

**NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY ACT 3 OF 2001**

[ASSENTED TO 20 APRIL 2001] [DATE OF COMMENCEMENT: 14 MAY 2001]

*(Signed by the President)*

**as amended by**

State-owned Enterprises Governance Act 2 of 2006

**ACT**

**To establish an Authority to exercise supervision over the business of financial institutions and over financial services; to provide for the functions and powers of the Authority; and to provide for incidental matters.**

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#### PART I

#### PRELIMINARY (s 1)

### 1 Definitions

In this Act, unless the context otherwise indicates-

**"Authority"** means the Namibia Financial Institutions Supervisory Authority established by section 2;

**"board"** means the board of the Authority established by section 10(1);

**"board of appeal"** means the board of appeal established by section 19;

**"chief executive officer"** means the person appointed as chief executive officer of the Authority in terms of section 5(1);

**"committee"** means a committee appointed in terms of section 15(1);

**"financial institution"** means-

- (a) a person registered in terms of section 23 of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951), and who is a member of the Institute of Chartered Accountants of Namibia referred to in that Act;
- (b) a registered pension fund or provident fund as defined in section 1 of the Pension Funds Act, 1956 (Act 24 of 1956);
- (c) a registered friendly society as defined in section 1 of the Friendly Societies Act, 1956 (Act 25 of 1956);
- (d) a moneylender as defined in section 1 of the Usury Act, 1968 (Act 73 of 1968);
- (e) a unit trust scheme and any registered management company as defined in section 1 of the Unit Trusts Control Act, 1981 (Act 54 of 1981);
- (f) a scheme defined in section 1 of the Participation Bonds Act, 1981 (Act 55 of 1981);
- (g) a manager who, in terms of the Participation Bonds Act, 1981 (Act 55 of 1981), controls or administers a scheme;
- (h) a licensed stock exchange or stock broker as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985), and also any person contemplated in paragraph (d), (e) or (f) of section 4(1) of the said Act;
- (i) a registered fund as defined in section 1 of the Medical Aid Funds Act, 1995 (Act 23 of 1995);
- (j) a person registered as a Lloyd's intermediary in terms of section 40 of the Short-term Insurance Act, 1998 (Act 4 of 1998);
- (k) a registered insurer or reinsurer as defined in section 1 of the Short-term Insurance Act, 1998 (Act 4 of 1998), and of the Long-term Insurance Act, 1998 (Act 5 of 1998);
- (l) an insurance agent, an insurance broker or a reinsurance broker registered in terms of Part VII of the Short-term Insurance Act, 1998 (Act 4 of 1998), and of the Long-term Insurance Act, 1998 (Act 5 of 1998);
- (m) a board of executors or a trust company or any other company which invests, keeps in safe custody, controls or administers any trust property; or
- (n) any other person who renders a financial service as a regular feature of the business of that person, but who is not registered as a financial institution or authorised to render a financial service under a law referred to in paragraph (a) to (l) of this definition;

**"financial service"** means any financial service rendered by a financial institution to the public or to a juristic person, and includes any service rendered by any other person and corresponding to a service normally rendered by a financial institution;

**"Minister"** means the Minister responsible for finance;

**"prescribe"** means prescribe by regulation; and

**"this Act"** includes the regulations made under it.

## **PART II**

### **NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY (ss 2-9)**

#### **2 Establishment of Authority**

There is established a juristic person to be known as the Namibia Financial Institutions Supervisory Authority.

#### **3 Functions of Authority**

The functions of the Authority are-

- (a) to exercise supervision, in terms of this Act or any other law, over the business of financial institutions and over financial services; and
- (b) to advise the Minister on matters related to financial institutions and financial services, whether of its own accord or at the request of the Minister.

#### **4 Powers of Authority**

(1) For the purposes of any investigation by the Authority in connection with the performance of its functions, the Commissions Act, 1947 (Act 8 of 1947), applies to the Authority, and witnesses and their evidence, as if the Authority were a commission to which that Act applies and the chief executive officer were the secretary of the commission.

