

## PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NOTICE 152 OF 2024  
BY THE  
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICASOUTH AFRICAN POST BANK LIMITED AMENDMENT ACT, 2023 (ACT NO.10  
OF 2023)

In terms of section 20 of the South African Post Bank Limited Amendment Act, 2023 (Act No. 10 of 2023), I hereby determine 19 February 2024 as the date on which the said Act comes into operation.

Given under my Hand and the Seal of the Republic of South Africa at  
Cape Town, on this the 13 day of February Two thousand  
and Twenty-four.



The President



Minister of Cabinet

**GENERAL EXPLANATORY NOTE:**

[                    ] Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

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*(English text signed by the President)*  
*(Assented to 13 September 2023)*  
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**ACT**

**To amend the South African Postbank Limited Act, 2010, so as to amend and insert certain definitions; to amend the objects of the Act; to provide for the transfer in shareholding from the South African Post Office SOC Limited to Government and the creation of a bank controlling company for “The Postbank SOC Limited” in terms of the Banks Act, 1990; to provide for the appointment of the chief executive officer and the chief financial officer; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 9 of 2010, as amended by section 1 of Act 44 of 2013**

**1.** Section 1 of the South African Postbank Limited Act, 2010 (hereinafter referred to as “the principal Act”), is hereby amended— 5

(a) by the insertion before the definition of “Banks Act” of the following definition:

“ **‘banking services’** means the services rendered in the course of the business of a bank as contemplated in the Banks Act;”;

(b) by the insertion after the definition of “Banks Act” of the following definition: 10

“ **‘bank controlling company’** means the controlling company of The Postbank SOC Limited and has the meaning ascribed to it in section 1(1) of the Banks Act;”;

(c) by the insertion after the definition of “Board” of the following definitions: 15

“ **‘chief executive officer’** means the chief executive officer appointed in terms of section 18; 15

**‘chief financial officer’** means the chief financial officer appointed in terms of section 18;

**‘Commissioner’** means the Commissioner as defined in section 1 of the Companies Act;” 20

- (d) by the substitution for the definition of “Companies Act” of the following definition:  
 “‘**Companies Act**’ means the Companies Act, [1973 (Act No. 61 of 1973) 2008 (Act No. 71 of 2008)];”;
- (e) by the substitution for the definition of “Company” of the following definition:  
 “‘**Company**’ means The Postbank SOC Limited;”;
- (f) by the insertion after the definition of “family member” of the following definition:  
 “‘**financial services**’ has the meaning ascribed to it in section 3 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);”;
- (g) by the insertion after the definition of “Minister” of the following definition:  
 “‘**person**’ means a juristic or natural person;”.

#### Amendment of section 2 of Act 9 of 2010

2. Section 2 of the principal Act is hereby amended— 15
- (a) by the substitution for the words preceding paragraph (a) of the following words:  
 “The object of this Act is to provide for the incorporation of the Postbank Division of the Post Office as a [legal person] Company and bank controlling company, with the aim of the Company—”;
- (b) by the substitution for paragraph (b) of the following paragraph:  
 “(b) rendering [transactional] financial services, banking services and lending facilities through, amongst others, [existing] the infrastructure of the Post Office and any other means of delivery the Company may deem appropriate for its operational needs;”;
- (c) by the deletion of the word “and” at the end of paragraph (e);
- (d) by the substitution for paragraph (f) of the following paragraph:  
 “(f) ensuring responsible lending to rural and lower income markets [.] and;”;
- (e) by the addition after paragraph (f) of the following paragraph:  
 “(g) acting as the commercial bank owned by the State to render financial services and banking services to the public.”.

