

(28 February 2014 – to date)

[This is the **current** version and applies as from **28 February 2014**, i.e. the date of commencement of the Financial Services Laws General Amendment Act 45 of 2013 – **to date**]

## **SOUTH AFRICAN RESERVE BANK ACT 90 OF 1989**

*Government Notice 1203 in Government Gazette 11942, dated 14 June 1989. Commencement date: 1 August 1989 [Proc. 128, Gazette No. 12009, dated 10 July 1989].*

### **as amended by:**

*Transfer of Powers and Duties of the State President Act 51 of 1991 - Government Notice 963 in Government Gazette 13205, dated 29 April 1991. Commencement date: 29 April 1991 [Proc. 41, Gazette No. 13208, dated 29 April 1991].*

*South African Reserve Bank Amendment Act 10 of 1993 - Government Notice 370 in Government Gazette 14627, dated 10 March 1993. Commencement date: 10 March 1993.*

*Safe Deposit of Securities Act 85 of 1992 - Government Notice 1773 in Government Gazette 14080, dated 1 July 1992. Commencement date: 14 May 1993 [Proc. 43, Gazette No. 14820, dated 14 May 1993].*

*General Law Third Amendment Act 129 of 1993 - Government Notice 1296 in Government Gazette 14995, dated 23 July 1993. Commencement date: 1 September 1993 [Proc. R81, Gazette No. 15102, dated 1 September 1993].*

*South African Reserve Bank Amendment Act 2 of 1996 - Government Notice 459 in Government Gazette 17039, dated 15 March 1996. Commencement date: 15 March 1996.*

*South African Reserve Bank Amendment Act 39 of 1997 - Government Notice 1296 in Government Gazette 18329, dated 3 October 1997. Commencement date: 3 October 1997.*

*South African Reserve Bank Amendment Act 57 of 2000 - Government Notice 1319 in Government Gazette 21847, dated 6 December 2000. Commencement date: 6 December 2000.*

*Exchange Control Amnesty and Amendment of Taxation Laws Act 12 of 2003 - Government Notice 730 in Government Gazette 25047, dated 31 May 2003. Commencement date: 31 May 2003.*

*South African Reserve Bank Amendment Act 4 of 2010 - Government Notice 801 in Government Gazette 33538, dated 9 September 2010. Commencement date: 13 September 2010. [Proc. R46, Gazette No. 33551, dated 13 September 2010]*

Prepared by:

In partnership with:

*Financial Services Laws General Amendment Act 45 of 2013 - Government Notice 15 in Government Gazette 37237, dated 16 January 2014. Commencement date: 28 February 2014. [GN 120, Gazette No. 37351, dated 18 February 2014]*

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

## ACT

**To consolidate the laws relating to the South African Reserve Bank and the monetary system of the Republic; and to provide for matters connected therewith.**

*(Afrikaans text signed by the State President.)*

*(Assented to 1 June 1989.)*

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

## TABLE OF CONTENTS

1. Definitions
2. South African Reserve Bank a juristic person
3. Primary objectives of Bank
4. Board of directors
- 4A. Functions and powers of Board
5. Tenure and conditions of office of directors
6. Casual vacancies
7. Procedure and quorum
8. Delegation of powers
9. Validity of Board's decisions and acts
10. Powers and duties of Bank
- 10A. Maintenance by banks of minimum reserve balances in accounts with Bank
11. Appointment of inspectors
12. Inspection of affairs of person, partnership, close corporation, company or other juristic person not registered as bank or mutual bank
13. Prohibited business
14. Issue of banknotes and coins
15. Monetary unit
16. Denominations, material, standard mass and standard fineness of coins
17. Legal tender
18. References to amounts in terms of coins issued under Coinage Act, 1922
19. Powers of Minister in respect of coins

20. Bank exempt from tax on banknotes
21. Share capital of Bank
22. Restriction of right to hold or acquire shares in Bank
23. Votes
24. Allocation of surplus
25. Statutory price of gold and Gold Price Adjustment Account
26. Foreign Exchange Adjustment Account
27. Forward Exchange Contracts Adjustment Account
28. Gold and Foreign Exchange Contingency Reserve Account
29. Returns in connection with and auditing of certain accounts
30. Audit and inspection
31. Report by Governor
32. Furnishing of information to Department of Finance and to Parliament
33. Preservation of secrecy
34. Offences and penalties
35. Rules by Board
36. Regulations
37. Proceedings by Minister in case of non-compliance with Act or regulations by Bank
38. Liquidation
39. ....
40. Repeal of laws, and savings
41. Short title and commencement

## **Schedule 1**

## **Schedule 2**

## **Schedule 3**

### **LAWS REPEALED**

#### **1. Definitions**

In this Act, unless the context otherwise indicates -

“**associate**”, in relation to a shareholder-

- (a) if the shareholder is a natural person, means-
  - (i) a close relative of the shareholder; or

- (ii) any person who has entered into an agreement or arrangement with the shareholder, relating to the acquisition, holding or disposal of, or the exercising of voting rights in respect of, shares of the Bank;
- (b) if the shareholder is a juristic person-
- (i) which is a company, means any subsidiary or holding company of that company, any other subsidiary of that holding company and any other company of which that holding company is a subsidiary;
  - (ii) which is a close corporation registered under the Close Corporations Act, 1984 (Act No. 69 of 1984), means any member thereof as defined in section 1 of that Act;
  - (iii) which is not a company or a close corporation as contemplated in this paragraph, means another juristic person which would have been a subsidiary of the first- mentioned juristic person-
    - (aa) had such first-mentioned juristic person been a company; or
    - (bb) in the case where that other juristic person, too, is not a company, had both the first-mentioned juristic person and that other juristic person been a company;
  - (iv) means any person in accordance with whose directions or instructions the board of directors of or, in the case where the juristic person is not a company, the governing body of the juristic person is accustomed to act; and
- (c) in respect of all shareholders, being either natural or legal persons-
- (i) means any juristic person of which the board of directors or, in the case where such juristic person is not a company, of which the governing body is accustomed to act in accordance with the directions or instructions of the shareholder; and
  - (ii) includes any trust controlled or administered by the shareholder;  
*(Definition of "associate" inserted by section 1(a) of Act 4 of 2010)*

**"Bank"** means the South African Reserve Bank established by section 9 of the Currency and Banking Act;

**"bank"** means a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), and, for the purposes of section 10A, includes a mutual bank;

*(Definition of "bank" inserted by section 1(a) of Act 10 of 1993)*

*(Definition of “bank” substituted by section 1(a) of Act 2 of 1996)*

**“banking institution”** .....

*(Definition of “banking institution” deleted by section 1(b) of Act 10 of 1993)*

**“Board”** means the board of directors referred to in section 4(1);

**“building society”** .....

*(Definition of “building society” deleted by section 1(c) of Act 10 of 1993)*

**“close relative”**, in relation to a shareholder, means-

(a) a spouse, including a domestic or life partner or a party to any recognised union in terms of custom or the tenets of any religion-

(i) of the shareholder; or

(ii) of a person mentioned in paragraph (b) below; and

(b) a child, sibling, step-child, parent or step-parent of the shareholder;

*(Definition of “close relative” inserted by section 1(b) of Act 4 of 2010)*

**“Currency and Banking Act”** means the Currency and Banking Act, 1920 (Act No. 31 of 1920);

**“Department of Finance”** includes the Minister or any officer in the Department of Finance authorized by the Minister to perform any function assigned to that Department in this Act;

**“Deputy Governor”** means a person appointed under section 4 or 6(1)(a) as a Deputy Governor of the Bank;

**“elected director”** means a member of the Board elected by shareholders;

*(Definition of “elected director” inserted by section 1(c) of Act 4 of 2010)*

**“employee of Government”** means any person who is employed by or works for Government and who either receives or is entitled to receive a salary in respect of such employment or work, or derives the major part of his or her income from such employment or work;

*(Definition of “employee of Government” inserted by section 1(c) of Act 4 of 2010)*

**“financial instrument”** means -

- (a) any security as referred to in the definition of “securities” in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);
- (b) any financial instrument as defined in section 1 of the Financial Markets Control Act, 1989 (Act No. 55 of 1989), irrespective, in the case of such instrument that is an instrument creating or acknowledging indebtedness, of the term for which it has been issued;
- (c) any right or other benefit in respect of or accruing to a security referred to in paragraph (a) or a financial instrument referred to in paragraph (b); and
- (d) any other instrument, right or benefit declared by the Minister by notice in the *Gazette* to be a financial instrument for the purposes of section 10(1)(h);  
*(Definition of “financial instrument” inserted by section 1(b) of Act 2 of 1996)*

“**Government**” means the national, provincial and local spheres of government in the Republic, as envisaged in section 40(1) of the Constitution of the Republic of South Africa, 1996;  
*(Definition of “Government” inserted by section 1(d) of Act 4 of 2010)*