(2) The Authority may-

- (a) call to its assistance such person or persons as it may consider necessary to assist in the performance of its functions;
- (b) hire, purchase or acquire such moveable or immovable property as the Authority may consider necessary for the performance of its functions, and may let, sell or dispose of any property purchased or acquired in terms of this paragraph;
- (c) in order to perform its functions, enter into an agreement with any person for the performance of any specific act or function or the rendering of specific services;
- (d) insure itself against any loss, damage, risk or liability which it may suffer or incur;
- (e) borrow money to a maximum amount approved by the Minister;
- (f) accept any money or goods donated or bequeathed to it;
- (g) appoint employees to assist it in the performance of its functions; and
- (h) do anything which is necessary or expedient to perform its functions.

## **5 Chief executive officer**

(1) The board must, in consultation with the Minister and subject to the provisions of this Act, and upon such terms and conditions as the board, subject to section 22(3) of the State-owned Enterprises Governance Act, 2006, may determine, appoint a suitably qualified person to be the chief executive officer of the Authority, who must, in accordance with the policy and directions of the board, be responsible for the day-to-day management and administration of the Authority.

[Subsec (1) substituted by sec 49 of Act 2 of 2006.]

(2) If the office of the chief executive officer is vacant or if he or she is for any reason unable to discharge his or her functions, the board must, in consultation with the Minister, appoint a person to act as chief executive officer for the time being.

(3) The chief executive officer is the accounting officer of the Authority.

(4) The chief executive officer must attend meetings of the board, but is not entitled to vote.

(5) The board, in consultation with the Minister, may at any time remove the chief executive officer from office, if there are sufficient reasons for doing so, and after giving the chief executive officer a reasonable opportunity to be heard.

(6) The board may set aside or vary a decision of the chief executive officer, except a decision lawfully conferring a right on a person.

## **6 Other employees of Authority**

(1) The Authority may appoint such other employees as it may consider necessary to assist the chief executive officer in the performance of his or her functions.

(2) The Authority may with the consent of an employee of the Authority, and on conditions determined by the Authority, second the employee, either for a specific service or for a period determined by the Authority, to the service of-

(a) the State or any other state;

(b) any other supervisory authority or body established by or under any law;  
or

(c) any other body or person.

(3) Where an employee is seconded under subsection (2), the terms and conditions on which he or she is seconded must not be less favourable than those on which he or she was employed by the Authority.

## **7 Remuneration and other conditions of service of employees of Authority**

The Authority, in consultation with the Minister, and subject to section 22(3) of the State-owned Enterprises Governance Act, 2006 must determine the remuneration and other conditions of service of its employees, including conditions of service in respect of medical aid, housing and pension benefits.

[Sec 7 substituted by sec 49 of Act 2 of 2006.]

## **8 Pension rights of employees of Authority**

An employee of the Authority, who is a member of the Government Institutions Pension Fund at the time he or she is appointed by the Authority, must remain a member of that Fund, until such time that the Authority is able to set up its own pension fund.

## **9 Funds of Authority**

- (1) The funds of the Authority consist of-
  - (a) money raised as fees, and interest from unpaid fees, in respect of services rendered by the Authority in the performance of its functions under this Act or any other law;
  - (b) levies imposed on financial institutions in terms of section 25, and interest in respect of unpaid levies;
  - (c) money borrowed by the Authority under section 4(2)(e);
  - (d) money accruing to the Authority by way of any donation or bequest referred to in section 4(2)(f); and
  - (e) money accruing to the Authority from any other source.

(2) Details of any donation or bequest received by the Authority must be specified in the relevant annual report of the Authority referred to in section 28.

(3) The Authority must utilise its funds for the defrayal of expenses incurred by the Authority in the performance of its functions under this Act.

(4) The Authority must open an account with an institution registered as a bank or a building society and must deposit in that account all moneys referred to in subsection (1).

(5) The Authority may invest money deposited in terms of subsection (4), which is not required for immediate use, in a manner it considers fit.

### **PART III BOARD OF NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY (ss 10-18)**

## **10 Board**

(1) There shall be a board of the Authority which, subject to this Act, shall manage and control the affairs of the Authority and exercise the powers conferred and perform the duties imposed on the Authority by this Act or any other law.

(2) The board shall be constituted, and its members, including the chairperson and the vice-chairperson of the board, shall be appointed in accordance with, and for a period as determined under, sections 14 and 15 of the State-owned Enterprises Governance Act, 2006.

[Subsec (2) substituted by sec 49 of Act 2 of 2006.]

