



**GOVERNMENT GAZETTE**  
OF THE  
**REPUBLIC OF NAMIBIA**

NS1.20

WINDHOEK — 24 March 1995

No. 1050

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**Government Notice**

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**MINISTRY OF FINANCE**

No. 59 1995

**INSURANCE ACT, 1943: AMENDMENT OF REGULATIONS**

The Minister of Finance has under section 76 of the Insurance Act, 1943 (Act 27 of 1943), made the regulations set out in the Schedule.

**SCHEDULE**

1. In these regulations "the Regulations" means the regulations promulgated by Government Notice R.1285 of 1965, as amended by Government Notices R.252 of 1968, R.2036 of 1973, R.2489 of 1973, R.1442 of 1976, R.333 of 1977, R.838 of 1977, R.1249 of 1977, R.2274 of 1977, R.947 of 1978, R.1631 of 1978, R.120 of 1979, R.353 of 1981, R.396 of 1981, R.905 of 1981, R.2064 of 1981, R.446 of 1983, R.2145 of 1984, R.81 of 1985, R.2117 of 1985, R.2324 of 1985, R.431 of 1986, R.949 of 1986, R.2584 of 1986, R.2628 of 1986, R.2288 of 1987, R.2501 of 1988, R.1345 of 1989, R.1447 of 1989 and R.1922 of 1989.

2. The following regulation is hereby substituted for regulations 34:

*“Limits relating to investments in assets held in respect of insurance business*

34. (1) In this regulation -

‘aggregate liabilities’, in relation to a domestic insurer, means the aggregate of -

- (a) the net liabilities in respect of which the insurer is required to hold assets in Namibia in terms of section 17(1)(b) or 17(4)(b) of the Act; and
- (b) the amount of the liabilities which, by virtue of the insurer’s shareholding in investment subsidiaries, is deemed to be the liabilities of the insurer in terms of subregulation (4);

‘any other stock exchange within the common monetary area’ means any stock exchange authorized by or under the laws of a country of the common monetary area to function as, or carry on the business of, a stock exchange in that country;

‘associate’ means an associate as defined in section 1 of the Act, but does not include an investment subsidiary or a property company;

‘associated company’ means a company associated in any manner set out in the definition of ‘associate’ in section 1 of the Act, but does not include an investment subsidiary or a property company;

‘banking institution’, means an institution registered provisionally or finally in terms of the Banks Act, 1965 (Act 23 of 1965), and includes an institution registered provisionally or finally in terms of the Banks Act, 1990 (Act 94 of 1990), of the Republic of South Africa;

‘building society’ means a building society registered in terms of the Building Societies Act, 1986 (Act 23 of 1986), and includes a juristic person registered provisionally or finally in terms of the Mutual Banks Act, 1993 (Act 124 of 1993);

‘common monetary area’ means the Kingdom of Lesotho, the Kingdom of Swaziland and the Republic of South Africa;

‘investment subsidiary’, in relation to an insurer, means a company -

- (a) which by virtue of shareholding, voting power, power to appoint directors, or otherwise, is controlled by the insurer concerned;
- (b) which is used by the insurer concerned for the purpose of holding investments; and
- (c) whose shares are not listed on the Namibian Stock Exchange or any other stock exchange within the common monetary area;

‘linked business’, means any business of assuming obligations under a contract under which no investment guarantees are given by the insurer, either explicitly or implicitly, and in respect of which investment benefits are

determined solely by reference to the value of specific assets to which the contract is linked and which assets are actually held by the insurer or, with the consent of the registrar, by a person on behalf of the insurer under section 20(1) of the Act;

'local authority' means a local authority council as defined in section 1 of the Local Authorities Act, 1992 (Act 23 of 1992);

'long-term insurance business' excludes linked business;

'market value', in relation to -

(a) the value of every quoted asset, means the price at which it was quoted on the Namibian Stock Exchange or any other stock exchange within the common monetary area within a period of three months immediately preceding the date to which the statement relates, which value shall be shown in the statement at an amount not exceeding the value determined according to the price last so quoted: Provided that if such quotation relates to a date other than the date to which the statement of assets relates, the said amount shall be properly adjusted in the case of -