“**Government representative**” means a member of the Board appointed under section 4 or 6(1)(a), but does not include the Governor or a Deputy Governor;

“**Governor**” means the person appointed under section 4 or 6(1)(a) as the Governor of the Bank;

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

“**mutual bank**” means a mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993);  
*(Definition of “mutual bank” inserted by section 1(c) of Act 2 of 1996)*

“**mutual building society**” .....  
*(Definition of “mutual building society” deleted by section 1(d) of Act 2 of 1996)*

“**NEDLAC**” means the National Economic, Development and Labour Council, established in terms of section 2 of the National Economic, Development and Labour Council Act, 1994 (Act No. 35 of 1994);  
*(Definition of “NEDLAC” inserted by section 1(e) of Act 4 of 2010)*

“**Panel**” means a panel as referred to in section 4(1C);  
*(Definition of “Panel” inserted by section 1(f) of Act 4 of 2010)*

“**prescribed**” means prescribed by regulation;  
*(Definition of “prescribed” inserted by section 1(d) of Act 10 of 1993)*

**“Republic”** .....

*(Definition of “Republic” deleted by section 1(e) of Act 2 of 1996)*

**“shareholder”** means any holder of shares in the Bank;

**“shareholders’ representative”** .....

*(Definition of “shareholders’ representative” deleted by section 1(g) of Act 4 of 2010)*

**“special drawing right”** means a unit of an international reserve asset provided for in the Articles of Agreement of the International Monetary Fund;

**“territory”** .....

*(Definition of “territory” deleted by section 1(f) of Act 2 of 1996)*

**“Treasury”** includes the Minister or any officer in the Department of Finance authorized by the Minister to perform any function assigned to the Treasury in this Act.

## **2. South African Reserve Bank a juristic person**

The Bank shall be a juristic person.

## **3. Primary objectives of Bank**

The primary objective of the Bank shall be to protect the value of the currency of the Republic in the interest of balanced and sustainable economic growth in the Republic.

*(Section 3 substituted by section 2 of Act 2 of 1996)*

## **4. Board of directors**

(1) The Bank shall have a board of fifteen directors, consisting of-

*(Words preceding section 4(1)(a) substituted by section 2(a) of Act 4 of 2010)*

(a) a Governor and three Deputy Governors (of whom one shall be designated by the President of the Republic as Senior Deputy Governor) who shall be appointed by the President of the Republic, after consultation with the Minister and the Board, as well as four other directors appointed by the President, after consultation with the Minister; and

*(Section 4(1)(a) substituted by section 2(b) of Act 4 of 2010)*

(b) seven directors elected by the shareholders from candidates confirmed by the Panel.

*(Section 4(1)(b) substituted by section 2(c) of Act 4 of 2010)*

*(Section 4(1) amended by section 9 of Act 51 of 1991)*  
*(Section 4(1) substituted by section 3(a) of Act 2 of 1996)*

(1A) Any shareholder, current director of the Bank or any member of the general public may nominate persons to serve as elected directors of the Bank in the manner as may be prescribed.

*(Section 4(1A) inserted by section 2(d) of Act 4 of 2010)*

(1B) Nominations in terms of subsection (1A) must be made in writing to the Panel and shall include a comprehensive curriculum vitae of the person nominated as well as a motivation for his or her nomination, and be submitted at least three calendar months before the ordinary general meeting of shareholders at which directors are due for election.

*(Section 4(1B) inserted by section 2(d) of Act 4 of 2010)*

(1C) A Panel shall be-

- (a) established by the Governor at least three months before; and
- (b) convened by the Governor at least two months before, the relevant ordinary general meeting of shareholders at which an election of directors is due to take place.

*(Section 4(1C) inserted by section 2(d) of Act 4 of 2010)*

(1D) The Panel shall comprise of-

- (a) the Governor as chairperson;
- (b) a retired judge and one other person, both nominated by the Minister; and
- (c) three persons nominated by NEDLAC.

*(Section 4(1D) inserted by section 2(d) of Act 4 of 2010)*

(1E) The members of the Panel referred to in subsection (1D)(b) and (c) shall be appointed by the Governor from time to time.

*(Section 4(1E) inserted by section 2(d) of Act 4 of 2010)*

(1F) In the performance by the Panel of the functions described under subsection (1G)-

- (a) the Governor shall have a deliberative vote and, in the event of an equality of votes, a casting vote; and
- (b) a quorum shall comprise of the Governor and three other members of the Panel.



*(Section 4(1F) inserted by section 2(d) of Act 4 of 2010)*

(1G) Subject to subsection (1F)(b), the Panel shall consider all nominations duly received in a manner as may be prescribed, and-

(a) in respect of each candidate-

- (i) verify eligibility in terms of this Act and recognised central banking standards; and
- (ii) determine, in its discretion, whether the candidate is fit and proper to serve as a director of the Bank in terms of this Act;

(b) subject to subsection (1H), compile a list of all the candidates confirmed as suitable for possible election to the Board; and

(c) cause a copy of the list of candidates to be sent to shareholders no later than 30 days before the date of the relevant ordinary general meeting of shareholders.

*(Section 4(1G) inserted by section 2(d) of Act 4 of 2010)*

(1H) If, in relation to any vacancy on the Board to be filled, more than three nominees meet the criteria listed in subsection (1G)(a), only the three candidates deemed most suitable by the Panel in relation to the vacancy, shall be confirmed.

*(Section 4(1H) inserted by section 2(d) of Act 4 of 2010)*

(2)

(a) The Governor shall be a person of tested banking experience.

(aA) Each director of the Bank shall be a fit and proper person with appropriate skills and experience, who shall at all relevant times-

- (i) act *bona fide* for the benefit of and in the interest of the Bank;
- (ii) avoid any conflict of interest between his or her interests and the interests of the Bank;
- (iii) possess and maintain the knowledge and skill that may reasonably be expected of a person holding the same appointment and carrying out the same functions as are carried out by the director in question in relation to the Bank; and
- (iv) exercise such care in the carrying out of his or her functions in relation to the Bank as may be reasonably expected of a diligent person holding the same appointment under similar circumstances and who possesses both the knowledge and skill mentioned in

subparagraph (iii), and any such additional knowledge and skill as the director in question may have.

*(Section 4(2)(aA) inserted by section 2(e) of Act 4 of 2010)*

(b) .....

*(Section 4(2)(b) substituted by section 2(a) of Act 10 of 1993)*

*(Section 4(2)(b) deleted by section 3(b) of Act 2 of 1996)*

(3) Of the directors elected by the shareholders -

(a) two shall be persons with knowledge and skill in commerce or finance;

(b) one shall be a person with knowledge and skill in agriculture;

(c) two shall be persons with knowledge and skill in industry;

(d) one shall be a person with knowledge and skill in labour; and

(e) one shall be a person with knowledge and skill in mining.

*(Section 4(3) substituted by section 2(f) of Act 4 of 2010)*

(4) No person shall be appointed or elected as or remain a director, if that person -

(a) is not resident in the Republic; or

(b) is a director, officer or employee of a bank, bank controlling company, mutual bank, or cooperative bank; or

(bA) is a Minister or a Deputy Minister in the Government of the Republic; or

(c) is a member of Parliament, a provincial legislature or a Municipal Council; or

(d) is an unrehabilitated insolvent; or

(e) was dismissed from a position of trust as a result of his or her misconduct or has been disqualified or suspended from practising any profession on the grounds of his or her professional misconduct; or

(f) was convicted of an offence listed in Part 1 or 2 of Schedule 1 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), an offence under this Act, the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Prevention of Organised Crime Act, 1998 (Act No.

121 of 1998), the Prevention of Counterfeiting of Currency Act, 1965 (Act No. 16 of 1965), perjury, or any other offence involving an element of dishonesty in respect of which he or she has been sentenced to imprisonment without the option of a fine or to a fine exceeding R1 000; or

- (g) is mentally or physically incapable of performing the duties of a director; or
- (h) is contractually incapacitated; or
- (i) is an employee of Government.

*(Section 4(4) amended by section 2(b) of Act 10 of 1993)*

*(Section 4(4) amended by section 72 of Act 129 of 1993)*

*(Section 4(4) substituted by section 3(c) of Act 2 of 1996)*

*(Section 4(4) substituted by section 2(g) of Act 4 of 2010)*

(5) The tenure of a director shall, unless otherwise indicated or agreed by the Board, automatically terminate forthwith-

- (a) if the director gives notice in writing to the secretary of the Bank of his or her resignation as a director;
- (b) if the director, without reasonable cause, absents himself or herself from three consecutive meetings of the Board without leave of absence granted by the chairperson: Provided that the chairperson may not grant leave of absence from more than three consecutive meetings of the Board;
- (c) if the director fails to declare to the Bank any direct or indirect interest in any agreement or proposed agreement with the Bank;
- (d) if the director unlawfully discloses to any person any information described in section 33 of this Act; or
- (e) if the director is disqualified on the grounds described in subsection (4).