(3) The Minister may appoint an alternate member for each member of the board.

(4) The names of the persons appointed as members and the names of the persons appointed as alternate members of the board, and their date of appointment, must be notified in the *Gazette*.

## **11 Disqualification for appointment as member or alternate member of board**

A person does not qualify for appointment as a member or an alternate member of the board, if he or she-

- (a) is an unrehabilitated insolvent;
- (b) is not a Namibian citizen or a holder of a permanent residence permit;

- (c) is employed by a financial institution or by a person rendering a financial service, or is a person rendering a financial service;
- (d) has during the period of 10 years immediately preceding the date of commencement of this Act, or at any time after that date, been convicted, whether in Namibia or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under any law on corruption or any other offence involving dishonesty, and has been sentenced to imprisonment without the option of a fine; or
- (e) has under any law been declared to be of unsound mind.

## **12 .....**

[Sec 12 repealed by sec 49 of Act 2 of 2006.]

## **13 Vacation of office and filling of vacancies**

- (1) A member or an alternate member of the board vacates his or her office, if-
  - (a) the member or the alternate member becomes subject to a disqualification referred to in section 11;
  - (b) in the case of a member, he or she is absent for more than three consecutive meetings of the board without the leave of the chairperson of the board or, in the case of an alternate member, he or she is so absent during the absence or vacancy in the office of the member for whom he or she is appointed as an alternate member;

[Para (b) amended by sec 49 of Act 2 of 2006.]

- (c) the member or the alternate member resigns his or her office by written notice to the Minister; or
- (d) the member or the alternate member is removed from office by the Minister under subsection (2).

(2) The Minister may at any time, by notice in writing, remove a member or an alternate member of the board from office on the request of or after consultation with the board and after giving the member or the alternate member concerned a reasonable opportunity to be heard.

(3) If a member or an alternate member of the board dies or his or her office becomes vacant in terms of subsection (1), the Minister may, with due regard to section 10(2), appoint a person to fill the vacancy for the unexpired portion of the term of office of the member or the alternate member in whose stead he or she is appointed.

## **14 Meetings of board**

(1) The first meeting of the board must be held at a time and place determined by the Minister, and thereafter the board must meet at such times and places as the board may determine.

(2) .....

[Subsec (2) deleted by sec 49 of Act 2 of 2006.]

(3) The chairperson of the board may at any time convene an extraordinary meeting of the board to be held at a time and place determined by the chairperson.

(4) The chairperson of the board or, in his or her absence, the vice-chairperson of the board or, in the absence of both the chairperson and the vice-chairperson, a member of the board, who must be elected by the members of the board present, must preside at a meeting of the board.

(5) A majority of the members of the board shall form a quorum for a meeting of the board.

[Subsec (5) substituted by sec 49 of Act 2 of 2006.]

(6) A decision of a majority of the members present at a meeting of the board constitutes a decision of the board and, in the event of an equality of votes on any matter, the person presiding at the meeting has a casting vote in addition to his or her deliberative vote.

(7) A decision taken by or an act performed under the authority of the board is not rendered invalid by reason only of a vacancy on the board or of the fact that a person who is not entitled to sit as a member of the board sits as such a member at the time when the decision is taken or the act is authorised, if the decision is taken or the act is authorised by the majority of the members of the board who are present at the time and entitled to vote.

(8) The person presiding at a meeting of the board must cause a record to be kept of the proceedings of the meeting and must cause that record to be submitted to the Minister as soon as possible after a meeting of the board.

(9) For the purposes of this section, "member" includes an alternate member present at a particular meeting of the board during the absence or vacancy in the office of the member for whom he or she is appointed as an alternate member.

## **15 Committees of board**

(1) The board may appoint one or more committees to assist the board in the performance of its functions, subject to such conditions as the board may determine.

(2) The board may appoint as a member of a committee any person who is or is not a member of the board, but at least one member of a committee must be a member of the board.

(3) If a committee referred to in subsection (1) consists of more than one member, the board must designate one member of the committee as chairperson of the committee.

(4) The board is not absolved from responsibility for the performance of any functions entrusted to any committee in terms of this section.

(5) The chairperson of a committee or, in his or her absence, a member of the committee, who must be elected by the members of the committee present, must preside at a meeting of the committee.