- (i) any interest-bearing asset, by the difference between the amount of the interest which had accrued from the last date on which interest was payable up to the date of the quotation in question and the corresponding amount of interest accrued up to the date to which the statement relates; and
- (ii) any share on which dividends have been declared, by the difference between the amount of any dividend which had been declared but not paid on the date of the quotation in question and the amount of any dividend which had been declared but not paid on the date to which the statement relates;

(b) assets to which the provisions of subparagraph (i) do not apply, means the value determined in accordance with section 15(h) of the Act;

'Post Office Savings Bank' means the Post Office Savings Bank controlled and managed by the Namibian Post Limited under the Posts and Telecommunications Act, 1992 (Act 19 of 1992);

'property company' means a company -

- (a) of which 50% or more of the market value of its assets consists of immovable property, irrespective of whether such property is held directly by the company as registered owner or indirectly by way of ownership of the shares of the company which is the registered owner of the property or which exercises control over the company which is the registered owner of the property; or
- (b) of which 50% or more of its income is derived from investments in immovable property, or from an investment in a company 50% or more of the income of which is derived from investments in immovable property;

'regional council' means a regional council as defined in section 1 of the Regional Councils Act, 1992 (Act 22 of 1992);

'the Namibian Stock Exchange' means the Namibian Stock Exchange licensed under the Stock Exchange Control Act, 1985 (Act 1 of 1985).

(2) The assets which a domestic insurer is required to hold in Namibia in respect of -

(a) long-term insurance business in terms of section 17(1)(b) of the Act; or

(b) short-term insurance business in terms of section 17(4)(b) of the Act,

shall, in respect of the assets set out in column 1 of the Annexure to this regulation, not exceed the percentage set out opposite each such asset in the appropriate subcolumn of column 2 of the Annexure, which percentage expresses a percentage of the aggregate liabilities of the long-term insurance business or short-term insurance business concerned: Provided that -

- (i) assets referred to in items 5 to 12, inclusive, in column 1 of the Annexure held in respect of long-term insurance business shall not exceed 95% of the aggregate liabilities of the long-term insurance business concerned;
- (ii) assets referred to in items 5 and 6 in column 1 of the Annexure held in respect of long-term insurance business shall not exceed 90% of the aggregate liabilities of the long-term insurance business concerned;
- (iii) assets referred to in items 5 to 12, inclusive, in column 1 of the Annexure held in respect of short-term insurance business shall not exceed 70% of the aggregate liabilities of the short-term insurance business concerned; and
- (iv) assets referred to in items 7 and 8 in column 1 of the Annexure held in respect of short-term insurance business shall not exceed 65% of the aggregate liabilities of the short-term insurance business concerned.

(3) The assets which a domestic insurer is required to hold under sub-regulation (2) shall, but without any limitation per kind of asset, include the following kinds of assets in respect of -

(a) short-term insurance business:

- (i) Assets of the kinds referred to in paragraphs 2 to 6, inclusive, of the Third Schedule to the Act: Provided that the limitations per institutions in items 2 and 3 of the Annexure shall apply; and
- (ii) assets of the kinds referred to in paragraphs 1 and 8 of the Third Schedule to the Act; and

(b) long-term insurance business:

- (i) Assets of the kinds referred to in paragraphs 2 to 6, inclusive, of the Third Schedule to the Act: Provided that the limitations per institution in items 2 and 3 of the Annexure shall apply; and

(ii) assets of the kinds referred to in paragraphs 1 and 7 of the Third Schedule to the Act.

(4) (a) For the purposes of subregulation (2) -

(i) the assets of the kinds referred to in the Third Schedule to the Act (excluding amounts due by the insurer to the investment subsidiary) of an investment subsidiary shall to the following extent be deemed to be assets of the insurer in lieu of the insurer's shares in and net loans of the investment subsidiary:

(aa) That part of each asset of the investment subsidiary which is included as an asset of the insurer in lieu of the insurer's net loans to the investment subsidiary, calculated as follows:

$$\frac{\text{market value of each asset of investment subsidiary}}{\text{market value of total assets of investment subsidiary}} \times \text{insurer's net loans to investment subsidiary;}$$

(bb) that part of each asset of the investment subsidiary which is included as an asset of the insurer in lieu of the insurer's non-equity interest in the investment subsidiary, calculated as follows:

$$\frac{\text{market value of each asset of investment subsidiary}}{\text{market value of total assets of investment subsidiary}} \times \text{insurer's non-equity interest in investment subsidiary;}$$

