Services Ombud Schemes Act, 2004	<p>1. Amendment of section 1 by the substitution for paragraph (a) of the definition of “financial institution” of the following paragraph: (a) a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990) or a mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993), or a co-operative bank as defined in section 1 of the Co-operative Banks Act, 2007;”</p>	<p>55</p> <p>60</p>

UMTHETHO WEEBHANKI ZENTSEBENZISWANO KA-2007 Act No. 40, 2007

INombolo nonyaka woMthetho	Isihloko esifutshane	Ubungakanani bokubhangiswa okanye bokulungisa
		<p>5. Ukulungiswa kwecandelo (7) ngokufakela kwicandelwana (1) lomhlathi (b) lo mhlathi ulandelayo: 5</p> <p>“(a) umntu okhankanywe kuqala yiBhanki enguVimba, ibhanki, ibhanki efanayo, ibhanki yentsebenziswano okanye isebe leziko lelinye ilizwe okanye umntu omiselwe ukusebenza ngendlela emisiweyo yentlawulo, okanye”.</p> <p>10</p> <p>6. Ukulungiswa kwecandelo 8 ngoku—</p> <p>(a) fakela isihloko ngesi sihloko silandelayo: “ubugcini, ulawulo lobulungisa okanye intengiso ukuze kuhlalulwe amatyala” 15</p> <p>(b) fakela kwicandelwana (1) eli candelwana lilandelayo:</p> <p>“(1) Imimiselo yeli candela iyasebenza nangona nje kungakho into engekho njalo emthethweni eyayamene nokutshona ungakwazi ukuhlawula amatyala okanye kuMthetho weeNkampani, uMthetho weeBhanki zeNtsebenziswano, uMthetho weeBhanki okanye uMthetho weeBhanki eZabelanayo.” 20</p> <p>25</p> <p>7. Ukulungiswa kwecandelo 10 ngokufakela kwicandelwana (2) eli candelwana lilandelayo:</p> <p>“(2) Ngokuxhomekeke kwicandelwana (3), nayiphina inkcazelo—</p> <p>(a) efunyenwe yiBhanki enguVimba ngokwecandelwana (1); kwaye 30</p> <p>(b) echaza umthabathi nxaxheba wenkqubo yokuphelisa engqalileyo yeBhanki enguVimba, 35</p> <p>iyimfihlo kwaye ayinakuvezwa ngumqondisi okanye ligosa leBhanki enguVimba kuye nawuphina umntu, ngaphandle kwakwigosa leBhanki enguVimba elidinga loo nkcazelo ngeenjongo zokwenza umsebenzi walo ngokwalo Mthetho, uMthetho weBhanki enguVimba yaseMzantsi Afrika, uMthetho weeBhanki zeNtsebenziswano, uMthetho weeBhanki okanye uMthetho weeBhanki eZabelanayo.” 40</p>
Act 89 of 1998	Competition Act, 1998	<p>1. Ukulungiswa kwecandelo 18 ngoku— 45</p> <p>(a) fakela kwicandelwana (2)(a) kumhlathana (ii) walo mhlathana ulandelayo: 50</p> <p>“(ii) inkonzo yebhanki ekufuneka imvume kuyo ngokwecandelo 54 loMthetho weeBhanki, 1990 (uMthetho Nombolo 94 ka 1990), okanye icandelo 29 loMthetho weeBhanki zeNtsebenziswano, 2007; kunye”; kunye 55</p> <p>(b) nokufakelwa kwicandelwana (2)(b) kumhlathana (ii) lo mhlathana ulandelayo: 60</p> <p>“(ii) kungumnqweno woluntu ukuba udibaniso lubephantsi kolawulo loMthetho weeBhanki, 1990 (uMthetho Nombolo 94 ka 1990), okanye icandelo 29 loMthetho weeBhanki zeNtsebenziswano, 2007, kuphela. 65</p>

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CO-OPERATIVE BANKS ACT, 2007