(6) The quorum at a meeting of a committee is the majority of the members of that committee.

(7) A decision taken by or an act performed under the authority of the committee is not rendered invalid by reason only of a vacancy on the committee or of the fact that a person who is not entitled to sit as a member of the committee sits as such a member at the time the decision is taken or the act is authorised, if the decision is taken or the act is authorised by the majority of the members of the committee who are present at the time and entitled to vote.



(8) The person presiding at a meeting of a committee must cause a record to be kept of the proceedings of the meeting and must cause that record to be submitted to the board as soon as possible after a meeting of the committee.

## **16 Remuneration and allowances of members of board and committees**

(1) There must be paid to a member or an alternate member of the board or a member of any committee, who is not in the full-time employment of the State, such remuneration and allowances, out of the funds of the Authority, as the Minister may determine, subject to section 22(1) of the State-owned Enterprises Governance Act, 2006.

[Subsec (1) substituted by sec 49 of Act 2 of 2006.]

(2) The board may reimburse a member or an alternate member of the board or a member of any committee for expenses reasonably incurred by him or her while travelling to or attending a meeting of the board or of a committee.

## **17 Consultation with Minister**

The board must-

- (a) consult with the Minister in the exercise of powers conferred upon and the performance of duties assigned to it by this Act or any other law as the Minister may determine; and
- (b) directly consult with the Minister in connection with any other matter that the board wishes to bring to the attention of the Minister.

## **18 Rules by board**

The board may make rules regarding-

- (a) the manner in which meetings of any committee are to be convened, the procedure at and the quorum for the meetings and the manner in which minutes of those meetings must be kept;
- (b) the good management of the affairs of the Authority and the effective execution of its functions; and
- (c) generally, any matter which the board may consider necessary or expedient to regulate in order to achieve the objects of this Act.

## **PART IV BOARD OF APPEAL AND APPEALS AGAINST DECISIONS OF CHIEF EXECUTIVE OFFICER (ss 19-24)**

### **19 Board of appeal**

There is established, for the purpose of hearing appeals contemplated in section 24(1), a board of appeal which consists of three persons appointed by the Minister, of whom-

- (a) one must be a person appointed on account of his or her knowledge of law, who must be the chairperson; and
- (b) one must be a member of the board.

### **20 Disqualification for appointment as member of board of appeal**

A person does not qualify for appointment as a member of the board of appeal, if he or she-

- (a) is an unrehabilitated insolvent;

- (b) is not a Namibian citizen or a holder of a permanent residence permit;
- (c) is employed by a financial institution or by a person rendering a financial service, or is a person rendering a financial service;
- (d) has during the period of 10 years immediately preceding the date of commencement of this Act, or at any time after that date, been convicted, whether in Namibia or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under any law on corruption or any other offence involving dishonesty, and has been sentenced to imprisonment without the option of a fine; or
- (e) has under any law been declared to be of unsound mind.

## **21 Term of office of members of board of appeal**

Subject to section 22, a member of the board of appeal holds office for a period of three years and is at the expiration of that period eligible for re-appointment.

## **22 Vacation of office and filling of vacancies**

- (1) A member of the board of appeal vacates his or her office, if the member-
- (a) becomes subject to a disqualification referred to in section 20;
  - (b) resigns his or her office by written notice to the Minister;
  - (c) is unable or unfit to discharge the functions of a member of the board of appeal; or
  - (d) is removed from office by the Minister under subsection (2).

(2) The Minister may at any time, by notice in writing, remove a member of the board of appeal from office after giving the member concerned a reasonable opportunity to be heard.

(3) If a member of the board of appeal dies or his or her office becomes vacant in terms of subsection (1), the Minister may, with due regard to section 19, appoint a person to fill the vacancy for the unexpired portion of the term of office of the member in whose stead he or she is appointed.

(4) If before or during the hearing of any appeal it transpires that a member of the board of appeal has a direct or indirect personal interest in the outcome of that appeal, that member must recuse himself or herself, and for the hearing of the appeal be replaced by-

- (a) in the case of the member referred to in paragraph (a) of section 19, a person temporarily appointed by the Minister subject to the provisions of that paragraph;
- (b) in the case of the member referred to in paragraph (b) of section 19, one of the other members of the board temporarily appointed by the Minister.

