

REPUBLIEK
VAN
SUID-AFRIKA



REPUBLIC
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Staatskoerant Government Gazette

Verkoopprys • Selling price
(AVB uitgesluit/GST excluded)

Plaaslik **45c** Local
Buitelands **60c** Other countries
Posvry • Post free

**Regulasiekoerant
Regulation Gazette**

No. 3936

As 'n Nuusblad by die
Poskantoor geregistreer
Registered at the Post Office
as a Newspaper

Vol. 249

PRETORIA, 27 MAART
MARCH 1986

No. 10166

GOEWERMENSKENNISGEWING

DEPARTEMENT VAN FINANSIES

No. R. 603

27 Maart 1986

WET OP BETAALMIDDELS EN WISSELKOERSE,
1933 (WET 9 VAN 1933)

Die Staatspresident het kragtens artikel 9 van die Wet op Betaalmiddels en Wisselkoerse, 1933 (Wet 9 van 1933), die regulasies vervat in die Bylae uitgevaardig:

BYLAE

1. In hierdie Regulasies, tensy uit die samehang anders blyk, beteken—

“buitelandse regering” enige buitelandse regering uitgesonderd die regering van die Republiek van Transkei, Bophuthatswana, Venda of Ciskei;

“dokumentêre kredietbrief” ’n kredietbrief waarkragtens ’n bedrag betaal moet word of ’n wissel getrek of geaksepteer moet word slegs teen of na aanbidding van ’n gespesifiseerde ladingsbrief of enige ander soortgelyke dokumente wat dien as bewys van die versending of ontvangs van spesifieke goedere of dienste;

“dokumentêre wissel” ’n wissel waarkragtens ’n bedrag betaal moet word slegs teen of na aanbidding van ’n gespesifiseerde ladingsbrief of enige ander soortgelyke dokument wat dien as bewys van die versending of ontvangs van spesifieke goedere of dienste;

“goedgekeur” goedgekeur vir die spesifieke doeleindes van hierdie Regulasies;

“Openbare Beleggingskommissaris” die Openbare Beleggingskommissaris ingestel kragtens die Wet op die Openbare Beleggingskommissaris, 1984 (Wet 45 van 1984);

“spesiale beperkte rekening” ’n rekening geopen by die Openbare Beleggingskommissaris vir die doeleindes van die inbetaling in sodanige rekening van enige bedrag wat kragtens regulasie 2 nie aan of ten gunste van ’n buitelandse skuldeiser betaal mag word nie.

GOVERNMENT NOTICE

DEPARTMENT OF FINANCE

No. R. 603

27 March 1986

CURRENCY AND EXCHANGES ACT, 1933
(ACT 9 OF 1933)

The State President has in terms of section 9 of the Currency and Exchanges Act, 1933 (Act 9 of 1933), made the regulations contained in the Schedule:

SCHEDULE

1. In these Regulations, unless the context indicates otherwise—

“approved” means approved for the specific purposes of these Regulations;

“documentary bill” means a bill of exchange under which an amount is payable only against or after presentation of a specified bill of lading or any other similar document which serves as evidence of the despatch or receipt of specific goods or services;

“documentary letter of credit” means a letter of credit in terms of which an amount is to be paid or a bill is to be drawn or accepted only against or after presentation of a specified bill of lading or any other similar document which serves as evidence of the despatch or receipt of specific goods or services;

“foreign government” means any foreign government excluding the Government of the Republic of Transkei, Bophuthatswana, Venda or Ciskei;

“Public Investment Commissioners” means the Public Investment Commissioners established by the Public Investment Commissioners Act, 1984 (Act 45 of 1984);

“special restricted account” means an account opened with the Public Investment Commissioners for the purpose of the payment into such account of any amount which may in terms of regulation 2 not be paid to or in favour of, a foreign creditor.