*(Section 4(5) inserted by section 2(h) of Act 4 of 2010)*

#### **4A. Functions and powers of Board**

- (1) The Board shall be responsible for the corporate governance of the Bank by-
  - (a) ensuring compliance with principles of good corporate governance;

- (b) adopting rules and determining policies for the sound accounting, administration and functioning of the Bank;
  - (c) approving the-
    - (i) budget of the Bank;
    - (ii) annual reports and financial statements of the Bank required for submission to the meeting of shareholders, the Minister and Parliament;
    - (iii) appointment or the termination of service of a secretary and an assistant secretary of the Bank;
    - (iv) general remuneration policy of the Bank; and
    - (v) allocation of funds to the retirement fund of the Bank for purposes of making good any actuarial shortfall as well as the appointment of any employees' trustee in respect of such fund;
  - (d) authorising-
    - (i) any actions and procedures by the Bank as contemplated in sections 10(1)(c)(ii), (d), (u) and 24;
    - (ii) the establishment or closing of any branch of the Bank within or outside the Republic; and
    - (iii) the acquisition of any building or the causing of any building to be erected by the Bank;
  - (e) making recommendations to the Minister in respect of regulations as contemplated under section 36 and in connection with any possible liquidation of the Bank in terms of section 38; and
  - (f) performing any other function specifically assigned to the Board in terms of this Act.
- (2) All other powers and duties of the Bank under this Act shall vest in and be exercised by the Governor and Deputy Governors.

*(Section 4A inserted by section 3 of Act 4 of 2010)*

## **5. Tenure and conditions of office of directors**

- (1) The terms of office of directors of the Bank shall be as follows:

- (a) The Governor and Deputy Governors shall hold office for a period of five years: Provided that the President of the Republic may, after consultation with the Minister and the Board, on any re-appointment of a Governor or Deputy Governor at the end of his or her term of office, appoint such officer for a term not exceeding five years.
- (b) The directors who are Government representatives shall hold office for a period of three years.
- (c) Elected directors shall hold office for a period commencing on the first day after the date of their election as such at an ordinary general meeting of shareholders held during a specific calendar year and terminating on the date of the ordinary general meeting of the shareholders held during the third calendar year following upon the ordinary general meeting at which the director was elected.

*(Section 5(1) substituted by section 1(a) of Act 39 of 1997)*

*(Section 5(1) substituted by section 4(a) of Act 4 of 2010)*

(1A) .....

*(Section 5(1A) inserted by section 1(b) of Act 39 of 1997)*

*(Section 5(1A) deleted by section 4(b) of Act 4 of 2010)*

(1B) .....

*(Section 5(1B) inserted by section 1(b) of Act 39 of 1997)*

*(Section 5(1B) deleted by section 4(c) of Act 4 of 2010)*

- (2) A director shall be eligible for re-appointment or re-election, as the case may be, after expiration of his or her term of office: Provided that in the case of an elected director, such person has been confirmed by the Panel as a candidate as contemplated in this Act.

*(Section 5(2) substituted by section 4(d) of Act 4 of 2010)*

- (3) Directors (including the Governor and Deputy Governors) shall hold office upon such conditions as to remuneration (including allowances) as may be determined by the Board, and upon such other conditions as may be prescribed by regulation.

- (4) The Governor and the Deputy Governors shall devote the whole of their time to the business of the Bank: Provided that the provisions of this subsection shall not be construed as prohibiting the Governor or a Deputy Governor from accepting or holding any office to which he may be appointed by or with the approval of the State President or the Minister.

## 6. Casual vacancies

- (1) A casual vacancy on the Board shall be filled -

- (a) in the case of the Governor or a Deputy Governor through the appointment by the President of the Republic of another person, after consultation with the Minister and the Board, in an acting capacity for a temporary period until such time as the position is filled in accordance with the applicable provisions of section 5;

*(Section 6(1)(a) amended by section 9 of Act 51 of 1991)*

*(Section 6(1)(a) substituted by section 4 of Act 2 of 1996)*

*(Section 6(1)(a) substituted by section 5(a) of Act 4 of 2010)*

- (aA) in the case of a Government representative, through the appointment by the President of the Republic, after consultation with the Minister, of another person; and

*(Section 6(1)(aA) inserted by section 5(b) of Act 4 of 2010)*

- (b) in the case of an elected director, by the election by the shareholders at an ordinary general meeting of shareholders of a person, confirmed by the Panel as a candidate as contemplated in this Act, in the place of the director whose office has become vacant, or by the appointment by the Board, subject to his or her subsequent election by shareholders at the next ordinary general meeting of the shareholders, of a person confirmed by the Panel as a person suitable for possible election to the Board.

*(Section 6(1)(b) substituted by section 5(c) of Act 4 of 2010)*

- (2) Any person appointed or elected under subsection (1) shall hold office -

- (a) in the case of a person temporarily acting as Governor or Deputy Governor, for such a term, but not exceeding five years, as the President of the Republic, after consultation with the Minister and the Board, may determine; and

- (b) in the case of any other director, in accordance with the applicable provisions of section 5: Provided that the term of office of a director appointed by the Board, and who is not subsequently elected by shareholders at the next ordinary general meeting of shareholders, shall expire on the day of such ordinary general meeting.

*(Section 6(2) substituted by section 5(d) of Act 4 of 2010)*

## **7. Procedure and quorum**

- (1) The Governor shall preside at the meetings of the Board, and in his absence from any meeting, the Deputy Governor designated by the Governor shall preside: Provided that the Minister may designate any other director to act as chairman of the Board during the Minister's pleasure and that such director shall in that capacity preside at such meetings as he may be present at.

- (2) If the other director who is by virtue of the proviso to subsection (1) required to preside at a meeting of the Board is absent from that meeting, the Governor or, in his absence, a Deputy Governor designated by him, shall preside at that meeting, and if the said other director as well as the Governor and the said designated Deputy Governor are absent from that meeting, the directors who are present may elect one of their number to preside at that meeting.
- (3) The quorum for a meeting of the Board shall be seven directors.
- (4) The decision of the majority of directors present at any meeting shall constitute the decision of the Board.
- (5) The person presiding at any meeting shall have a deliberative vote and, in addition, in the event of an equality of votes, a casting vote.

## **8. Delegation of powers**

- (1) The Board may from time to time delegate to the Governor or any Deputy Governor or any officer of the Bank any of its powers for such period and purposes and subject to such terms, conditions or restrictions as it may deem fit.
- (2) The Governor or any Deputy Governor may delegate the exercise of any power delegated to him or her by the Board under subsection (1) or any of his or her original powers, to a Deputy Governor or an officer of the Bank for a particular period or purpose, and any power the exercise of which has been so delegated, shall be exercised subject to the same terms, conditions or restrictions imposed by the Board when delegating the power to the Governor or Deputy Governor or, in the case of original powers of the Governor or Deputy Governor, on such terms, conditions or restrictions as he or she may determine.

*(Section 8(2) substituted by section 6 of Act 4 of 2010)*

## **9. Validity of Board's decisions and acts**

No decision or act of the Board or act performed under the authority of the Board shall be invalid by reason only of the fact that -

- (a) the Board did not consist of the full number of directors prescribed in section 4(1); or
- (b) a disqualified person or a person with respect to whose election as director the provisions of the regulations had not been observed, sat or acted as a director,

at the time when the decision was taken or the act was performed or authorized, provided, in the case where such disqualified or invalidly elected person sat or acted as a director, the directors who were

present at the time and who were in fact entitled to sit or act as directors constituted a quorum, and a majority of the last-mentioned directors voted in favour of the decision taken or the act performed or authorized.

