

REPUBLIC OF SOUTH AFRICA

MEDICAL SCHEMES AMENDMENT BILL

*(As amended by the Portfolio Committee on Health (National Assembly))
(The English text is the official text of the Bill)*

(MINISTER OF HEALTH)

[B 37D-2002]

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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—

- (a) by the substitution for subsection (1) of the following subsection : 5
"(1) No person may act or offer to act as a broker unless the Council has granted accreditation to such a person on payment of such fees as may be prescribed.";
- (b) by the substitution for subsection (2) of the following subsection : 10
 "(2) The Minister may prescribe the amount of the compensation which, the category of brokers to whom, the conditions upon which, and 10 any other circumstances under which, a medical scheme may compensate any broker [in terms of subsection (1)].";
- (c) by the substitution for subsection (3) of the following subsection :
 "(3) No [person] ~~broker~~ shall be compensated for providing ~~broker~~ services **[relating to the introduction or admission of a member to a 15 medical scheme in terms of subsection (1)]** unless the Council has granted accreditation to such [a person **on payment of such fees and on submission of such information as may be prescribed**] broker in terms of subsection (1)."; and
- (d) by the substitution for subsection (6) of the following subsection: 20
 "(6) A broker may not be directly or indirectly compensated for providing broker services by any person other than –
 (i) a medical scheme
 (ii) a member or prospective member, or the employer of such member or prospective member, in respect of whom such broker services are 25
 provided or
 (iii) a broker employing such broker."

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 30 (1) for paragraph (n) of the following paragraph:

"(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 35

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*.

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.