2. Niemand mag met ingang van 1 April 1986 tot 30 Junie 1987 enige betaling aan of ten gunste van enige buitelandse skuldeiser maak nie behalwe betaling in 'n spesiale beperkte rekening of betaling ten opsigte van—
- (a) 'n ooreenkoms aangegaan deur 'n invoerder vir die invoer van goedere of dienste, met inbegrip van betaling vir vrag-, assuransië- en ander kostes in verband met sodanige invoer, mits—
 - (i) sodanige goedere of dienste nie voor 1 Januarie 1985 in die Republiek afgelewer of gelewer is nie; en
 - (ii) (aa) betaling gedoen word kragtens 'n dokumentêre kredietbrief of kragtens enige aksep of wissel wat kragtens sodanige kredietbrief getrek is; of
 - (bb) betaling gedoen word direk aan die buitelandse verskaffer van sodanige goedere of dienste of aan 'n invoeringsbank namens hom; of
 - (cc) betaling gedoen word kragtens 'n dokumentêre wissel wat deur die invoerder van sodanige goedere of dienste, of deur 'n bank namens hom, geaksepteer is;
 - (b) rente ooreenkomstig 'n koers en redelike koste betaalbaar op uitstaande lenings soos deur die Minister van Finansies, of 'n persoon deur hom aangewys, goedgekeur;
 - (c) (i) toonderskuldbriewe of toonderpromesses wat op 28 Augustus 1985 gelys of genoteer was op enige effektebeurs en wat deur of ten behoeve van die Staat of enige ander persoon uitgereik is; of
 - (ii) toonderskuldbriewe of toonderpromesses, soos deur die Minister van Finansies of 'n persoon deur hom aangewys goedgekeur, wat deur of ten behoeve van die Staat of enige ander persoon uitgereik is;
 - (d) lenings wat deur 'n buitelandse regering of 'n agentskap van sodanige regering gewaarborg is;
 - (e) skulde betaalbaar aan internasionale organisasies van die Verenigde Nasies of die Bank van Internasionale Verrekening;
 - (f) die finansiële verpligtinge van die Suid-Afrikaanse Reserwebank, mits sodanige verpligtinge nie voortspruit uit 'n spesiale beperkte rekening soos omskryf in Regulasie 4A van die Deviesebeheerregulasies uitgevaardig by Goewermentskennisgewing R. 1111 van 1 Desember 1961, soos gewysig, of uit 'n valuta vryvloeiwaarborg uitgereik deur die Suid-Afrikaanse Reserwebank voor 2 September 1985 nie;
 - (g) (i) nuwe lenings, met inbegrip van rente en kostes daarop, mits sodanige lenings, rente en kostes deur die Minister van Finansies, of deur 'n persoon deur hom aangewys, goedgekeur is, en mits sodanige lenings op of na 2 September 1985 aan enige persoon in die Republiek verleen is en nie ter vervanging van 'n bestaande lening is nie; of
 - (ii) daardie gedeeltes van lenings, met inbegrip van rente en kostes daarop, wat aan enige persoon in die Republiek verleen is voor 2 September 1985, en wat op of na 2 September 1985, met die goedkeuring van die Minister van Finansies of 'n persoon deur hom aangewys, deur die lener getrek word of aan die lener betaal word;
2. No person shall with effect from 1 April 1986 until 30 June 1987 make payment to or in favour of any foreign creditor except payment into a special restricted account and except payment in respect of—
- (a) an agreement entered into by an importer for the importation of goods or services, including payment for freight, insurance and other costs relating to such imports, provided—
 - (i) such goods or services were not delivered or rendered in the Republic prior to 1 January 1985; and
 - (ii) (aa) payment is made in terms of a documentary letter of credit or in terms of any acceptance or bill drawn under such letter of credit; or
 - (bb) payment is made directly to the foreign supplier of such goods or services or to a collecting banker on his behalf; or
 - (cc) payment is made in terms of a documentary bill accepted by the importer of such goods or services or by a banker on behalf of such importer;
 - (b) interest in accordance with a rate and reasonable costs payable on outstanding loans as approved by the Minister of Finance or a person designated by him;
 - (c) (i) bearer bonds or bearer notes listed or quoted on any stock exchange on 28 August 1985 and issued by or on behalf of the State or any other person; or
 - (ii) bearer bonds or bearer notes, as approved by the Minister of Finance or a person designated by him, issued by or on behalf of the State or any other person;
 - (d) loans guaranteed by a foreign government or an agency of such government;
 - (e) debts payable to international organisations of the United Nations or the Bank for International Settlements;
 - (f) the financial obligations of the South African Reserve Bank, provided that such obligations do not arise from a special restricted account as defined in regulation 4A of the Exchange Control Regulations published under Government Notice R. 1111 of 1 December 1961, as amended, or from a currency transfer guarantee issued by the South African Reserve Bank prior to 2 September 1985;
 - (g) (i) new loans, including interest and costs thereon, provided such loans, interest and costs have been approved by the Minister of Finance or a person designated by him, and provided such loans have been granted on or after 2 September 1985 to any person in the Republic and are not for the replacement of an existing loan; or
 - (ii) such portions of loans, including interest and costs thereon, granted to any person in the Republic prior to 2 September 1985, which are drawn by or paid to the borrower on or after 2 September 1985 with the approval of the Minister of Finance or a person designated by him;