## 10. Powers and duties of Bank

(1) The Bank may, subject to the provisions of section 13 -

(a)

- (i) make banknotes or cause banknotes to be made;
- (ii) coin coins or cause coins to be coined;
- (iii) issue banknotes and coins, or cause banknotes and coins to be issued, for use in the Republic;
- (iv) make, or cause to be made, banknotes to be issued for use in another State, and coin, or cause to be coined, coins to be so issued; and
- (v) destroy banknotes and coins or cause them to be destroyed;

(b) with the object of making banknotes or coining coins, and with any object incidental thereto, form companies in accordance with the provisions of the Companies Act, 1973 (Act No. 61 of 1973), and take up shares in such companies;

(c)

- (i) perform such functions, implement such rules and procedures and, in general, take such steps as may be necessary to establish, conduct, monitor, regulate and supervise payment, clearing or settlement systems;
- (ii) form, or take up shares or acquire an interest in, any company or other juristic person that provides-
  - (aa) a service for the purpose of or associated with; or
  - (bb) any facility for or associated with, the utilization of any such payment, clearing or settlement systems;
- (iii) perform the functions assigned to the Bank by or under any law for the regulation of such payment, clearing or settlement systems; and



- (iv) participate in any such payment, clearing or settlement systems;  
*(Section 10(1)(c) substituted by section 2 of Act 39 of 1997)*
  
- (d) acquire shares in a limited company formed and registered in accordance with the provisions of the Companies Act, 1973, if the Board is of the opinion that any such acquisition will be conducive to the attainment of any of the objects of this Act;
  
- (e) accept money on deposit, allow interest on any deposit or on a portion of a deposit and collect money for other persons;
  
- (f) grant loans and advances: Provided that unsecured loans and advances may be granted only in the following cases, namely -
  - (i) an unsecured loan to the Government of the Republic or to a company referred to in paragraph (b) or, with the approval of the Board, to any company in which the Bank has acquired shares in accordance with the provisions of paragraph (d);
  
  - (ii) an unsecured loan or advance, at such rate of interest as the Board may from time to time determine, to an officer or employee of the Bank -
    - (aa) in order to enable such officer or employee to acquire a dwelling for his own use, in a case where, owing to the nature of the rights of the officer or employee in respect of the property in question, such property cannot in law be mortgaged in favour of the Bank; or
  
    - (bb) for the purposes of the implementation of a motor-car scheme which, in terms of the rules made by the Board under section 35, forms part of the conditions of service of the officer or employee;
  
- (g) buy, sell, discount or re-discount bills of exchange drawn or promissory notes issued for commercial, industrial or agricultural purposes, or exchequer bills of the Government of the Republic or of the government of any other country, or securities of a local authority in the Republic;
  
- (h) buy, sell or deal in financial instruments and, in accordance with the provisions of any law regulating the safe deposit of securities, hold such financial instruments in safe custody, or cause such financial instruments to be held in safe custody, for other persons;  
*(Section 10(1)(h) substituted by section 5(a) of Act 2 of 1996)*
  
- (i) issue its own interest-bearing securities for purposes of monetary policy and buy, sell, discount or re-discount, or grant loans or advances against, such securities;

- (j) subject to the provisions of section 13(a) and (b), enter into repurchase agreements with any institution in respect of interest-bearing securities or such other securities as the Bank may determine;
- (k) buy, sell or deal in precious metals and hold in safe custody for other persons gold, securities or other articles of value;
- (l) buy and sell foreign currencies;
- (m) buy, sell, accept or deal in special drawing rights;
- (n) open credits and issue guarantees;
- (o) effect transfers in accordance with generally accepted banking practice, and sell drafts drawn on its branches and correspondents;
- (p) establish branches or appoint agents and correspondents in or outside the Republic;
- (q) open accounts in foreign countries and act as agent or correspondent of any bank carrying on business in or outside the Republic;
- (r) make arrangements or enter into agreements with any institution in a foreign country to borrow, in such manner, at such rate of interest and subject to such other terms and conditions as the Bank may deem fit, any foreign currency which the Bank may consider it expedient to acquire;
- (s) perform such other functions of bankers and financial agents as central banks customarily may perform;
- (t) lend or advance money on security of a mortgage of immovable property or of a notarial or other bond or a cession thereof, to any officer or employee or former officer or employee of the Bank for the purpose of enabling any such officer or employee to acquire a dwelling for his own use: Provided that-
  - (i) if the Board is of the opinion that the value of any security held against any loan or advance is insufficient, the Bank may accept as additional security a mortgage bond on immovable property or any other security approved by the Board; and
  - (ii) if any immovable property so mortgaged is sold for the purpose of satisfying the mortgage debt and the purchase price obtainable is insufficient to cover the whole of the

Bank's claim in connection with the mortgage, the Bank may buy in that property and realize it at such time and in such manner as the Board may determine;

- (u) acquire immovable property required by the Bank for business purposes or for the purpose of providing a dwelling for any officer of the Bank, and sell, dispose of, donate or otherwise alienate any such immovable property: Provided that a donation of such immovable property may only be made with the approval of the Board;
- (v) perform the functions assigned to the Bank by the Banks Act, 1990 (Act No. 94 of 1990), and the Mutual Banks Act, 1993 (Act No. 124 of 1993).

*(Section 10(1)(v) substituted by section 3 of Act 10 of 1993)*

*(Section 10(1)(v) substituted by section 5(b) of Act 2 of 1996)*

- (2) The rates at which the Bank will discount or re-discount the various classes of bills, promissory notes and other securities, shall be determined and announced by the Bank from time to time.

#### **10A. Maintenance by banks of minimum reserve balances in accounts with Bank**

- (1) Subject to the provisions of subsection (3), a bank shall maintain an account with the Bank into which account that bank shall from time to time deposit at least such amounts as may be necessary to comply with the requirements of subsection (2) and from which it may, subject to that subsection, from time to time withdraw amounts.

(2)

- (a) The Governor shall, for the purposes of paragraph (b) and in accordance with subsection (4), determine-
  - (i) the percentage of the average daily amount of a bank's Reserve Bank notes and subsidiary coin, calculated according to the total amounts of those assets held by the bank on all the days of the last month in respect of which that bank furnished a return in terms of subsection (11) to the Registrar of Banks designated under section 4 of the Banks Act, 1990 (Act No. 94 of 1990); and
  - (ii) percentages of the amounts of such different categories of the bank's liabilities as may be specified by the Governor by notice in the *Gazette* with reference to the time when such liabilities fall due or with reference to any other aspect pertaining to such liabilities.

- (b) The monthly average credit balance in an account maintained in terms of subsection (1) by a bank, together with the amount representing the percentage referred to in paragraph (a)(i) shall not be less than the total of the amounts representing the percentages referred to in paragraph (a)(ii).

*(Section 10A(2) substituted by section 1(a) of Act 57 of 2000)*

- (3)
- (a) A bank shall, when required to do so by virtue of a determination contemplated in paragraph (b), in addition to the account referred to in subsection (1) maintain an account with the Bank (hereinafter in this subsection referred to as a special deposit account) into which account that bank shall from time to time deposit at least such amounts as may be necessary to comply with the requirements of paragraph (b).
  - (b) For the purposes of the maintenance by a bank of a credit balance in a special deposit account referred to in paragraph (a), the Governor may from time to time determine further percentages, in addition to percentages determined by him in terms of subsection (2), of the bank's liabilities as contemplated in subsection (2).
  - (c) When making a determination in terms of paragraph (b), the Governor may at his discretion direct that interest at a rate determined by him shall be payable to a bank on the daily credit balances in a special deposit account maintained by such bank in terms of paragraph (a): Provided that the provisions of this paragraph shall not derogate from the power conferred by section 10(1)(e) upon the Bank to allow interest on any deposit or on a portion of a deposit.
- (4)
- (a) The percentages determined by the Governor in terms of subsection (2)(a) or (3)(b) shall be such percentages as the Governor may, having regard to the national economic interest, deem desirable to determine from time to time.  
*(Section 10A(4)(a) substituted by section 1(b) of Act 57 of 2000)*
  - (b) Whenever the Governor has made a determination under paragraph (a), he shall in writing inform the Registrar of Banks referred to in subsection (2) of such a determination, and the said Registrar shall as soon as is practicable give written notice of the determination to every bank and cause the determination to be published by notice in the *Gazette*.
  - (c) Any such determination shall take effect on a date mentioned in the notice whereby the determination is published in the *Gazette* in terms of paragraph (b).
- (5) A bank's liabilities referred to in subsection (2) shall be calculated in such manner and determined at such times as may be determined by the Governor by notice in the *Gazette*.
- (6) Any person who contravenes or fails to comply with a provision of subsection (1), (2), (3)(a) or (5) shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding six months.

- (7) If a bank fails to comply with a provision of this section, or is unable to comply with any such provision, it shall forthwith in writing report its failure or inability to the Governor, stating the reasons for such failure or inability.
- (8) The Governor may summarily bring a charge in terms of subsection (6) against a bank referred to in subsection (7) or, if in the circumstances he deems it fit to do so, condone the failure or inability and afford the bank concerned an opportunity, subject to such conditions as the Governor may determine, to comply with the relevant provision within a specified period.
- (9) Irrespective of whether criminal proceedings in terms of subsection (6) have been or may be instituted against a bank in respect of any failure or inability referred to in subsection (7), the Governor may, subject to any condonation granted under subsection (8), by way of a written notice impose upon that bank, in respect of such failure or inability, a fine not exceeding one-tenth of one per cent of the amount of the shortfall for each day on which such failure or inability continues.
- (10) A fine imposed under subsection (9) shall be paid to the Governor within such period as may be specified in the relevant notice, and if the bank concerned fails to pay the fine within the specified period, the Governor may by way of civil action in a competent court recover from that bank the amount of the fine or any portion thereof which he may in the circumstances consider justified.
- (11) A bank shall, in order to enable the Governor to determine whether the bank is complying with the provisions of this section, furnish the Registrar of Banks referred to in subsection (2), subject to the provisions of subsection (12), with a return on the prescribed form and in respect of the prescribed period.
- (12) A return referred to in subsection (11) shall be prepared in conformity with generally accepted accounting practice and shall be furnished to the Registrar of Banks referred to in subsection (2) not later than the fifteenth business day following upon the last business day of the period to which the return relates.