(cc) the remaining part of each asset of the investment subsidiary after the deduction of the parts referred to in subparagraphs (aa) and (bb), shall be included as an asset of the insurer in lieu of the insurer's equity shares in the investment subsidiary, calculated as follows:

$$\frac{\text{market value of remaining part of each asset of investment subsidiary after the deduction of the parts in terms of subparagraphs (aa) and (bb)}}{\text{insurer's equity shares in investment subsidiary}} \times \text{total equity shares in investment subsidiary;}$$

(ii) the liabilities of an investment subsidiary (excluding its liabilities towards the insurer), as well as the non-equity interest in an investment subsidiary (excluding the insurer's share thereof), shall be deemed to be the liabilities of the insurer and shall be included as liabilities of the insurer, calculated as follows:

$$\frac{\text{liabilities of investment subsidiary (excluding towards insurer) plus non-equity interest in investment subsidiary (excluding insurer's share thereof)}}{\text{insurer's equity shares in investment subsidiary}} \times \text{total equity shares in investment subsidiary}$$

(b) For the purposes of paragraph (a) -

(i) 'each asset', in relation to an investment subsidiary, means an asset of the investment subsidiary of the kinds referred to in the Third Schedule to the Act, excluding an amount due by the insurer to the investment subsidiary;

- (ii) 'equity shares', in relation to an investment subsidiary, means its issued shares, but not shares which, concerning neither dividends nor capital, grant a right to participate in excess of a determined amount in a distribution;
- (iii) 'net loans', in relation to an investment subsidiary, means all loans by the insurer to the investment subsidiary less all loans by the investment subsidiary to the insurer;
- (iv) 'non-equity interest', in relation to an investment subsidiary, means its issued shares (excluding equity shares) plus the value to be apportioned thereto by virtue of the excess or shortfall of assets over liabilities;
- (v) 'total assets', in relation to an investment subsidiary, means all assets of the investment subsidiary of the kinds referred to in the Third Schedule to the Act, excluding amounts due by the insurer to the investment subsidiary.

(5) Notwithstanding subregulation (2), no domestic insurer who carries on long term insurance business in Namibia shall with effect from -

- (a) 31 March 1995, invest more than 75%;
- (b) 30 June 1995, invest more than 65%;

of its total assets in connection with that business outside Namibia: Provided that assets consisting of shares acquired in a company incorporated outside Namibia shall for the purposes of this subregulation be regarded as assets invested in Namibia if such shares have been acquired on the Namibian Stock Exchange.

- (6) (a) Every domestic insurer shall within six months after the end of each financial year, furnish the registrar with a return in such form as he or she may prescribe which shall contain such particulars as he or she may require in order to determine whether the insurer is complying with subregulations (2).

(b) Every domestic insurer contemplated in subregulation (5) shall within 30 days after each date referred to in paragraphs (a) and (b) of that subregulation, furnish the registrar with a return in such form as he or she may prescribe which shall contain such particulars as he or she may require in order to determine whether the insurer is complying with that subregulation.

(7) The registrar may on prior written application by an insurer grant such an insurer written exemption from any of the provisions of this regulation upon such conditions as he or she may impose.

## ANNEXURE TO REGULATION 34

Item	Column 1 Categories or kinds of assets	Column 2 Maximum percentage of aggregate liabilities	
		Subcolumn (i)	Subcolumn (ii)
		Long-term insurance business	Short-term insurance business
1.	Deposits with and balance in current and saving accounts with an office of a banking institution or a building society, including negotiable deposits, and money market instruments in terms of which such a banking institution or building society is liable, including the paid-up shares of a building society or deposits and savings accounts with an office of the Post Office Savings Bank:		
	Per banking institution .....	20%	20%
	Per building society .....	20%	20%
	Post Office Savings Bank .....	20%	20%
2.	Bills, bonds and securities issued or guaranteed by and loans to or guaranteed by -		
	(a) a local authority or regional council authorised by law to levy rates upon immovable property		
	per local authority or regional council .....	20%	20%
	(b) South West Africa Water and Electricity Corporation .....	20%	20%
	(c) Agricultural Bank of Namibia .....	20%	20%
	(d) National Housing Enterprise .....	20%	20%
	(e) Namibia Development Corporation .....	20%	20%
	(f) Namibian Ports Authority .....	20%	20%
	(g) Namibian Broadcasting Corporation .....	20%	20%
	(h) Transnamib Ltd. ....	20%	20%
	(i) Telecom Namibia Ltd. ....	20%	20%
3.	Bills, bonds and securities issued by and loans to an institution, which bills, bonds, securities and loans the registrar has approved in terms of paragraph 6 of the Third Schedule to the Act, and also bills, bonds and securities issued by and loans to an institution, which institution the registrar has likewise approved:		
	Per institution .....	20%	20%