## **23 Remuneration and allowances of members of board of appeal**

(1) There shall be paid to a member of the board of appeal in respect of his or her services as such a member such remuneration and allowances, out of public funds, as the Minister may determine.

(2) The Minister may reimburse a member of the board of appeal for expenses reasonably incurred by him or her while travelling to or attending the proceedings of the board of appeal.

## **24 Appeals against decisions of chief executive officer**

(1) Any person aggrieved by a decision of the chief executive officer taken under this Act or any other law may, within the period and in the manner and upon payment of the fees prescribed by the Minister, appeal against that decision to the board of appeal.

(2) An appeal must be heard on a date and at a place and time determined by the board of appeal, which must in writing notify the appellant and the chief executive officer of that date, place and time.

(3) For the purpose of an appeal, the Commissions Act, 1947 (Act 8 of 1947), applies to the board of appeal, and witnesses and their evidence, as if the board of appeal were a commission to which that Act applies and the chairperson of the board of appeal were the secretary of the commission.

(4) The procedure at the hearing of an appeal must be determined by the chairperson of the board of appeal.

(5) The appellant and the chief executive officer are entitled to be represented at an appeal by a legal practitioner or any other person.

(6) The board of appeal may, after hearing the appeal-

(a) confirm, set aside or vary the decision of the chief executive officer; and

(b) order that the decision of the board of appeal be given effect to.

(7) The decision of the majority of the members of the board of appeal is the decision of the board of appeal.

(8) The chairperson of the board of appeal must put the decision of the board of appeal in writing and cause a copy of that decision to be furnished to the appellant and the chief executive officer as soon as possible after the decision is taken.

(9) If the board of appeal sets aside a decision by the chief executive officer, the prescribed fees paid by the appellant in respect of the appeal in question must be refunded to him or her, and, if the board of appeal varies the decision, it may direct a refund of the whole or any part of the fees to the appellant.

## **PART V FINANCIAL PROVISIONS (ss 25-28)**

### **25 Levies**

(1) The Minister must, on the recommendation of the board, impose by notice in the *Gazette* levies on financial institutions.

(2) The Minister must in the notice referred to in subsection (1)-

(a) determine-

(i) the amounts of the levies referred to in subsection (1) or the basis or manner of determining the amounts;

(ii) the periods in respect of which the levies referred to in subsection (1) are imposed, the dates on which or the periods within which those levies are payable, and the manner of payment;

- (iii) the rates of interest and the manner of calculating the interest contemplated in subsection (3);
  - (iv) the manner in which applications for exemptions referred to in subsection (5) must be made; and
  - (v) the manner in which a notice in terms of subsection (6)(b) must be served;
- (b) impose, in respect of different financial institutions, different categories of financial institutions and different subcategories of a specific category of financial institution-
- (i) different types of levies; and
  - (ii) different amounts of levies;
- (c) determine, in respect of different financial institutions, different categories of financial institutions and different subcategories of a specific category of financial institution-
- (i) the basis or manner of determining the amounts of the levies referred to in paragraph (b);
  - (ii) the period in respect of which the levies referred to in paragraph (b) are imposed, the dates on which or the periods within which those levies are payable, and the manner of payment;
  - (iii) the rates of interest and the manner of calculating the interest contemplated in subsection (3);
  - (iv) the manner in which applications for exemptions referred to in subsection (5) must be made; and
  - (v) the manner in which a notice in terms of subsection (6)(b) must be served.

(3) A financial institution which is under a notice referred to in subsection (1) liable for the payment of a levy and which fails to pay the levy in full within the period or on the date for payment determined in the notice must, at the rate calculated in a manner determined in the notice, pay interest on the balance of the levy outstanding and on the interest so payable but unpaid.

(4) A levy imposed by a notice referred to in subsection (1), and interest owed in respect thereof, shall be deemed to be a debt due to the Authority and may be recovered by the Authority by way of judicial process in a competent court.

(5) The Authority may, upon the application of a financial institution and in consultation with the Minister, and if there are sound reasons for doing so, grant exemption to the financial institution from a provision of the notice to the extent of and subject to the conditions determined by the Authority.