*(Section 10A inserted by section 4 of Act 10 of 1993)*

## **11. Appointment of inspectors**

- (1) The Bank may appoint inspectors (in either a permanent or a temporary capacity) to carry out inspections of the affairs, or of any part thereof, of a bank or a mutual bank.

*(Section 11(1) substituted by section 5 of Act 10 of 1993)*

*(Section 11(1) substituted by section 6 of Act 2 of 1996)*

- (2) The provisions of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984), except sections 2 and 7 thereof, shall *mutatis mutandis* apply in respect of an inspection carried out in terms of subsection (1).

- (3) Every inspector so appointed shall be furnished with a certificate stating that he has been appointed as an inspector under this Act.

**12. Inspection of affairs of person, partnership, close corporation, company or other juristic person not registered as bank or mutual bank**

- (1) If the Governor or a Deputy Governor has reason to suspect that any person, partnership, close corporation, company or other juristic person who or which is not registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), as a bank or in terms of the Mutual Banks Act, 1993 (Act No. 124 of 1993), as a mutual bank, is carrying on the business of a bank or a mutual bank, he or she may direct the Registrar of Banks referred to in section 4 of the Banks Act, 1990, to cause the affairs or any part of the affairs of such person, partnership, close corporation, company or other juristic person to be inspected by an inspector appointed under section 11(1), in order to establish whether or not the business of a bank or mutual bank, as the case may be, is being carried on by that person, partnership, close corporation, company or other juristic person.
- (2) The provisions of sections 4, 5, 8 and 9 of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984), shall apply *mutatis mutandis* in respect of an inspection carried out in terms of subsection (1).

*(Section 12 substituted by section 6 of Act 10 of 1993)*

*(Section 12 substituted by section 7 of Act 2 of 1996)*

**13. Prohibited business**

The Bank may not

- (a) purchase its own shares or grant loans or advances upon the security thereof;
- (b) without the consent of the Minister, purchase the shares of any bank or grant loans or advances upon the security thereof;

*(Section 13(b) substituted by section 7 of Act 10 of 1993)*

- (c) .....

*(Section 13(c) deleted by section 53 of Act 45 of 2013)*

- (d) buy, discount or re-discount bills of exchange or promissory notes drawn or issued for commercial and industrial purposes, which have a maturity exceeding 120 days;
- (e) buy, discount or re-discount bills of exchange or promissory notes drawn or issued for agricultural purposes, which have a maturity exceeding six months;

- (f) hold in stocks of the Government of the Republic which have been acquired directly from the Treasury by subscription to new issues, the conversion of existing issues or otherwise, a sum exceeding its paid-up capital and reserve fund plus one-third of its liabilities to the public in the Republic.

#### **14. Issue of banknotes and coins**

- (1) The Bank shall have the sole right to issue or cause to be issued banknotes and coins in the Republic: Provided that all coins which at the commencement of the South African Reserve Bank Amendment Act, 1989, were lawfully in circulation and legal tender in the Republic, shall as such remain in circulation until they are withdrawn from circulation in accordance with the provisions of section 19, or are no longer of the current mass prescribed in Schedule 2 in respect of the denomination in question.
- (2) The Bank shall not issue or cause to be issued any banknote of a denomination, in a form or of a material not approved by the Department of Finance.
- (3) The Bank shall not re-issue or cause to be re-issued any banknote which is torn or wholly or partially defaced or soiled.
- (4) The Bank shall not be obliged to make any payment in respect of a torn banknote or a banknote which, in the opinion of the Bank, is mutilated and which may be tendered to it, but may, in its discretion, make a payment in respect of such banknote.
- (5) The Bank shall not issue or cause to be issued any coin made otherwise than in accordance with the prescriptions of section 16(1): Provided that the Bank may after the commencement of the South African Reserve Bank Amendment Act, 1989, continue to issue or cause to be issued coins made in accordance with the provisions of the South African Mint and Coinage Act, 1964 (Act No. 78 of 1964), as those provisions existed immediately prior to the repeal thereof by the said Amendment Act, until such time as the Minister may in writing direct the Bank to discontinue such issue.
- (6) The Bank shall not re-issue or cause to be re-issued any coin which is mutilated or worn away.
- (7) The Bank shall not be obliged to make any payment in respect of a coin which, in the opinion of the Bank, is mutilated or worn away and which may be tendered to it, but may, in its discretion, make a payment in respect of such coin.

#### **15. Monetary unit**

- (1) Subject to the provisions of section 14(1), the monetary unit of the Republic shall be the rand (abbreviated as R), and the cent (abbreviated as c), which is one hundredth part of the rand.

- (2) The respective values, in rand and cent, of coins manufactured and issued under other designations than rand and cent and which by virtue of the provisions of section 14(1) remain in circulation, shall be as set out in the table hereunder:

**TABLE**

<i>Coin in circulation under the designation of</i>	<i>Value in rand and cent:</i>
Pound/sovereign .....	Two rand
Half-pound/half-sovereign .....	One rand
Crown .....	Fifty cents
Half-crown .....	Twenty-five cents
Florin .....	Twenty cents
Shilling .....	Ten cents
Sixpence .....	Five cents
Threepence .....	Two-and-a-half cents
Penny .....	Ten-twelfths of a cent
Half-penny .....	Five-twelfths of a cent
Farthing .....	Five twenty-fourths of a cent

#### **16. Denominations, material, standard mass and standard fineness of coins**

- (1) The Bank may make or cause to be made coins of the denominations and with the mass set out in Schedule 2, and which are made of gold, platinum, silver, nickel, copper, tin, zinc or steel, or alloys of those metals, of the standard fineness so set out: Provided that in the making of such coins a remedy (or deviation from the standard mass or standard fineness determined in Schedule 2 in respect of the coin in question) of an amount not exceeding the remedy specified in Schedule 2 shall be allowed.
- (2) The Minister may from time to time amend Schedule 2 by notice in the *Gazette*.



- (3) A notice issued under subsection (2) shall come into operation on a date specified therein, and the provisions thereof shall have force of law as if they were enacted in Schedule 2.
- (4) The Minister shall within fourteen days after the date of publication in the *Gazette* of a notice issued under subsection (2), lay a copy thereof upon the Tables in Parliament, if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

## 17. Legal tender

- (1) A tender, including a tender by the Bank itself, of a note of the Bank or of an outstanding note of another bank for which the Bank has assumed liability in terms of section 15(3)(c) of the Currency and Banking Act or in terms of any agreement entered into with another bank before or after the commencement of this Act, shall be a legal tender of payment of an amount equal to the amount specified on the note.
- (2) A tender, including a tender by the Bank itself, of an undefaced and un mutilated coin which is lawfully in circulation in the Republic and of current mass, shall be a legal tender of payment of money -
  - (a) in the case of gold coins, in settlement of any amount, and the value of each gold coin so tendered shall be equal to the net amount at which the bank is prepared to purchase that gold coin on the day of such tender thereof; and
  - (b) in the case of other coins, in settlement, per individual transaction, of a total amount not exceeding -
    - (i) fifty rand, where coins of the denomination of one rand or higher are so tendered;
    - (ii) five rand, where coins of denominations of ten cents up to and including fifty cents are so tendered;
    - (iii) fifty cents, where coins of the denomination of five cents or less are so tendered,

and the value of each coin so tendered shall be equal to the amount specified on that coin.

## 18. References to amounts in terms of coins issued under Coinage Act, 1922

Any reference in any law, deed, instrument, security for money or other document or in any contract or agreement, whether in writing or not, and any reference in any other manner whatsoever to an amount determined on the basis of the coins specified in the Schedule to the Coinage Act, 1922 (Act No. 31 of

1922), shall be construed as including a reference to an equivalent amount determined on the basis of the coins specified in subsection (1) of section 16 and in accordance with the respective values of such last-mentioned coins in comparison with the coins specified in that Schedule, as set out in subsection (2) of section 15, and any such reference to an amount determined on the basis of the coins specified in subsection (1) of section 16, shall be construed as including a reference to an equivalent amount determined on the basis of the coins specified in that Schedule and in accordance with the said respective values.