No. and year of Act	Short Title	Extent of repeal or amendment	
Act No. 14 of 2005	Co-operatives Act, 2005	<p>1. Insertion of section 5A: The following section is hereby inserted in the Co-operatives Act after section 5:</p> <p>“Application of Co-operative Banks Act 5A. (a) <u>The Co-operative Banks Act, 2007, applies to any co-operative registered under that Act or any financial services co-operative that takes deposits and—</u></p> <p>(i) <u>has 200 or more members; and</u></p> <p>(ii) <u>holds deposits of members to the value of one million Rand or more.</u></p> <p>(b) <u>In the event of an inconsistency between any provision of this Act and any provision of the Co-operative Banks Act, 2007, the provision of that Act prevails.”</u></p> <p>2. Amendment of section 18 by the addition in subsection (4) of the following paragraph: <u>“(c) in relation to a co-operative registered as a co-operative bank under the Co-operative Banks Act, 2007, the supervisor of that co-operative bank has approved the amendment.”</u></p> <p>3. Amendment of section 50 by—</p> <p>(a) the insertion after subsection (3) of the following subsection: <u>“(3A) If a co-operative bank registered under the Co-operative Banks Act, 2007, fails to appoint an auditor in accordance with subsections (1) and (2), the supervisor of the co-operative bank may appoint the auditor of that co-operative bank.”</u></p> <p>(b) the insertion after subsection (4) of the following subsection: <u>“(4A) The fees payable to the auditor of a co-operative bank registered under the Co-operative Banks Act, 2007, must be approved by the registrar with the written concurrence of the supervisor of the co-operative bank.”</u></p> <p>4. Amendment of section 55 by the insertion after subsection (1) of the following subsection: <u>“(1A) The registrar may with the written concurrence of the supervisor of the co-operative bank exempt a co-operative bank registered under the Co-operative Banks Act, 2007, from compliance with any requirement of this Chapter.”</u></p> <p>5. Amendment of section 95 by the insertion after subsection (1) of the following subsection: <u>“(1A) Any regulations relating to the financial services co-operatives must be made in consultation with the Minister of Finance.”</u></p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p>

UMTHETHO WEEBHANKI ZENTSEBENZISWANO KA-2007 Act No. 40, 2007

Inombolo nonyaka woMthetho	Isihloko esifutshane	Ubungakanani bokubhangiswa okanye bokulungisa	
UMthetho onguNom. 37 ka-2004	UMthetho olungiselela izikhalazo zee-nkonzo zemali	<p>1. Ukulungiswa kwecandelo 1 ngokufakela endaweni yomhlathi (a) wenkcazelo ethi, “leziko lemali” lo mhlathi ulandelayo:</p> <p>(a) ibhanki ichazwe kwicandelo 1 (1) loMthetho weeBhanki ka-1990 (uMthetho weNom. 94 ka-1990) okanye ibhanki efanayo njengoko ichazwe kwicandelo 1(1) kuMthetho weeBhanki ezifanayo ka-1993 (uMthetho weNom. 124 ka-1993), okanye <u>ibhanki yentsebenziswano njengoko ichazwe kwicandelo 1 loMthetho weeBhanki zeNtsebenziswano ka-2007;</u>”</p>	5 10 15
UMthetho onguNom. 14 ka-2005	UMthetho wama-Shishini amanyeneyo	<p>1. Ukufakelwa kwecandelo 5A: Eli candela lilandelayo lifakelwa kuMthetho wamaShishini amanyeneyo emva kwecandelo 5:</p> <p>“Ukusetyenziswa koMthetho wama-Shishini amanyeneyo 5A. (a) <u>UMthetho weeBhanki zeNtsebenziswano ka-2007 usebenza kuwo onke amashishini amanyeneyo abhaliswe ngaphantsi kwalo Mthetho okanye ishishini eliliziko leenkonzo zemali elamkela imali ebekwayo kunye—</u></p> <p>(i) <u>elinamalungu angama-200 nangaphezulu; okanye</u></p> <p>(ii) <u>elibamba imali ebekiweyo yamalungu efikelela kwisigidi esinye seerandi nangaphezulu.</u></p> <p>(b) <u>Ukuba ulungiselelo lwalo mthetho alifani nolungiselelo loMthetho weeBhanki ezimanyeneyo ka-2007, ulungiselelo lwalo Mthetho lulo olusebenzayo.”</u></p> <p>2. Ukulungiswa kwecandelo 18 ngokongezelela kwicandelwana (4) lo mhlathi ulandelayo:</p> <p>“(c) Ngokubhekiselele kwishishini elimanyeneyo elibhaliswe ngaphantsi koMthetho weeBhanki zeNtsebenziswano ka-2007, umongameli walo bhanki yentsebenziswano uluvumile ulungiso.”</p> <p>3. Ukulungiswa kwecandelo 50—</p> <p>(a) ngokufakelwa emva kwecandelwana (3) eli candelwana lilandelayo:</p> <p>“(3A) Ukuba ibhanki yentsebenziswano ebhaliswe ngaphantsi koMthetho weeBhanki zeNtsebenziswano ka-2007 ayiphumeleli ukumisela umphecothi weencwadi zemali ngokwamacandelwana (1) no (2), umongameli webhanki yentsebenziswano unokumisela ngokwakhe umphecothi zincwadi zemali zalo bhanki yentsebenziswano.”</p> <p>(b) ngokufakela emva kwecandelwana (4) eli candelwana lilandelayo:</p> <p>“(4A) Intlawulo yomphicothi weencwadi zemali webhanki yentsebenziswano ebhaliswe ngaphantsi koMthetho weeBhanki zeNtsebenziswano ka-2007 kufuneka ivunywe ngumgcini zincwadi ngemvumelwano ebhaliweyo phakathi kwakhe nomongameli webhanki yentsebenziswano.”</p>	20 25 30 35 40 45 50 55 60 65 70

