

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.

(English text signed by the President.)
(Assented to 30 December 2002.)

ACT

To amend the Medical Schemes Act, 1998, in relation to broadening the definition of broker and 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:
"broker means a person whose business or part thereof, entails providing broker services, but does not include-
(i) an employer or employer representative who provides service or advice exclusively to the employees of that employer ; 10
(ii) a trade union or trade union representative who provides service or advice exclusively to members of that trade union; or
(iii) a person who provides service or advice exclusively for the purposes of performing his or her normal functions as a trustee, principal officer, employee or administrator of a medical scheme , 15
unless a person referred to in subparagraph (i), (ii) or (iii) elects to be accredited as a broker, or actively markets or canvasses for membership of a medical scheme;" and
- (b) by the insertion, before the definition of "business of a medical scheme", of the following definition: 20
"broker services means
(a) the provision of service or advice in respect of the introduction or admission of members to a medical scheme; or
(b) the ongoing provision of service or advice in respect of access to, or 25
benefits or services offered by 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 –
- (a) by the substitution for subsection (1) of the following subsection :
" (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 :
"(2) The Minister may prescribe the amount of the compensation which, the category of brokers to whom, the conditions upon which, and 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 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 :
" (6) A broker may not be directly or indirectly compensated for providing broker services by any person other than–
 - (a) a medical scheme
 - (b) a member or prospective member, or the employer of such member or prospective member, in respect of whom such broker services are provided; or
 - (c) 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

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*.