4.	Bills, bonds and securities issued by the Government of or by a local authority in a territory other than Namibia, which territory the registrar has approved in terms of paragraph 6A of the Third Schedule to the Act, and also bills, bonds and securities issued by an institution in such an approved territory, which institution the registrar has likewise approved .....	20%	20%
5.	Immovable property, units in unit trust schemes in property shares, and shares in, loans to and debentures, both convertible and non-convertible, of property companies .....	25%	10%
	Provided that the investment in a single property or property development project shall be limited to .....	5%	5%
6.	Preference and ordinary shares in companies and associated companies (but excluding shares in property companies and investment subsidiaries), convertible debentures, whether voluntarily or compulsorily convertible (but excluding such debentures of property companies) and units in unit trust schemes in property shares) held in respect of long-term insurance business	75%	—
	(a) Provided that -		
	unlisted shares, unlisted convertible debentures and shares and convertible debentures listed in the development capital sector of any stock exchange within the common monetary area shall be limited to .....	5%	—
	(b) shares and convertible debentures in a single company or associated company listed on any stock exchange within the common monetary area in a sector other than in the development capital sector -		
	(i) with a market capitalization of N\$2 000 million or less shall be limited to .....	10%	—
	(ii) with a market capitalization greater than N\$2 000 million shall be limited to .....	15%	—
	(c) shares and convertible debentures in a single company or associated company listed on the Namibian Stock Exchange -		
	(i) with a market capitalization of N\$500 million or less shall be limited to .....	10%	—
	(ii) with a market capitalization greater than N\$500 million shall be limited to .....	15%	—
	(d) unlisted shares in Namibia shall be limited to .....	5%	—

7.	Ordinary shares in companies and associated companies (but excluding shares in property companies and investment subsidiaries), convertible debentures, whether voluntarily or compulsorily convertible (but excluding such debentures of property companies), and units in unit trust schemes (but excluding units in unit trust schemes in property shares) held in respect of a short-term insurance business .....	—	50%
	Provided that -		
	(a) unlisted shares, unlisted convertible debentures and shares and convertible debentures listed in the development capital sector of any stock exchange within the common monetary area shall be limited to .....	—	2,5%
	(b) shares and convertible debentures in a single or associated company listed on any stock exchange within the common monetary area in a sector other than in the development capital sector -		
	(i) with a market capitalization of N\$2 000 million or less shall be limited to .....	—	5%
	(ii) with a market capitalization greater than N\$2 000 million shall be limited to .....	—	10%
	(c) shares and convertible debentures in a single company or associated company listed on the Namibian Stock Exchange -		
	(i) with a market capitalization of N\$500 million or less shall be limited to .....	—	5%
	(ii) with a market capitalization greater than N\$500 million shall be limited to .....	—	10%
	(d) unlisted shares in Namibian companies shall be limited to .....	—	5%
8.	Preference shares in companies and associated companies (but excluding preference shares in property companies and investment subsidiaries) held in respect of short-term insurance business, shall be limited to .....	—	40%
	Investment in preference shares issued by any single company .....	—	5%
9.	Loans to and non-convertible debentures of associates and associated companies .....	5%	5%
10.	Claims secured by mortgage bonds on immovable property, debentures (listed and unlisted but excluding convertible debentures) or any other secured claims against individuals (but excluding assets of the kinds referred to in paragraphs 7 and 8 of the Third Schedule to the Act, loans to investment subsidiaries, associates or associated companies and loans to and debentures of property companies) .....	25%	25%

	Provided that -		
	(a) claims against any one individual shall be limited to .....	0,25%	0,25%
	(b) claims against any single company shall be limited to .....	5%	5%
11.	Computer equipment furniture and other office machinery, as well as motor vehicles shall be limited to:		
	(a) Computer equipment .....	5%	5%
	(b) Other equipment as well as motor vehicles .....	2,5%	2,5%
12.	Any other assets of the kinds referred to in the Third Schedule of the Act .....	2,5%	2,5%