No. and year of Act	Short Title	Extent of repeal or amendment	
		<p>6. Insertion of Item 2A in Part 3 of Schedule 1: (a) The following item is hereby inserted in part 3 of schedule 1 after item 2:</p> <p style="text-align: center;">“Co-operative Banks Act</p> <p style="text-align: center;"><u>2A. Any financial services co-operative that takes deposits and has 200 or more members or holds deposits of members to the value of one million Rand or more is required to register in terms of the Co-operative Banks Act, 2007, as a co-operative bank of a specific type.”</u></p> <p>7. Amendment of Item 6 of Part 3 of Schedule 1 by—</p> <p>(a) the substitution for subitem (1) of the following subitem: “(1) The registrar may, in consultation with the Registrar of Banks, the Registrars of Long-term or Short-term Insurance, or the Registrar of Medical Schemes, as the case may be, direct that all co-operatives, to whom this part applies, or any category of co-operative to whom this part applies, <u>other than a co-operative bank</u>, belong to a secondary co-operative that will act as a self-regulatory body, in compliance with any requirement for exemption from any provision of the Banks Act, 1990 (Act No. 94 of 1990), the Long-term Insurance Act, 1998 (Act No. 52 of 1998), or Short-term Insurance Act, 1998 (Act No. 53 of 1998), or the Medical Schemes Act, 1998 (Act No. 131 of 1998).”</p> <p>(b) the deletion of subitem (2).</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p>