#### Amendment of section 3 of Act 9 of 2010, as amended by section 2 of Act 44 of 2013

3. Section 3 of the principal Act is hereby amended— 35
- (a) by the substitution for subsection (1) of the following subsection:  
 “(1) The Minister must take the necessary action for the formation and incorporation of a [public] state-owned company [with a share capital and for a certificate to commence business to be issued to the Company] and a bank controlling company in terms of the Companies Act.”;
- (b) by the substitution for subsection (2) of the following subsection:  
 “(2) (a) [Notwithstanding section 32 of the Companies Act, the Post Office] The Government shall, upon incorporation of the Company and the bank controlling company, be the [sole member and] shareholder of the [Company] bank controlling company.  
 (b) The bank controlling company shall hold 100% shares in the Company on behalf of Government represented by the Minister.  
 (c) The bank controlling company shall exercise oversight over the Postbank and ensure that the Company exercises sound risk management and governance practices, in accordance with the Banks Act.  
 (d) The Minister shall consider and approve any other shareholding with the concurrence of the Minister of Finance and in accordance with the requirements of the Banks Act, the Companies Act and the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017).”;
- (c) by the substitution for subsection (3) of the following subsection:  
 “(3) (a) The name of the Company is [the ‘South African’] ‘The Postbank SOC Limited’ and no other person, except the Company, may carry on any business or be registered with that name or with a name that is similar to “The Postbank”.

- (b) The name of the bank controlling company is the ‘The South African Postbank SOC Limited’ and no other entity, other than the Postbank, may carry on any business or be registered with that name or with a name that is similar to ‘The South African Postbank SOC Limited.’.”; 5
- (d) by the substitution for subsection (4) of the following subsection:  
 “(4) The Minister must on behalf of **[the Post Office]** Government, sign and file the **[memorandum and articles of association]** Memorandum of Incorporation, Notice of Incorporation and all other documents necessary for the formation and incorporation of the Company and the bank controlling company.”; 10
- (e) by the substitution for subsection (5) of the following subsection:  
 “(5) The **[Registrar of Companies]** Commissioner must—  
 (a) register the **[memorandum and articles of association]** Memorandum of Incorporation as signed and filed in terms of subsection (4); 15  
 (b) incorporate the Company as a **[public]** state-owned company under the name ‘**[South African]** The Postbank SOC Limited’; and  
 (bA) incorporate the bank controlling company as a company under the name ‘The South African Postbank SOC Limited.’.” 20  
 (c) **with the concurrence of the Minister, issue to the Company a certificate to commence business.**”;
- (f) by the substitution for subsection (6) of the following subsection:  
 “(6) The sole business of the bank controlling company is to act as the 25  
 controlling company (as defined in section 1(1) of the Banks Act). ”; and
- (g) by the addition after subsection (6) of the following subsection:  
 “(7) The Minister must apply to register the bank controlling company in accordance with section 43 of the Banks Act.”.

#### **Amendment of section 9 of Act 9 of 2010, as amended by section 5 of Act 44 of 2013** 30

4. Section 9 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

- “(a) The Company, the bank controlling company and the Post Office must, with the concurrence of the Minister and the Minister of Finance, conclude an agreement which governs cooperation between the Company, the bank controlling 35  
 company and the Post Office.”.

#### **Amendment of section 10 of Act 9 of 2010**

5. Section 10 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:  
 “(2) The members of the Board are appointed or reappointed by the 40  
 Minister, with the concurrence of the Minister of Finance **[and the Post Office]**, and the concurrence shall be deemed to have been granted, should such a response not be forthcoming within 30 days from the receipt of the request by the Minister of Finance.”; and
- (b) by the addition after subsection (2) of the following subsections: 45  
 “(3) The members of the Board of the Company and of the bank controlling company are appointed or reappointed by the Minister in the manner contemplated in section 14 and in accordance with the requirements of the Banks Act.  
 (4) The Board of the bank controlling company is made up of ten 50  
 non-executive members, 50 per cent of which are appointed by the Minister from amongst the Board of the Company.  
 (5) The Minister must determine who the 50 per cent board members, contemplated in subsection (4), are.  
 (6) Chapter IV of the Act applies *mutatis mutandis* to the Board of the 55  
 bank controlling company.”.

**Amendment of section 12 of Act 9 of 2010**

6. Section 12 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:  
 “(a) **[seven]** not less than five and not more than nine non-executive members appointed from among the persons nominated in terms of section 14(1)(a); and”;
- (b) by the deletion in subsection (1) of paragraph (b);
- (c) by the substitution in subsection (1) for paragraph (c) of the following paragraph:  
 “(c) the **[managing director]** chief executive officer and the chief financial officer, who **[is an]** are executive **[member]** members of the Board by virtue of office that they hold.”;
- (d) by the deletion of the word “and” at the end of paragraph (a);
- (e) by the substitution in subsection (2)(b) for the full stop at the end of subparagraph (ii) of the expression “; and” and the addition of the following paragraph:  
 “(c) are determined to be fit and proper persons in terms of section 1(1A) of the Banks Act.”.