#### **19. Powers of Minister in respect of coins**

- (1) The Minister may from time to time by notice in the *Gazette* -
  - (a) determine the dimensions of and design for any coin as well as the compilation of any series of coins; and
  - (b) authorize the withdrawal from circulation of -
    - (i) so many coins as he may deem to be in excess of requirements;
    - (ii) coins of a specified date or of specified dates or of a specified denomination or of specified denominations.
- (2) A notice issued under subsection (1) shall come into operation on a date specified therein, and the provisions thereof shall have force of law as if they were enacted in this Act.

#### **20. Bank exempt from tax on banknotes**

The Bank shall in respect of banknotes which it manufactures, causes to be manufactured, acquires for issue, issues or causes to be issued, be exempt from any tax or duty.

#### **21. Share capital of Bank**

- (1) The share capital of the Bank shall be two million rand, and shall be divided into two million ordinary shares of one rand each.
- (2) The liability of a shareholder shall be limited to the amount unpaid on the shares held by him.
- (3) The Bank may, from time to time, with the consent of the Board, increase its share capital by the issue of shares upon such terms as the Board may approve.
- (4) The premium obtained on any issue of shares shall be added to the reserve fund of the Bank.

## 22. Restriction of right to hold or acquire shares in Bank

(1) Subject to the provisions of subsection (2) -

(a) no shareholder shall hold, or hold in aggregate with his, her or its associates, more than 10 000 shares in the Bank; and

(b) if it appears that a shareholder holds, or holds in aggregate with his, her or its associates more than 10 000 shares in the Bank in contravention of this section or any other provision of this Act, the Bank may approach a court with jurisdiction for an appropriate order to redress the matter, which order may include, but is not limited to, an order for the disposal of shares in the Bank at a price per share and subject to such terms, conditions and restrictions as the court may determine.

*(Section 22(1) substituted by section 7(a) of Act 4 of 2010)*

(2) A shareholder who holds, or holds in aggregate with his, her or its associates, more than 10 000 shares in the Bank at the commencement of the South African Reserve Bank Amendment Act, 2010, shall disclose in a manner as may be prescribed to the Bank the names of all his, her or its associates, as well as the number of shares held by each of them.

*(Section 22(2) substituted by section 7(b) of Act 4 of 2010)*

(2A) A shareholder who discloses information as contemplated in subsection (2) may continue to hold, or hold in aggregate with his, her or its associates, those shares: Provided that for as long as such shareholding, or aggregate shareholding, as the case may be, exceeds 10 000 shares, neither the shareholder nor his, her or its associates, as the case may be, shall acquire any further shares in the Bank.

*(Section 22(2A) inserted by section 7(c) of Act 4 of 2010)*

(3) If at any time the number of shares in the Bank held by a shareholder referred to in subsection (2), or held by that shareholder in aggregate with his, her or its associates, as the case may be, is reduced to 10 000 or less, the restriction laid down in subsection (1) shall apply also to that shareholder.

*(Section 22(3) substituted by section 7(d) of Act 4 of 2010)*

(4) No shares in the Bank shall be held in the name of or transferred to a nominee unless that nominee is a central securities depository as defined in section 1 of the Safe Deposit of Securities Act, 1992.

*(Section 22(4) amended by section 16 of Act 85 of 1992)*

(5) If at the commencement of the South African Reserve Bank Amendment Act, 1989, shares are registered contrary to the provisions of subsection (4), the Bank shall forthwith take steps to register those shares in the name of the beneficial owner thereof.

- (6) If the number of shares held by a shareholder in the Bank increases to more than 10 000 shares, he or she shall as soon as practicable dispose of the number of shares held by him or her in excess of 10 000.

*(Section 22(6) added by section 8 of Act 2 of 1996)*

### **23. Votes**

- (1) Subject to the provisions of subsections (2) and (3), a shareholder shall at a meeting of shareholders, be entitled to one vote in respect of every 200 shares of which he has been the registered holder for not less than six months prior to the date of the meeting.
- (2) No shareholder, or his, her or its associates, referred to in subsection (2), (6) or (2A) of section 22 shall either directly or indirectly exercise any vote as a shareholder in respect of the number of shares in the Bank held by him, her or it, either alone, or in aggregate with his, her or its associates, in excess of 10 000, and no group of companies with interlocking directorates shall either directly or indirectly exercise any vote as shareholders in respect of the total number of shares in the Bank held by those companies in excess of 10 000.

*(Section 23(2) substituted by section 9 of Act 2 of 1996)*

*(Section 23(2) substituted by section 8 of Act 4 of 2010)*

- (3) A shareholder who is not ordinarily resident in the Republic shall not be entitled to any vote at any meeting of shareholders.

### **24. Allocation of surplus**

Of the surplus (if any) remaining at the end of a financial year of the Bank after provision has been made for -

- (a) bad and doubtful debts;
- (b) depreciation in assets;
- (c) gratuities or other pension benefits for its officers and employees;
- (d) all such items as are usually provided for by bankers; and
- (e) the payment to the shareholders, out of net profits, of a dividend at the rate of ten per cent per annum on the paid-up share capital of the Bank,

one tenth shall be allocated to the reserve fund of the Bank and nine tenths shall be paid to the Government.

**25. Statutory price of gold and Gold Price Adjustment Account**

- (1) All gold of the Bank shall be valued at such price per such mass of fine gold (hereinafter referred to as the statutory price) as may be determined from time to time by the Minister after consultation with the Bank, and that price shall as soon as may be practicable after such determination thereof be published in the *Gazette*.
- (2) All gold of the Bank shall be traded for the profit or loss of the Government.
- (3) The Bank shall establish a Gold Price Adjustment Account in which it shall account for -
  - (a) any profit or loss relating to gold of the Bank as a result of a change in the statutory price;
  - (b) any difference between the statutory price and the price at which the Bank buys or sells gold after due allowance for handling and realization costs.

**26. Foreign Exchange Adjustment Account**

- (1) All assets of the Bank expressed in currencies other than the currency of the Republic, including special drawing rights but excluding any dividends, discount or interest or the usual exchange margins in connection therewith, shall be for the profit or loss of the Government.
- (2) The Bank shall establish a Foreign Exchange Adjustment Account in which it shall account for -
  - (a) any loss suffered by the Bank on the assets referred to in subsection (1) as a result of the depreciation of the currencies in question in relation to the currency of the Republic;
  - (b) any profit made by the Bank on the assets referred to in subsection (1) as a result of the appreciation of the currencies in question in relation to the currency of the Republic.

**27. Forward Exchange Contracts Adjustment Account**

- (1) Any profit or loss on -
  - (a) any current or future forward exchange contract entered into by the Bank, but excluding the usual exchange margins earned or paid thereon;

- (b) any amount borrowed by the Bank in any currency other than the currency of the Republic, but excluding any interest, commission or other charges or the usual exchange margins earned or paid thereon;
- (c) any agreement entered into by the Minister of Economic Affairs and Technology under section 2 of the Export Credit and Foreign Investments Re-insurance Act, 1957 (Act No. 78 of 1957), with the Credit Guarantee Insurance Corporation of Africa Limited for the reinsurance of any contract, entered into by the said corporation with a person who exports capital goods or services from the Republic, for insuring against risks (not normally insurable) of monetary loss or monetary detriment attributable to any change in the value of the currency of the Republic in relation to the currency of the United States of America,

shall accrue to the Government.

- (2) The Bank shall establish a Forward Exchange Contracts Adjustment Account in which it shall account for -
  - (a) any loss suffered by the Bank on a forward exchange contract or loan referred to in subsection (1)(a) or (b);
  - (b) any profit made by the Bank on a forward exchange contract or loan referred to in subsection (1)(a) or (b); and
  - (c) any profit made and loss suffered on an agreement referred to in subsection (1)(c).

## **28. Gold and Foreign Exchange Contingency Reserve Account**

- (1) Any credit or debit balance on the Gold Price Adjustment Account, the Foreign Exchange Adjustment Account and the Forward Exchange Contracts Adjustment Account shall, at the close of each financial year of the Bank or at such other times as the Bank and the Treasury may determine, be transferred to a Gold and Foreign Exchange Contingency Reserve Account established and managed by the Bank on behalf of the Treasury.
- (2)
  - (a) Any credit balance on the Gold and Foreign Exchange Contingency Reserve Account shall accrue to the Government as a profit and shall be for the benefit of the State Revenue Fund.
  - (b) Any profit referred to in paragraph (a) shall be carried forward in the Gold and Foreign Exchange Contingency Reserve Account, but any such profit, or any part thereof, may, at such times as the Treasury and the Bank may deem desirable, be credited to the State Revenue Fund.

(c) The Bank may, at the request of or with the approval of the Treasury, advance any credit balance, or part thereof, on the Gold and Foreign Exchange Contingency Reserve Account to the National Supplies Procurement Fund established by section 12 of the National Supplies Procurement Act, 1970 (Act No. 89 of 1970), and the interest, if any, on any money so advanced, shall, at such times as the Treasury may determine, be paid into the State Revenue Fund.

