

(16 May 1940 – 30 June 1944)

[This version applied as from 16 May 1940, i.e. the date of commencement of the Finance Act 27 of 1940 and of section 17 of the Finance Act 43 of 1941 - to – 30 June 1944, the day before commencement of the South African Reserve Bank Act 29 of 1944]

## CURRENCY AND EXCHANGES ACT 9 OF 1933

*(Extraordinary Gazette No. 2098, Notice No. 288, dated 8 March 1933. Commencement date: 28 December 1932 unless otherwise indicated)*

### As amended by:

*Finance Act 27 of 1940 – Government Notice 772 in Government Gazette Extraordinary 2762 dated 16 May 1940. Commencement date: 16 May 1940.*

*Finance Act 43 of 1941 – Government Notice 723 in Government Gazette Extraordinary 2911 dated 16 May 1941. Commencement date of section 17: 16 May 1940*

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*(Assented to 7<sup>th</sup> March, 1933.)*

*Signed by the Governor-General in Afrikaans.)*

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## ACT

### To amend the law relating to legal tender, currency, exchanges and banking.

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa as follows:

1. Definitions
2. Obligation to repay loan in any particular money may be fulfilled by payment in Union legal tender
3. Amendment of section 16 of Act No. 31 of 1920
4. Amendment of section 17 of Act No. 31 of 1920, as amended by section 8 of Act No. 22 of 1923 and section 4 of Act No. 26 of 1930
5. Amendment of section 18 of Act No. 31 of 1920, as amended by section 9 of Act No. 22 of 1923
6. Amendment of section 19 of Act No. 31 of 1920
7. Amendment of section 23 of Act No. 31 of 1920
8. Reserve Bank authorized to make investments to prevent undue fluctuations in exchange value of Union currency
9. Regulations regarding currency, banking or the exchanges
10. Repeal of Act No. 48 of 1931

11. Short title and commencement

**1. Definitions**

In this Act the expression "the principal Act" means the Currency and Banking Act, 1920 (Act No. 31 of 1920), as amended by the Currency and Banking Act Amendment Act, 1923, (Act No. 22 of 1923), and the Currency and Banking (Further Amendment) Act, 1930 (Act No. 26 of 1930), and any expression to which a meaning is ascribed in the principal Act shall, when used in this Act, bear the same meaning.

**2. Obligation to repay loan in any particular money may be fulfilled by payment in Union legal tender**

- (1) Whenever in terms of any contract of loan of money the debtor is under an obligation to repay the money lent or any portion thereof or to pay any interest thereon in coins or notes or other instruments which are, or at any time were, legal tender in the Union, whether such obligation arose before or after or partly before and partly after the commencement of this Act, he may at his option fulfil such obligation by the payment of the amount which he is bound to pay in notes of the Bank or in coins which are legal tender in the Union at the time when the payment takes place (to the amount to which they are legal tender).
- (2) Any person who after the commencement of this Act and before its promulgation in the *Gazette* as a law has paid any money under a contract of loan of money to which this section applies may recover from the person to whom he paid the money the difference between the amount paid by him and the amount which, in accordance with the provisions of this section, he might have elected to pay at the date when he paid the money, provided he institutes proceedings in a competent court for such recovery within three months after such promulgation.

**3. Amendment of section 16 of Act No. 31 of 1920**

Section *sixteen* of the principal Act is hereby amended by the deletion of all words after the word "prescribe".

**4. Amendment of section 17 of Act No. 31 of 1920, as amended by section 8 of Act No. 22 of 1923 and section 4 of Act No. 26 of 1930**

Section *seventeen* of the principal Act is hereby amended-

- (a) by the substitution for the word "forty" where that word occurs for the first time of the word "thirty";
- (b) by the substitution for the words "one-fourth of" of the word "half"; and

(c) by the deletion of all words after the word "requirements".

**5. Amendment of section 18 of Act No. 31 of 1920, as amended by section 9 of Act No. 22 of 1923**

Section *eighteen* of the principal Act is hereby repealed and the following section substituted therefor:-

**18A. Notes to be legal tender**

A tender of a note of the Bank (whether by the Bank itself or by any other person) shall be a legal tender of payment of the amount expressed in such note.