- (h) enige bedrag uit die rekening by 'n geregistreerde finansiële instelling van 'n persoon wat in die buiteland woonagtig is mits sodanige betaling deur die Minister van Finansies of 'n persoon deur hom aangewys, goedgekeur is; of
- (i) enige betaling van 'n lopende aard soos gemagtig kragtens die bepalings van die Deviesebeheerregulasies afgekondig by Goewermentskennisgewing R. 1111 van 1 Desember 1961, soos gewysig.
3. 'n Bankinstelling wat buite die Republiek 'n filiaalmaatskappy gestig of verkry of 'n takkantoor geopen het, moet die nodige stappe doen om die terugbetaling deur so 'n filiaalmaatskappy of takkantoor van verpligtinge van sodanige filiaal of takkantoor te bevries en te voorkom behalwe ten opsigte van—
- (a) die terugbetaling van enige sodanige verpligting wat geskied uit die opbrengs van die realisering van enige bate wat deur sodanige filiaalmaatskappy of takkantoor buite die Republiek gehou word; of
- (b) die terugbetaling van verpligtinge wat in totaal, ten opsigte van enige enkele krediteur, 'n bedrag van minder as 50 000 Amerikaanse Dollars beloop (of 'n gelyke bedrag in enige ander geldeenheid en) wat deur die Minister van Finansies of 'n persoon deur hom aangewys, goedgekeur is.
4. (a) Ondanks andersluidende wetsbepalings is die Openbare Beleggingskommissaris bevoeg en verplig om spesiale beperkte rekenings vir die bereiking van die oogmerke van hierdie regulasies te open en te administreer.
- (b) Enige inbetaling in 'n spesiale beperkte rekening kragtens hierdie regulasies word tot die bedrag van sodanige inbetaling en by uitreiking deur die Openbare Beleggingskommissaris van 'n bevestiging van deposito ten opsigte daarvan in 'n vorm wat deur die Minister van Finansies of 'n persoon deur hom aangewys goedgekeur is, geag 'n regsgeldige aflossing van die betrokke verpligting deur die persoon wat die betaling gemaak het, te wees.
- (c) Die bedrag wat tot die kedit van 'n spesiale beperkte rekening staan—
- (i) dra rente wat berekenbaar en betaalbaar is op 'n wyse, en teen 'n koers, wat van tyd tot tyd deur die Minister van Finansies of 'n persoon deur hom aangewys, bepaal word;
- (ii) is 'n bedrag wat deur die Openbare Beleggingskommissaris verskuldig is aan en deur hulle terugbetaal moet word, op die wyse en in die paaiemente en op die voorwaardes as wat die Minister van Finansies of 'n persoon deur hom aangewys van tyd tot tyd bepaal aan die buitelandse skuldeiser ten gunste van wie die bedrag in die spesiale beperkte rekening inbetaal is;
- (iii) word tot die tydstip waarop sodanige bedrag aan die buitelandse skuldeiser kragtens subparagraaf (ii) terugbetaal word, of aan 'n ander persoon op versoek van die buitelandse skuldeiser betaal word—
- (aa) deur die Openbare Beleggingskommissaris gehou op die voorwaardes en terme wat die Minister van Finansies, of 'n persoon deur hom aangewys, bepaal;
- (h) any amount from an account with a registered financial institution of a person resident outside the Republic, provided such payment has been approved by the Minister of Finance or a person designated by him; or
- (i) any payment of a current nature as authorised under the Exchange Control Regulations published by Government Notice R. 1111 of 1 December 1961, as amended.
3. A banking institution which has outside the Republic established or acquired a subsidiary or opened a branch office shall take the necessary steps to freeze and prevent the repayment by such subsidiary or branch office of liabilities of such subsidiary or branch office except in respect of—
- (a) the repayment of such liability which is made out of the proceeds of the realisation of any asset which is held by such subsidiary or branch office outside the Republic; or
- (b) the repayment of liabilities aggregating, in respect of any single creditor, an amount of less than 50 000 United States Dollars (or an equivalent amount in any other currency) approved by the Minister of Finance or by a person designated by him.
4. (a) Notwithstanding anything to the contrary contained in any other law the Public Investment Commissioners shall have power and be obliged to open and administer special restricted accounts for the achievement of the purposes of these regulations.
- (b) Any payment made into a special restricted account in terms of these regulations shall, to the extent of the sum so paid and upon the issue by the Public Investment Commissioners of a confirmation of deposit in respect thereof in a form approved by the Minister of Finance or by a person designated by him, operate as a valid discharge to the person so making payment.
- (c) The sum standing to the credit of a special restricted account shall—
- (i) bear interest which shall be calculated and be payable in a manner, and at a rate, which shall be determined from time to time by the Minister of Finance or by a person designated by him;
- (ii) be a debt due by and be repaid by the Public Investment Commissioners in such manner and in such instalments and on such conditions as may be determined from time to time by the Minister of Finance or by a person designated by him, to the foreign creditor in whose favour such sum has been paid into the special restricted account;
- (iii) until such time as it is repaid to the foreign creditor in terms of subparagraph (ii) or is paid to another person at the request of the foreign creditor—
- (aa) be held and retained by the Public Investment Commissioners on such terms and conditions as may be determined by the Minister of Finance or a person designated by him;