(3)

(a) Any debit balance on the Gold and Foreign Exchange Contingency Reserve Account shall be a loss for the Government and shall be a charge against the State Revenue Fund.

(b) Any loss referred to in paragraph (a) shall be carried forward in the Gold and Foreign Exchange Contingency Reserve Account until the Treasury and the Bank deem it desirable to settle the outstanding balance.

(c) Any loss referred to in paragraph (a) shall be defrayed from money appropriated by Parliament for such purpose.

## **29. Returns in connection with and auditing of certain accounts**

(1) The Bank shall, at such times as the Treasury may determine, furnish the Treasury with returns reflecting the operations on the Gold Price Adjustment Account, the Foreign Exchange Adjustment Account and the Forward Exchange Contracts Adjustment Account.

(2) A report by the auditors of the Bank in which it is stated that any statement to which such report relates is a correct reflection of all transactions, receipts and payments by the Bank in terms of sections 25, 26, 27 and 28, may be accepted as correct by the Auditor-General.

## **30. Audit and inspection**

(1) For every financial year of the Bank, the shareholders shall at a general meeting elect two firms of public accountants, to act during that year as auditors of the Bank.

(2) The Minister may at any time cause an investigation to be made into the affairs of the Bank by one or more officers of the Department of Finance authorized thereto by him in writing.

## **31. Report by Governor**

The Governor shall annually submit to the Minister a report relating to the implementation by the Bank of monetary policy.

### **32. Furnishing of information to Department of Finance and to Parliament**

- (1) The Bank shall -
- (a) from time to time make up a return in the form set out in Schedule 1, containing a statement of the liabilities and assets of the Bank as at the close of business on the last business day of every month, and shall forthwith transmit the return to the Department of Finance;
  - (b) within three months after the close of its financial year, transmit to the Department of Finance two copies of its financial statements signed by the Governor or any Deputy Governor and the chief financial officer of the Bank, together with an audit report;
  - (c) within sixty days after the close of its financial year, transmit to the Department of Finance two copies of a list giving the full names and addresses of shareholders and the number of shares held by each; and
  - (d) when called upon to do so by the Department of Finance by notice in writing, furnish that Department, within the period specified in the notice, with such further returns as may be specified in the notice.
- (2) The Department of Finance shall cause every return received in terms of paragraph (a) of subsection (1) to be published in the *Gazette* as soon as is practicable.
- (3) The Minister shall within fourteen days after receipt thereof lay a copy of the report referred to in section 31 and of every financial statement or list received in terms of paragraph (b) or (c) of subsection (1) upon the Tables in Parliament, if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

### **33. Preservation of secrecy**

- (1) No director, officer or employee of the Bank, and no officer in the Department of Finance, shall disclose to any person, except to the Minister or the Director-General: Finance or for the purpose of the performance of his or her duties or the exercise of his or her functions or when required to do so before a court of law or under any law-
- (a) any information relating to the affairs of-
    - (i) the Bank;



(ii) a shareholder of the Bank; or

(iii) a client of the Bank,

acquired in the performance of his or her duties or the exercise of his or her functions; or

(b) any other information acquired by him or her in the course of his or her participation in the activities of the Bank,

except, in the case of information referred to in paragraph (a)(iii), with the written consent of the Minister and the Governor, after consultation with the client concerned.

*(Section 33(1) substituted by section 3 of Act 39 of 1997)*

(1A) The provisions of subsection (1) shall not be construed as preventing any director, officer or employee of the Bank who is responsible for exercising any power or performing any function or duty under the Exchange Control Regulations, 1961, issued in terms of section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), from disclosing to the Commissioner for the South African Revenue Service any information as may be required for purposes of exercising any power or performing any function or duty in terms of any Act administered by the Commissioner.

*(Section 33(1A) inserted by section 46 of Act 12 of 2003)*

(2) No person shall disclose to any other person any information contained in any written communication which is in any manner marked as confidential or secret and which has been addressed by the Bank to any person or which has been addressed by any person to the Bank, except -

(a) for the purposes of the performance of his duties or the exercise of his powers in terms of any law or when required to do so before a court of law; or

(b) with the written consent of both the sender and the recipient of that communication.

### **34. Offences and penalties**

(1) Subject to the provisions of section 2 of the Prevention of Counterfeiting of Currency Act, 1965 (Act No. 16 of 1965), any person who -

(a) forges, alters or unlawfully issues a note of the Bank or something purporting to be a note of the Bank, or any coin;

(b) utters, tenders or accepts any such note or a coin which has been forged, altered or unlawfully issued, knowing it to be forged, altered or unlawfully issued;

- (c) without the authority of the Bank, engraves or makes upon any material whatsoever any words, figures, letters, marks, lines or devices the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or upon any note of the Bank or any coin which is legal tender;
- (d) without the authority of the Bank, uses or knowingly has in his possession any material whatsoever upon which has been engraved or made any such words, figures, letters, marks, lines or devices;
- (e) contravenes the provisions of section 33;
- (f) wilfully defaces, soils or damages any note of the Bank, or writes or places any drawing thereon or attaches thereto anything in the nature of an advertisement, or wilfully defaces or damages any coin which is legal tender;
- (g) removes from the premises where coins are manufactured under this Act, without lawful authority or excuse, any matrix, master punch, die, collar, piercing and cutting tool, pattern or mould, or any other tool, machine, engine, instrument or thing used or employed in or in connection with the coining of coins, or any useful part of the several objects aforesaid, or any coin or bullion;
- (h) is found in possession of any blank or defective coin of the size, shape and metal composition of any coin of which the coining is authorized by this Act, and is unable to account satisfactorily for such possession;
- (i) fraudulently inserts or uses in a machine that vends merchandise or services or collects fares or tolls, anything that is intended to pass for the coin or the token of value that the machine is designed to receive in exchange for the merchandise, service, fare or toll, as the case may be;
- (j) sells, exchanges or otherwise disposes of any metal reproduction of any gold coin contemplated in Schedule 2, or uses the word "Krugerrand", "Natura" or "Protea", or any derivative thereof or any combination thereof with any other word, in the furtherance of the sale, exchange or disposal in any other manner of such a reproduction or of any metal article of commerce;  
*(Section 34(1)(j) substituted by section 10 of Act 2 of 1996)*
- (k) without the written approval of the Department of Finance, intentionally destroys, melts down, dissolves in any dissolvent, breaks up or damages a coin that has been issued under section 11 of the South African Mint and Coinage Act, 1964 (Act No. 78 of 1964), or under section 14 of this Act, or removes any such coin out of the Republic, or causes or permits it to be so removed, with the purpose of so dealing with it or causing it to be so dealt with outside the Republic; or

- (l) sells or disposes of any coin issued as contemplated in paragraph (k), knowing or suspecting that such coin is to be dealt with in a manner constituting an offence under paragraph (k),

shall be guilty of an offence and liable on conviction

- (i) in the case of an offence referred to in paragraph (a) or (b), to imprisonment for a period not exceeding fifteen years;
- (ii) in the case of an offence referred to in paragraph (c) or (d), to imprisonment for a period not exceeding five years;
- (iii) in the case of an offence referred to in paragraph (e), to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment;
- (iv) in the case of an offence referred to in paragraph (f), to a fine not exceeding R250;
- (v) in the case of an offence referred to in paragraph (g), (h) or (j), to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment;
- (vi) in the case of an offence referred to in paragraph (i), to a penalty which may in law be imposed for the crime of fraud;
- (vii) in the case of an offence referred to in paragraph (k), to a fine not exceeding R50 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment; and
- (viii) in the case of an offence referred to in paragraph (l), to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

(2) For the purposes of subsection (1) -

- (a) "bullion" means any gold, platinum, silver, nickel, gold alloys, platinum alloys, silver alloys, nickel alloys or bronze or other minting alloys in the form of ingots, bars, strips, sheets, scissel, cuttings, granules, rejected coins, blanks, filings, sweepings, dross, scrap or wire; and
- (b) a coin shall be regarded as defective if it has been wrongly manufactured, and would accordingly be unfit for issue as a proper coin in accordance with the standards of manufacture applied by the institution entrusted with the manufacture of coins for the purposes of this Act.

### 35. Rules by Board

Prepared by:

In partnership with:

The Board may make rules, not inconsistent with the provisions of this Act or of the regulations made under section 36, for the good government of the Bank and the conduct of its business, and the appointment and conditions of service (including remuneration and gratuities or other pension benefits) of officers and employees.