**Amendment of section 14 of Act 9 of 2010, as amended by section 7 of Act 44 of 2013**

7. Section 14 of the principal Act is hereby amended—
- (a) by the deletion of subsection (1)(b);
- (b) by the substitution in subsection (5) for paragraph (b) of the following paragraph:  
 “(b) If a suitable person or the required number of suitable persons are not nominated as contemplated in subsections (1)(b) or (4), the Minister may, with the concurrence of the Minister of Finance **[and the Post Office]**, identify and appoint the required number of further members.”;
- (c) by the substitution in subsection (6) for paragraph (a) of the following paragraph:  
 “(a) The Minister must, within 30 days after **[consensus]** concurrence has been reached with the Minister of Finance **[and the Post Office]** regarding the appointment of members as contemplated in section 10(2)—”;
- (d) by the deletion of subsection (6)(a)(i); and
- (e) by the substitution in subsection (8) for paragraph (a) of the following paragraph:  
 “(a) Any vacancy occurring in the Board must be filled in the same way as which the departing member was appointed **[to the Board]**.”.

**Insertion of section 15A in Act 9 of 2010**

8. The following section is hereby inserted in the principal Act, after section 15:

**“Functions of bank controlling company**

- 15A.** (1) The bank controlling company will be the controlling company for the Company. 45
- (2) The bank controlling company shall itself not conduct any operating activities of its own, other than ownership of the Company.
- (3) The bank controlling company will hold 100% shares of the Company.
- (4) The bank controlling company shall exercise additional oversight over the bank, ensuring that the bank operating company exercises sound risk management and governance practices, in accordance with the South African Reserve Bank requirements as provided for in the Banks Act.”. 50

**Amendment of section 18 of Act 9 of 2010, as amended by section 9 of Act 44 of 2013**

9. Section 18 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading: 5  
**“Appointment of [managing director] chief executive officer and chief financial officer”;**
- (b) by the substitution for subsection (1) of the following subsection: 10  
 “(1) (a) The Board must, with the approval of the Minister, appoint a **[managing director] chief executive officer** who **[must perform any work incidental to the functions of]** shall have the overall responsibility for implementation of the Board’s strategy for the Company and **[ensure that] management of the day-to-day affairs of the Company [meets its objects]** and any other functions as delegated by the Board from time to time. 15  
 (b) The Board, with the concurrence of the Minister, shall appoint the chief financial officer who shall assist the chief executive officer and the Board with discharging their responsibilities over the financial affairs of the Company and any other functions as may be delegated from time to time. 20  
 (c) The chief executive officer and the chief financial officer shall be appointed for a term not exceeding five years, which appointment may, with the approval of the Minister, be renewed for another term based on performance.”;
- (c) by the substitution for subsection (2) of the following subsection: 25  
 “(2) The Board must invite applications for the posts of **[managing director] chief executive officer and chief financial officer** by publishing advertisements in the media or the selection process approved by the Board with the concurrence of the Minister, and this may include as a head hunting process in accordance with the relevant prescripts.”; and
- (d) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 30  
 “A person appointed as **[managing director] chief executive officer or chief financial officer—**”.

**Amendment of section 19 of Act 9 of 2010**

10. Section 19 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading: 35  
**“Conditions of appointment of [managing director] chief executive officer and chief financial officer”;**
- (b) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 40  
 “(a) The appointment of the **[managing director] chief executive officer and chief financial officer** is subject to the conclusion of a performance contract entered into between the Board and the **[managing director] chief executive officer and the Board and the chief financial officer, respectively.**”;
- (c) by the substitution for subsection (2) of the following subsection: 45  
 “(2) The **[managing director] chief executive officer and chief financial officer [holds] hold** office on the terms and conditions determined by the Board, with the concurrence of the Minister.”;
- (d) by the substitution for subsection (3) of the following subsection: 50  
 “(3) The **[managing director is] chief executive officer and chief financial officer** are entitled to a remuneration package determined by the Board, with the concurrence of the Minister and the Minister of Finance, and the concurrence shall be deemed to have been granted, should such a response not be forthcoming within 30 days from the receipt of the request by the Minister of Finance.”; 55
- (e) by the substitution for subsection (4) of the following subsection:  
 “(4) The **[managing director is] chief executive officer and chief financial officer** are accountable to the Board.”; and