(6) An exemption contemplated in subsection (5) lapses when-

- (a) the Authority finds that the financial institution concerned has contravened a provision of or has failed to comply with a condition determined by the Authority under subsection (5) or has otherwise acted contrary to the exemption; and

(b) the Authority has served a written notice to that effect in accordance with the provisions of a notice referred to in subsection (1) on the institution.

(7) The Authority must, before taking a decision contemplated in subsection (6)(a), give the financial institution concerned a reasonable opportunity to be heard.

## **26 Financial year**

The financial year of the Authority shall end on 28 March in each year.

## **27 Accounting and auditing**

(1) The chief executive officer must keep full and proper accounts and records of all moneys received or expended by the Authority and of all assets, liabilities and financial transactions of the Authority during the financial year of the Authority.

(2) The chief executive officer must cause the accounts and records referred to in subsection (1) to be audited annually by a person registered as an accountant and auditor under section 23 of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951), and appointed by the Authority with the prior consent of the Auditor-General.

## **28 Annual report**

(1) The chief executive officer must as soon as possible, but not later than three months, after the end of each financial year, submit to the Minister in respect of a financial year-

(a) audited financial statements and a report of the auditor on those statements; and

(b) a report on the activities of the Authority during that financial year.

(2) The audited financial statements referred to in subsection (1)(a) must-

(a) contain detailed particulars of moneys received by the Authority and expenditure incurred by the Authority during and its assets and liabilities at the end of the financial year in question;

(b) fairly present the state of affairs of the Authority; and

(c) such other additional matters as the Minister may determine.

(3) The Minister must lay upon the Table of the National Assembly the audited financial statements and reports received by him or her under subsection (1), within 30 days from the date of receipt thereof, if the National Assembly is then in ordinary session or, if the National Assembly is not then in ordinary session, within 30 days after commencement of its next ordinary session.

## **PART VI GENERAL PROVISIONS (ss 29-38)**

## **29 Delegation of powers and assignment of duties**

(1) The Minister may, subject to such conditions as the Minister may determine, delegate any power conferred upon him or her by this Act, excluding the powers conferred upon the Minister by sections 25 and 35, to the Permanent Secretary in the ministry responsible for finance, or to any other officer in that ministry.

(2) The board may-

- (a) on such conditions as the board may determine, delegate to the chief executive officer or any other employee of the Authority any power conferred upon the board by or under this Act; or
- (b) authorise the chief executive officer or any other employee of the Authority to perform any duty assigned to the board by or under this Act.

(3) The chief executive officer may-

- (a) delegate to an employee of the Authority any power conferred upon the chief executive officer under this Act or by any other law, including a power delegated to the chief executive officer under subsection (2)(a); or
- (b) authorise an employee of the Authority to perform any duty assigned to the chief executive officer by or under this Act or any other law.

(4) A delegation under subsection (1), (2)(a) or (3)(a) does not prevent the Minister, the board or the chief executive officer from exercising the power delegated.

(5) Anything done or omitted to be done by an employee of the Authority in the exercise of any power delegated or the performance of any duty assigned to him or her under subsection (3), shall be deemed to have been done or omitted to be done by the chief executive officer.

### **30 Preservation of secrecy**

A member or an alternate member of the board, a member of a committee, the chief executive officer, or any other employee of the Authority or a member of the board of appeal shall not disclose to any person information relating to the affairs of the board, or of any other person, acquired by him or her in the performance of his or her duties or the exercise of his or her powers under this Act, except-

- (a) for the purpose of the exercise of his or her powers or the performance of his or her duties in terms of this Act or any other law; or
- (b) when required to disclose that information before a court of law or under any law.

### **31 Limitation of liability**

The Minister, a member or an alternate member of the board, a member of a committee, the chief executive officer or any other employee of the Authority or a member of the board of appeal is not liable in respect of anything done or omitted to be done in good faith in the exercise of any power or the performance of any duty under this Act or any other law.

### **32 Restriction on use of name or description implying connection with Authority**

A person shall not apply to any company, body, firm, business or undertaking a name or description signifying some connection between that company, body, firm, business or undertaking and the Authority.

### **33 Liquidation**

The Authority must not be placed into liquidation, except by an Act of Parliament.