### **36. Regulations**

The Minister may make regulations relating to -

- (a) the election of directors by shareholders;
- (b) the conditions (other than those relating to remuneration) of appointment of directors, and the circumstances in which a director shall vacate his office;
- (c) meetings of the Board and the procedure thereat, including the minutes to be kept thereof;
- (d) meetings of shareholders, the matters to be dealt with thereat and the procedure thereat, including the quorum necessary therefor and the minutes to be kept thereof;  
*(Section 36(d) amended by section 8(a) of Act 10 of 1993)*
- (dA) any matter which is required or permitted to be prescribed by regulation under this Act;  
*(Section 36(dA) inserted by section 8(b) of Act 10 of 1993)*
- (e) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

### **37. Proceedings by Minister in case of non-compliance with Act or regulations by Bank**

- (1) If at any time the Minister is of the opinion that the Bank has failed to comply with any provision of this Act or of a regulation made thereunder, he may by notice in writing require the Board to make good or remedy the default within a specified time.
- (2) If the Board fails to comply with a notice referred to in subsection (1), the Minister may apply to the division of the Supreme Court having jurisdiction for an order compelling the Board to make good or remedy the default, and the Court may make such order thereon as it thinks fit.

### **38. Liquidation**

- (1) The Bank shall not be placed in liquidation except by an Act of Parliament.

- (2) In the event of liquidation, the reserve fund and surplus assets (if any) of the Bank shall, subject to the provisions of subsection (3), be divided between the Government and shareholders in the proportion of sixty per cent and forty per cent, respectively.
- (3) If the amount payable to a shareholder in terms of subsection (2) exceeds the average market price of his holdings of shares in the Bank over the period of twelve months preceding a day three months prior to the date upon which a Bill providing for such liquidation is introduced in Parliament, so much of that amount as exceeds the said average shall be paid to the Government.
- (4) No writ of execution or attachment or process in the nature thereof shall be issued or proceeded with against the Bank if the Minister has certified that he has introduced or that it is his intention to introduce in Parliament a Bill placing the Bank in liquidation, and has not withdrawn the certificate.

39. ....

*(Section 39 repealed by section 11 of Act 2 of 1996)*

#### 40. Repeal of laws, and savings

- (1) Subject to the provisions of subsection (2), the laws specified in Schedule 3, are hereby repealed to the extent set out in the third column of that Schedule.
- (2) The Governor and each Deputy Governor and any director of the Bank holding office at the commencement of this Act, shall, for the unexpired portion of the period for which he has been appointed or elected under the South African Reserve Bank Act, 1944 (Act No. 29 of 1944), be deemed to hold office under the applicable provisions of this Act, and any rules and regulations made under sections 22 and 23, respectively, of the said Act, or which are deemed to have been made thereunder, shall be deemed to have been made under the corresponding provisions of this Act.

#### 41. Short title and commencement

This Act shall be called the South African Reserve Bank Act, 1989, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

### Schedule 1

#### SOUTH AFRICAN RESERVE BANK

Statement of assets and liabilities on the.....day of ..... 19... .

Liabilities

Assets

Prepared by:

In partnership with:

	R c		R c
Share capital		Gold	
Reserve fund		Foreign assets	_____
Notes in circulation		Total gold and foreign assets	
Deposits:			
Government		Domestic assets:	
Provincial administrations		Discounted bills	
Banks and building societies		Loans and advances:	
Other		Government	
Other liabilities		Other	
		Securities:	
		Government	
		Other	
		Other assets	
	_____		_____
	***		***
	_____		_____

## Schedule 2

### (a) Standard mass and fineness of precious metal coins and commemorative coins

Denomination of coin	Standard mass (Gram)	Least current mass (Gram)	Standard fineness based on minimum mass	Remedy allowable	
				Mass per coin (Gram)	Precious metal fineness per thousand parts

<b>GOLD</b>					
<b><u>Natura</u></b>					
<b>Natura:</b>					
1 oz fine gold .....	31,139	31,104		0,07	0,1
<b>½-Natura:</b>					
½ oz fine gold .....	15,569	15,552		0,035	0,1
<b>¼-Natura:</b>					
¼ oz fine gold .....	7,786	7,776		0,02	0,1
<b>1/10-Natura:</b>					
1/10 <sup>th</sup> oz fine gold .....	3,115	3,110		0,01	0,1
<b><u>Commemorative</u></b>					
1 oz fine gold .....	31,139	31,104	999,9 parts elemental gold per thousand, balance trace elements	0,07	0,1
<b>Protea:</b>					
1 oz fine gold .....	31,139	31,104		0,07	0,1
<b>1/10<sup>th</sup> - Protea:</b>					
1/10 <sup>th</sup> oz fine gold .....	3,115	3,110		0,01	0,1
<b>Two Rand:</b>					
¼ oz fine gold .....	7,786	7,776		0,02	0,1
<b>One Rand:</b>					
1/10 <sup>th</sup> oz fine gold .....	3,115	3,110		0,01	0,1
<b><u>Krugerrand</u></b>					
<b>Krugerrand:</b>					
1 oz fine gold .....	33,965	33,930	916,7 parts elemental gold per thousand, balance copper including trace elements	0,07	0,4
<b>½ - Krugerrand:</b>					
½ oz fine gold .....	16,983	16,965		0,035	0,4
<b>¼ - Krugerrand:</b>					
¼ oz fine gold .....	8,493	8,483		0,02	0,4
<b>1/10<sup>th</sup> - Krugerrand:</b>					
1/10 <sup>th</sup> oz fine gold .....	3,398	3,393		0,01	0,4
<b>SILVER</b>					
<b><u>Two Rand</u></b>					
1 oz sterling silver .....	33,726	33,626		0,2	5
<b><u>One Rand</u></b> .....					
	15,050	15,000		0,1	5
<b><u>2½ c Tickey</u></b> .....					
	1,191	1,414	925,0 parts elemental silver per thousand, balance copper including trace elements	0,1	5
<b><u>50c Silver</u></b>					
2 oz sterling silver .....	76,402	76,252		0,3	5
<b><u>20c Silver</u></b>					
1 oz sterling silver .....	33,726	33,626		0,2	5
<b><u>10c Silver</u></b>					

½ oz sterling silver .....	16,863	16,813		0,1	5
<b>5c Silver</b>					
¼ oz sterling silver .....	8,456	8,406		0,1	5

## (b) Standard mass and least current mass of alloy circulation coins

Denomination	Standard mass (gram)	Remedy allowable mass per circulation coin (gram)	Least current mass (gram)	Metal composition
Five Rand (Bi-metal)	9,5	±0,285	9,215	Bi-metal alloy
Five rands				Layered composition of nickel, copper, zinc and tin
Two rands	5,5	±0,165	5,225	
One rand	4,0	±0,12	3,80	
Fifty cents	5,0	±0,15	4,75	Layered composition of copper, tin and steel
Twenty cent	3,5	±0,015	3,325	
Ten cents	2,0	±0,06	1,9	Layered composition of copper and steel

*(Schedule 2 amended by Government Notice R911 in Government Gazette 15729, dated 6 May 1994)*

*(Schedule 2 amended by Government Notice 500 in Government Gazette 17897, dated 29 March 1997)*

*(Schedule 2 amended by Government Notice 1499 in Government Gazette 20724, dated 15 December 1999, with effect from 1 January 2000)*

*(Schedule 2 amended by Government Notice 855 in Government Gazette 26588, dated 30 July 2004)*

*(Schedule 2 amended by General Notice 910 in Government Gazette 34858, dated 23 December 2011)*

**Schedule 3****LAWS REPEALED**

Prepared by:

In partnership with:



No. and year of law	Short title	Extent of repeal
Act No. 29 of 1944	South African Reserve Bank Act, 1944	The whole
Act No. 45 of 1956	South African Reserve Bank Amendment Act, 1956	The whole
Act No. 24 of 1960	South African Reserve Bank Amendment Act, 1960	The whole
Act No.5 of 1961	South African Reserve Bank Amendment Act, 1961	The whole
Act No. 16 of 1965	Prevention of Counterfeiting of Currency Act, 1965	Sections 8 and 9
Act No. 70 of 1968	General Law Amendment Act, 1968	Section 25
Act No. 87 of 1969	South African Reserve Bank Amendment Act, 1969	The whole
Act No. 92 of 1970	General Law Further Amendment Act, 1970	Section 3
Act No. 49 of 1973	South African Reserve Bank Amendment Act, 1973	The whole
Act No. 92 of 1977	South African Reserve Bank Amendment Act, 1977	The whole
Act No. 98 of 1981	South African Reserve Bank Amendment Act, 1981	The whole
Act No. 47 of 1984	South African Reserve Bank Amendment Act, 1984	The whole
Act No.6 of 1987	Financial Institutions Amendment Act, 1987	Sections 1 and 2
Act No. 88 of 1988	Finance Act, 1988	Section 7
Act No. 96 of 1988	South African Reserve Bank, Banking Institutions. Mutual Building Societies and Building Societies Amendment Act, 1988	Section 1
Act No. 49 of 1989	South African Reserve Bank Amendment Act, 1989	The whole