- (f) by the addition after subsection (4) of the following subsections:
- “(5) The Board may in writing appoint any senior employee of the Company to act as chief executive officer or chief financial officer when the holder of that office—
- (a) is temporarily unable to perform the duties connected with that office; 5
- (b) has been suspended from office; or
- (c) has vacated or has been removed from that office and a new chief executive officer or chief financial officer, as the case may be, has not yet been appointed. 10
- (6) In the case of a vacancy contemplated in subsection (5), the Board must fill the vacancy within a reasonable period of time, which may not exceed 120 days.
- (7) An acting chief executive officer or acting chief financial officer may exercise all the powers and must perform all the duties of the chief executive officer or chief financial officer for a period not exceeding 120 days or as determined by the Board with the concurrence of the Minister. 15
- (8) Executives of Postbank are required to undergo a fit and proper assessment exercise to determine whether they have the requisite skills, knowledge and expertise to occupy those positions critical for the bank in terms of section 13(2)(fA) and (g) of the Banks Act.”. 20

#### Amendment of section 20 of Act 9 of 2010

11. Section 20 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph: 25
- “(b) such persons as the **[managing director]** chief executive officer may, with the concurrence of the Board, appoint.”; and
- (b) by the substitution for subsection (2) of the following subsection: 30
- “(2) The Board must determine the structure or organogram of the Company and the conditions of service, remuneration and service benefits of the personnel of the Company after consultation with the **[managing director]** chief executive officer and with the concurrence of the Minister and the Minister of Finance.”.

#### Insertion of section 20A in Act 9 of 2010

12. The following section is hereby inserted in the principal Act after section 20: 35

##### “Bank controlling company’s organisational structure

- 20A.** (1) The operations of the bank controlling company will consist primarily of compliance, risk management and governance functions.
- (2) The Board shall remain ultimately responsible for ensuring that its approved strategy is implemented and that the group’s purpose is fulfilled. 40
- (3) The Board also accepts its responsibility to ensure that risks are adequately identified, measured, managed and monitored and that good governance is maintained.
- (4) (a) The Board will be supported by the Company Secretary who shall provide governance support as well. 45
- (b) The secretariat resource shall be shared with the Company.
- (5) The Board shall discharge its duties through policies and frameworks supported by Board committees established in terms of the Companies Act, the Banks Act and the Public Finance Management Act.”.

#### Amendment of section 22 of Act 9 of 2010 50

13. Section 22 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading: 50
- “**Funds of Company and bank controlling company**”;

- (b) by the substitution for the words preceding paragraph (a) of the following words:  
 “The funds of the Company and bank controlling company consist of—”; and
- (c) by the substitution for paragraph (a) of the following paragraph: 5  
 “(a) capital vested in the Company and bank controlling company by virtue of section 7;”.

#### Amendment of section 23 of Act 9 of 2010

14. The following section is hereby substituted for section 23 of the principal Act:

**“Inspection of financial accounts and documents of Company and bank controlling company”** 10

23. The Minister or any officer in the public service authorised by the Minister in writing has full access to all the financial accounts and documents of the Company and of the bank controlling company, and the Board must at all times furnish to the Minister or to such officer, as the case 15 may be, all such information as may reasonably be required.”.