### **34 Offences and penalties**

Any person who contravenes section 30 or 32 shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

### **35 Regulations**

(1) The Minister may, after consultation with the Authority, make regulations relating to-

- (a) the period within which a person who wishes to appeal against a decision of the chief executive officer must appeal against such decision;
- (b) the manner in which a person referred to in paragraph (a) must appeal against a decision of the chief executive officer;
- (c) the fees which a person referred to in paragraph (a) must pay in respect of an appeal;
- (d) any matter which is by this Act required or permitted to be prescribed; and
- (e) generally, all other matters which the Minister considers necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) Regulations made under subsection (1) may prescribe penalties in respect of a contravention of or a failure to comply with any provision thereof not exceeding a fine of N\$4 000 or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

### **36 Application of Act**

This Act does not affect the operation of any bank registered in terms of the Banking Institutions Act, 1998 (Act 2 of 1998), or the Building Societies Act, 1986 (Act 2 of 1986), in respect of any bank or building society business carried on by that bank or building society in accordance with the provisions of those Acts.

### **37 Amendment of laws**

The laws mentioned in the Schedule are amended to the extent indicated in the third column of that Schedule.

### **38 Short title and commencement**

(1) This Act shall be called the Namibia Financial Institutions Supervisory Authority Act, 2001, and shall come into operation on a date determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

## **Schedule LAWS AMENDED**

(Section 37)

No. and year of	Short title	Extent of amendment
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law		
Act 24 of 1956	Pension Funds Act, 1956	<ul style="list-style-type: none"> <li>• 1 The substitution in section 1 for the definition of "registrar" of the following definition:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"registrar"</b> means the registrar of pension funds referred to in section 3;</li> </ul>
		<ul style="list-style-type: none"> <li>• 2 The substitution for section 3 of the following section:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"3 Registrar of pension funds</b></li> </ul>
		<ul style="list-style-type: none"> <li>• The person appointed in terms of section 5 of the Namibia Financial Institutions Supervisory Authority Act, 2001 as the chief executive officer of the Namibia Financial Institutions Supervisory Authority shall be the registrar of pension funds."</li> </ul>
		<ul style="list-style-type: none"> <li>• 3 The deletion of section 3A.</li> </ul>
Act 25 of 1956	Friendly Societies Act, 1956	<ul style="list-style-type: none"> <li>• 1 The substitution in section 1 for the definition of "registrar" of the following definition:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"registrar"</b> means the registrar of friendly societies referred to in section 4;</li> </ul>
		<ul style="list-style-type: none"> <li>• 2 The substitution for section 4 of the following section:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"4 Registrar of friendly societies</b></li> </ul>
		<ul style="list-style-type: none"> <li>• The person appointed in terms of section 5 of the Namibia Financial Institutions Supervisory Authority Act, 2001 as the chief executive officer of the Namibia Financial Institutions Supervisory Authority shall be the registrar of friendly societies."</li> </ul>
		<ul style="list-style-type: none"> <li>• 3 The deletion of section 4A.</li> </ul>
Act 73 of 1968	Usury Act, 1968	<ul style="list-style-type: none"> <li>• 1 The substitution in section 1 for the definition of "registrar" of the following definition:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"registrar"</b> means the person appointed in terms of section 5 of the Namibia Financial Institutions Supervisory Authority Act, 2001, as the chief executive officer of the Namibia Financial Institutions Supervisory Authority or a person appointed as registrar by the Minister, subject to the provisions of the Public Service Act, 1995 (Act 13 of 1995);</li> </ul>
Act 54	Unit Trusts Control Act,	<ul style="list-style-type: none"> <li>• 1 The substitution in section 1 for the definition of</li> </ul>



