

REPUBLIC OF SOUTH AFRICA

**MEDICAL SCHEMES
AMENDMENT BILL**

*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill
published in Government Gazette No 23683 of 29 July 2002)
(The English text is the official text of the Bill)*

(MINISTER OF HEALTH)

[B 37—2002]

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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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BILL

To amend the Medical Schemes Act, 1998, so as to broaden the definition of broker, in order to provide for the circumstances under which such a person must be accredited in terms of this Act; and to provide for incidental matters.

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

Amendment of section 1 of Act 131 of 1998, as amended by section 1 of Act 55 of 2001

1. Section 1 of the Medical Schemes Act, 1998 (hereinafter referred to as the principal Act), is hereby amended— 5

- (a) by the substitution for the definition of “broker” of the following definition: 10
- “ ‘broker’ means a person whose business, or part thereof, entails providing a service or advice in respect of—
- (a) the introduction or admission of members to a medical scheme;
 - (b) the transfer of members from one medical scheme to another; or
 - (c) the ongoing provision of, benefits, and of access to services offered by a medical scheme,
- but does not include—
- (i) an employer or employer representative who provides such service or advice exclusively to the employees of that employer; 15
 - (ii) a trade union or trade union representative who provides such service or advice exclusively to members of that trade union; or
 - (iii) a person who provides such service or advice exclusively for the purposes of performing his or her normal functions as a trustee, 20
- principal officer, employee or administrator of a medical scheme.”.

Amendment of section 65 of Act 131 of 1998, as amended by section 26 of Act 55 of 2001

2. Section 65 of the principal Act is hereby amended— 25

(a) by the substitution for subsection (1) of the following subsection:

“(1) A medical scheme may compensate a broker only in accordance with its rules[, for the introduction or admission of a member to that medical scheme].”;

(b) by the substitution for subsection (3) of the following subsection:

“(3) No [person] broker shall be compensated [for providing services relating to the introduction or admission of a member to] by a medical scheme in terms of subsection (1) unless the Council has granted accreditation to such broker [a person] on payment of such fees [and on submission of such information] as may be prescribed.”; and 5

(c) by the addition of the following subsection:

“(7) Notwithstanding the provisions of this section, with effect from a date determined by the Minister by notice in the *Gazette*, no person may act or offer to act as a broker unless such person has been granted accreditation in terms of subsection (3).” 10

Amendment of section 67 of Act 131 of 1998, as amended by section 28 of Act No. 55 of 2001

3. Section 67 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (n) of the following paragraph: 15

“(n) [the code of conduct of a broker, and] the conditions under which [such person] a broker may provide advice and other services to, or on behalf of, a medical scheme, beneficiary or any other person;”.

Short title and commencement

4. This Act is called the Medical Schemes Amendment Act, 2002, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 20

MEMORANDUM ON THE OBJECTS OF THE MEDICAL SCHEMES AMENDMENT BILL, 2002

The Bill seeks to amend the Medical Schemes Act, 1998 (Act No. 131 of 1998) ("the Act").

1. DISCUSSION OF CLAUSES

The specific clauses of the Bill are discussed below in turn:

Clause 1

The definition of "broker" in section 1 of the Act is amended to include the ongoing provision of advice and services beyond introduction or admission of members to a medical scheme. The definition also excludes parties who may otherwise fall within the definition, but who are not doing broker business.

Clause 2

The additional subsection (7) to section 65 of the Act requires all persons falling within the broadened definition of a broker to be accredited, and thereby establishes the single "gateway" to accreditation of health brokers, as agreed upon in terms of the above agreement. Amendments to subsections (1) and (3) flow from the insertion of subsection (7).

Clause 3

Since the Act was promulgated, there has been some lack of clarity on how medical schemes brokers should be regulated in their conduct of business, in particular, as to what extent they can be regulated by the Financial Services Board. The Council for Medical Schemes agreed with the Financial Services Board in February 2002 on how to jointly regulate the conduct of business by medical schemes brokers, thereby ensuring that there is no inadequacy in such regulation. The Bill seeks to provide a framework for such agreement.

2. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

None.

3. FINANCIAL IMPLICATIONS FOR STATE

None.

4. IMPLICATIONS FOR PROVINCES

None.

5. ORGANISATIONS AND BODIES CONSULTED

Financial Services Board; Council for Medical Schemes and National Treasury.

6. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Health are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution, since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.