#### Amendment of section 24 of Act 9 of 2010

15. The following section is hereby substituted for section 24 of the principal Act:

**“Application of Public Finance Management Act**

24. The Company and the bank controlling company [is] are subject to 20 the Public Finance Management Act.”.

#### Amendment of section 28 of Act 9 of 2010

16. Section 28 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading: 25  
**“[Certain] Exemption from certain provisions of Companies Act [may be declared inapplicable to Company]”;**
- (b) by the substitution for subsection (1) of the following subsection:  
 “(1) (a) The Minister, with the concurrence of the Minister of Finance, may, in terms of section 9 of the Companies Act, request the Minister of Trade [and], Industry and Competition to [declare any provision] grant 30 a total, partial or conditional exemption from one or more provisions of the Companies Act [to be inapplicable] applicable to the Company or the bank controlling company.”;  
 (b) The request must be fully motivated by the Company or the bank controlling company, as the case may be.”; 35
- (c) by the substitution for subsection (2) of the following subsection:  
 “(2) (a) The [Registrar of Companies] Commissioner must publish particulars about the request and the motivation contemplated in subsection (1) by notice in the *Gazette*.  
 (b) In [such] the notice [,] contemplated in paragraph (a), the [Registrar] Commissioner must invite interested persons to submit representations to a person named in the notice within a period stipulated in that notice.”; and 40
- (d) by the substitution in subsection (3) for paragraph (b) of the following paragraph: 45  
 “(b) [The] Before granting an exemption in terms of section 9 of the Companies Act and in addition to the provisions of that section, the Minister of Trade [and], Industry and Competition [may only issue the declaration if] must consider the representations contemplated in subsection (2) and be satisfied on reasonable grounds that the [inapplicability of that provision to] request for exemption for the Company or the bank controlling company— 50

- (i) will contribute to the Company's or the bank controlling company's efficiency;
- (ii) will not reduce or limit the Company's or the bank controlling company's accountability as a public entity or reduce the transparency of its functioning and operations; **[and]** 5
- (iii) will not be prejudicial to the rights, interests or claims of the Company's creditors or employees or to the rights or interests of any other person[.];
- (iv) will not reduce or limit the Company's or bank controlling company's functioning or accountability as a bank or bank controlling company; and 10
- (v) will not affect the effective regulation and supervision of the Company and the bank controlling company in terms of the Banks Act."

**Amendment of long title of Act 9 of 2010** 15

17. The following long title is hereby substituted for the long title of the principal Act:

**“To provide for the incorporation of the Postbank Division of the South African Post Office; to provide for the transfer of the enterprise of that Division to the Postbank company; to provide for the governance and functions of the Postbank company; to provide for the transfer in shareholding from the South African Post Office to Government through the creation of a bank controlling company for The Postbank SOC Limited in terms of the Banks Act, 1990; and to provide for matters connected therewith.”** 20

**Amendment of Arrangement of Sections in Act 9 of 2010** 25

18. The Arrangement of Sections after the long title of the principal Act is hereby amended—

- (a) by the insertion after the expression “15. Resignation, removal from office and vacating of office” of the following: 30
  - “**15A. Functions of bank controlling company**”;
- (b) by the substitution for the expression “18. Appointment of managing director” of the following:
  - “**18. Appointment of [managing director] chief executive officer and chief financial officer**”;
- (c) by the substitution for the expression “19. Conditions of appointment of managing director” of the following: 35
  - “**19. Conditions of appointment of [managing director] chief executive officer and chief financial officer**”;
- (d) by the insertion after the expression “20. Personnel of Company” of the following: 40
  - “**20A. Bank controlling company's organisational structure**”;
- (e) by the substitution for the expression “22. Funds of Company” of the following:
  - “**22. Funds of Company and bank controlling company**”;
- (f) by the substitution for the expression “23. Inspection of financial accounts and documents of Company” of the following expression: 45
  - “**23. Inspection of financial accounts and documents of Company and bank controlling company**”; and
- (g) by the substitution for the expression “28. Certain provisions of Companies Act may be declared inapplicable to Company” of the following: 50
  - “**28. [Certain] Exemption from certain provisions of Companies Act [may be declared inapplicable to Company]**”.

**Substitution of short title of Act 9 of 2010**

**19.** The short title is hereby substituted for the short title of the principal Act.

**“Short title and commencement**

**32.** This Act is called the South African Postbank SOC Limited Act, 2010, and takes effect on a date determined by the President in the *Gazette*.” 5

**Short title and commencement**

**20.** This Act is called the South African Postbank Limited Amendment Act, 2023, and comes into operation on a date fixed by the President published in the *Gazette*.