**6. Amendment of section 19 of Act No. 31 of 1920**

Section *nineteen* of the principal Act is hereby amended-

(a) by the deletion in sub-section (1) of all words after the word "Act" where that word occurs for the first time;

(b) by the substitution in sub-section (2) for the word "forty" of the word "thirty".

**7. Amendment of section 23 of Act No. 31 of 1920**

Section *twenty-three* of the principal Act is hereby amended –

(a) by the substitution in sub-section (1) for the word "forty" of the word "thirty"; and

(b) by the substitution in sub-section (2) for the words "One-fourth" of the word "Half".

**8. Reserve Bank authorized to make investments to prevent undue fluctuations in exchange value of Union currency**

(1) The Bank may, in the manner and to the extent which it considers best calculated to prevent undue fluctuations in the exchange value of the units of currency which are legal tender in the Union in relation to the units of currency which are legal tender in the United Kingdom of Great Britain and Northern Ireland, buy and sell gold and bills or securities expressed in currencies other than that of the Union.

(2) Any loss suffered by the Bank as a result of depreciation in any gold or bills or securities acquired by the Bank under the provisions of sub-section (1) caused by variations in rates of exchange shall be charged to the Consolidated Revenue Fund; and any profit earned by the Bank as a result of

appreciation in any gold or bills or securities so acquired by the Bank caused by such variations shall be paid into the Consolidated Revenue Fund.

- (3) For the purpose of arriving at the loss or profit referred to in sub-section (2), the gold or bills or securities acquired by the Bank under the provisions of sub-section (1) shall be valued on the last day of every financial year of the Bank at cost or in accordance with the rate of exchange prevailing on that day, whichever method gives the lower value.
- (4) The Controller and Auditor-General may accept as correct a certificate by the auditors of the Bank that any statement of account to which such certificate refers is a true and complete statement of all transactions, receipts and payments by the Bank by virtue of the provisions of this section, during the period covered by the statement.
- (5) This section shall be deemed to have come into operation on the twentieth day of January, 1933.

*(Commencement date of section 8: 20 January 1933)*

## **9. Regulations regarding currency, banking or the exchanges**

- (1) The Governor-General may make regulations in regard to any matter directly or indirectly relating to or affecting or having any bearing upon currency, banking or exchanges.
- (2) Such regulations may provide that the Governor-General may apply any sanctions therein set forth which he thinks fit to impose, whether civil or criminal.
- (3) The Governor-General may, by any such regulations, suspend in whole or in part this Act or any other Act of Parliament or any other law relating to or affecting or having any bearing upon currency, banking or exchanges, and any such Act or law which is in conflict or inconsistent with any such regulation shall be deemed to be suspended in so far as it is in conflict or inconsistent with any such regulation.
- (4) The Minister of Finance shall cause a copy of every regulation made under this section to be laid upon the Table of both Houses of Parliament within fourteen days after the first publication thereof in the *Gazette*, if Parliament is in ordinary session during the whole of that period, and if Parliament is not in ordinary session during the whole of that period, then within fourteen days after the beginning of the next ordinary session of Parliament; and if any such regulation is calculated to raise any revenue, he shall cause to be attached to the copy so laid upon the Table a statement of the revenue which he estimates will be raised thereby during the period of twelve months after the coming into operation thereof. Every such regulation calculated to raise any revenue shall cease to have the force of law from a date one month after it has been laid on the Table unless before that date it has been approved by resolution of both Houses of Parliament.

*(Section 9(4) added by section 6 of Act 27 of 1940)*

*(Section 9(4) amended by section 17 of Act 43 of 1941)*

**10. Repeal of Act No. 48 of 1931**

The Finance Emergency Regulations Act, 1931 (Act No. 48 of 1931) is hereby repealed.

**11. Short title and commencement**

This Act shall be known as the Currency and Exchanges Act, 1933 and, subject to the provisions of sub-section (5) of section *eight*, shall be deemed to have come into operation on the twenty-eighth day of December, 1932.