- (bb) mee handel slegs op die wyse en ooreenkomstig die voorwaardes wat die Minister van Finansies, of 'n persoon deur hom aangewys, bepaal.
- (d) Al die verpligtinge en laste van die Openbare Beleggingskommissarisse met betrekking tot die bedrae wat in spesiale beperkte rekenings inbetaal is en enige gevolglike deposito's is verpligtinge en laste van die Staat.
5. Die Minister van Finansies—
- (a) of 'n persoon deur hom aangewys, kan op die voorwaardes wat hy goeddink 'n persoon van enige van of al die bepalings van hierdie regulasies vrystel, en kan te enige tyd so 'n vrystelling of voorwaarde wysig of intrek;
- (b) kan op die voorwaardes (wat ook garansies, afstanddoenings, ondernemings en waarborge kan insluit) wat hy goeddink, namens die Staat ooreenkomste aangaan met en aanbiedings maak aan die persone wat hy nodig ag, oor enige aangeleentheid wat direk of indirek verband hou met betalings wat kragtens hierdie regulasies verbied is.
6. Hierdie regulasies is bykomend tot die Deviesebeheer-regulasies uitgevaardig by Goewermentskennisgewing R. 1111 van 1 Desember 1961, soos gewysig, en dien nie ter vervanging daarvan nie.
7. Iemand wat 'n bepaling van regulasie 2 of 3 of 'n voorwaarde bedoel in regulasie 5 oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R250 000 of met gevangnisstraf vir 'n tydperk van hoogstens vyf jaar, of met daardie boete sowel as daardie gevangnisstraf.
8. (a) Die regulasies afgekondig by Goewermentskennisgewing R. 2868 van 23 Desember 1985 word hierby herroep.
- (b) 'n Spesiale beperkte rekening geopen uit hoofde van die bepalings van regulasie 2 van die regulasies wat by subregulasie (a) herroep word, bly voortbestaan en word geag uit hoofde van die bepalings van regulasie 2 geopen te gewees het.
9. Hierdie Regulasies tree in werking op 1 April 1986.

- (bb) be dealt with only in such manner and in accordance with such conditions as may be determined from time to time by the Minister of Finance or by a person designated by him.
- (d) All the obligations and liabilities of the Public Investment Commissioners with regard to amounts paid into special restricted accounts and any resulting deposits shall be the obligations and liabilities of the State.
5. The Minister of Finance—
- (a) or a person designated by him may, on such conditions as he may deem fit, exempt any person from any of or all the provisions of these regulations, and may at any time amend or withdraw such exemption or condition;
- (b) may, on such conditions (which may include warranties, waivers, undertakings and guarantees) as he may deem fit, on behalf of the State enter into agreements with and make offers to such persons as he may deem necessary, with regard to any matter which directly or indirectly relates to payments which are prohibited in terms of these regulations.
6. These regulations shall be in addition to and shall not be in substitution of the Exchange Control Regulations published by Government Notice R. 1111 of 1 December 1961, as amended.
7. Any person who contravenes or fails to comply with any provision of regulation 2 or 3 or any condition referred to in regulation 5 shall be guilty of an offence and liable on conviction to a fine not exceeding R250 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.
8. (a) The regulations published by Government Notice R. 2868 of 23 December 1985, are hereby repealed.
- (b) A special restricted account opened by virtue of the provisions of regulation 2 of the regulations repealed by subregulation (a), shall continue to exist and shall be deemed to have been opened by virtue of the provisions of regulation 2.
9. These Regulations shall come into operation on 1 April 1986.

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GOEWERMENSKENNISGEWING		
Finansies, Departement van		
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