UMTHETHO WEEBHANKI ZENTSEBENZISWANO KA-2007 Act No. 40, 2007

INombolo nonyaka woMthetho	Isihloko esifutshane	Ubungakanani bokubhangiswa okanye bokulungisa
		4. Ukulungiswa kwecandelo 55 ngokufakelwa emva kwecandelwana 5 eli candelwana lilandelayo: 5
		“(1A) <u>Umgcini zincwadi ngemvumelwano ebhaliweyo phakathi kwakhe nomongameli webhanki yentsebenziswano angayikhulula ibhanki yentsebenziswano ebhaliswe ngaphantsi koMthetho weeBhanki zeNtsebenziswano ka-2007 ekuthobeleni nayiphi imfuno yesi Sahluko.</u> ” 10
		5. Ukulungiswa kwecandelo 95 ngokufakela emva kwecandelwana (1) eli candelwana lilandelayo: 15
		“(1A) <u>Yonke imimiselo ebhekisa kumashishini amanyeneyo eenkonzo zemali kufuneka yenziwe ngentsebenziswano noMphathiswa weMali.</u> ” 15
		6. Ukufakelwa kweNqaku 2a kwiNxenye 3 yoludwe lwenkqubo 1: 20
		(a) Kufakelwa eli nqaku lilandelayo kwinxenye 3 yoludwe lwenkqubo 1 emva kwenqaku 2: 25
		“ <u>UMthetho weeBhanki zeNtsebenziswano</u> 2A. <u>Naliphi ishishini elimanyeneyo leenkonzo zemali elamkela imali ebekwayo nelinamalungu angama-200 okanye ngaphezulu nelibamba imali ebekwayo yamalungu efikelela kwisixa mali sesigidi seerandi nangaphezulu kufuneka ibhalise ngokoMthetho weeBhanki zeNtsebenziswano ka-2007, njengebhanki yentsebenziswano yohlobo oluthile.</u> ” 30
		7. Ukulungiswa kweNqaku 6 leNxenye 3 yoludwe lwenkqubo 1— 40
		(a) ngokufakela endaweni yenqakwana (1) eli nqakwana lilandelayo: 40
		“(1) <u>Umgcini zincwadi ngentsebenziswano noMgcini zincwadi weeBhanki, uMgcini zincwadi wokhuselo lwexesha elide okanye elifutshane, okanye uMgcini zincwadi wolungiselelo lonyango, angayalela ukuba onke amashishini amanyeneyo, ebhekisa kuwo le nxenye okanye naluphi udidi lweshishini elimanyeneyo ebhekisa kulo le nxenye, engeyiyo ibhanki yentsebenziswano, ibe yinxalenye yeshishini elimanyeneyo elikudidi lwesibini eliya kusebenza njengequmrhu elizilawulayo, elithobela nayiphi imfuno yokhululo kulungiselelo loMthetho weeBhanki ka-1990 (uMthetho weNom. 94 ka-1990), uMthetho wolungiselelo lokhuselo wexesha elide ka-1998 (uMthetho weNom. 52 ka-1998) okanye uMthetho wolungiselelo lokhuselo wexesha elifutshane ka-1998 (uMthetho weNom. 53 ka-1998) okanye uMthetho wolungiselelo lonyango ka-1998 (uMthetho 131 ka-1998).</u> ” 50
		(b) Ukucinywa kwenqakwana (2). 65

No. and year of Act	Short Title	Extent of repeal or amendment
		<p data-bbox="729 282 1202 390">8. Amendment of item 7 of part 3 of schedule 1. (a) Item 7 of part 3 of schedule 1 is hereby amended by the substitution for subitem (1) of the following subitem:</p> <p data-bbox="786 416 925 444">“Regulations</p> <p data-bbox="786 444 1202 728">(1) The Minister may, in consultation with the Minister of Finance, the relevant supervisor for co-operative banks, the Registrar of Banks or the Registrars of Long-term or Short-term Insurance, or the Registrar of Medical Schemes, as the case may be, make regulations regarding any matter relating to the operation or administration of financial services co-operatives or any category of financial services co-operatives.</p> <p data-bbox="786 728 1202 890">(2) The Minister must at the request of the Minister of Finance, make regulations regarding any matter relating to the operation or administration of financial services co-operatives or any category of financial services co-operatives.”.</p>

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INombolo nonyaka woMthetho	Isihloko esifutshane	Ubungakanani bokubhangiswa okanye bokulungisa
		<p>8. Ukulungiswa kwenqakwana 7 lenxenywe 3 kuludwe lwenkqubo 1.</p> <p>(a) Inqaku 7 leNxenywe 3 loludwe lwenkqubo 1 liyalungiswa ngokufakelwa endaweni yenqakwana (1) eli nqakwana lilandelayo:</p> <p>“Imimiselo</p> <p>(1) UMphathiswa ngentsebenziswano noMphathiswa weMali, umongameli weebhanki zentsebenziswano, uMgcini zicwadi weBhanki okanye uMgcini zicwadi wolungiselelo lokhuseleko lwexesha elide okanye elifutshane okanye uMgcini zicwadi zolungiselelo lonyango, angenza imimiselo ebhekisela nakuwuphi umbandela ongokusebenza okanye angolawulo lwamashishini amanyeneyo eenkonzo zemali okanye naluphi udidi lwamashishi amanyeneyo eenkonzo zemali.</p> <p>(2) <u>UMphathiswa kufuneka ngesicelo soMphathiswa weMali, enze imimiselo ebhekisela nakuwuphi umbandela ongokusebenza okanye ongolawulo lwamashishini amanyeneyo eenkonzo zemali okanye naluphi udidi lwamashishi amanyeneyo eenkonzo zemali.”</u></p>