of 1981	1981	"registrar" of the following definition:
		<ul style="list-style-type: none"> <li>• <b>"registrar"</b> means the registrar of unit trust companies referred to in section 2;</li> </ul>
		<ul style="list-style-type: none"> <li>• 2 The substitution for section 2 of the following section:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"2 Registrar of unit trust companies"</b></li> </ul>
		<ul style="list-style-type: none"> <li>• The person appointed in terms of section 5 of the Namibia Financial Institutions Supervisory Authority Act, 2001, as the chief executive officer of the Namibia Financial Institutions Supervisory Authority shall be the registrar of unit trust companies.</li> </ul>
		<ul style="list-style-type: none"> <li>• 3 The deletion of section 2A.</li> </ul>
Act 38 of 1984	Inspection of Financial Institutions Act, 1984	<ul style="list-style-type: none"> <li>• 1 The substitution in section 1 for the definition of "registrar" of the following definition:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"registrar"</b> means the person appointed in terms of section 5 of the Namibia Financial Institutions Supervisory Authority Act, 2001, as the chief executive officer of the Namibia Financial Institutions Supervisory Authority;</li> </ul>
		<ul style="list-style-type: none"> <li>• 2 The amendment of section 2-</li> </ul>
		<ul style="list-style-type: none"> <li>• (a) by the substitution for subsection (1) of the following subsection:</li> </ul>
		"(1) The registrar may appoint inspectors under this Act.;"
		<ul style="list-style-type: none"> <li>• (b) by the substitution for subsection (2) of the following subsection:</li> </ul>
		"(2) When he or she considers it necessary, the registrar may appoint a person who is not in the fulltime employment of the State or of the Namibia Financial Institutions Supervisory Authority established by section 2 of the Namibia Financial Institutions Supervisory Authority Act, 2001, as a temporary inspector to assist the registrar or an inspector referred to in subsection (1) with an inspection under this Act of the affairs or any part of the affairs of a financial institution, or of any person, partnership or company not registered as a financial institution, or to undertake such an inspection."
Act 1 of 1985	Stock Exchanges Control Act, 1985	<ul style="list-style-type: none"> <li>• 1 The substitution in section 1 for the definition of "registrar" of the following definition:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"registrar"</b> means the registrar of stock exchanges</li> </ul>

		referred to in section 2;".
		<ul style="list-style-type: none"> <li>• 2 The substitution for section 2 of the following section:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"2 Registrar of stock exchanges</b></li> </ul>
		<ul style="list-style-type: none"> <li>• The person appointed in terms of section 5 of the Namibia Financial Institutions Supervisory Authority Act, 2001, as the chief executive officer of the Namibia Financial Institutions Supervisory Authority shall be the registrar of stock exchanges."</li> </ul>
		<ul style="list-style-type: none"> <li>• 3 The deletion of section 2A.</li> </ul>
Act 23 of 1995	Medical Aid Funds Act, 1995	<ul style="list-style-type: none"> <li>• 1 The substitution in section 1 for the definition of "registrar" of the following definition:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"registrar"</b> means the registrar of medical aid funds referred to in section 3;".</li> </ul>
		<ul style="list-style-type: none"> <li>• 2 The substitution for section 3 of the following section:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"3 Registrar of medical aid funds</b></li> </ul>
		<ul style="list-style-type: none"> <li>• The person appointed in terms of section 5 of the Namibia Financial Institutions Supervisory Authority Act, 2001, as the chief executive officer of the Namibia Financial Institutions Supervisory Authority shall be the registrar of medical aid funds."</li> </ul>
Act 4 of 1998	Short-Term Insurance Act, 1998	<ul style="list-style-type: none"> <li>• 1 The substitution for section 1 for the definition of "registrar" of the following definition:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"registrar"</b> means the registrar of short-term insurance referred to in section 4;".</li> </ul>
		<ul style="list-style-type: none"> <li>• 2 The substitution for section 4 of the following section:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"4 Registrar of short-term insurance</b></li> </ul>
		<ul style="list-style-type: none"> <li>• The person appointed in terms of section 5 of the Namibia Financial Institutions Supervisory Authority Act, 2001, as the chief executive officer of the Namibia Financial Institutions Supervisory Authority shall be the registrar of short-term insurance."</li> </ul>
Act 5 of 1998	Long-Term Insurance Act, 1998	<ul style="list-style-type: none"> <li>• 1 The substitution in section 1 for the definition of "registrar" of the following definition:</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>"registrar"</b> means the registrar of long-term insurance referred to in section 4;".</li> </ul>

		<ul style="list-style-type: none"><li>• 2 The substitution for section 4 of the following section:</li></ul>
		<ul style="list-style-type: none"><li>• <b>"4 Registrar of long-term insurance</b></li></ul>
		<p>The person appointed in terms of section 5 of the Namibia Financial Institutions Supervisory Authority Act, 2001 as the chief executive officer of the Namibia Financial Institutions Supervisory Authority shall be the registrar of long-term insurance."</p>