



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Verkoopprijs • Selling price
(AVB uitgesluit/GST excluded)

Plaaslik **50c** Local
Buitelands 70c Other countries
Posvry • Post free

Vol. 273

KAAPSTAD, 30 MAART 1988

CAPE TOWN, 30 MARCH 1988

No. 11217

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 605. 30 Maart 1988

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 27 van 1988: Wysigingswet op Uitvoerkrediet- en Buitelandse Beleggingshervorseking, 1988.

No. 605. 30 March 1988

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 27 of 1988: Export Credit and Foreign Investments Re-insurance Amendment Act, 1988.

Wet No. 27, 1988

WYSIGINGSWET OP UITVOERKREDIET- EN BUITELANDSE
BELEGGINGSHERVERSEKERING, 1988

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Uitvoerkrediet- en Buitelandse Beleggingsherversekeringswet, 1957, ten einde die omskrywing van Minister te vervang; die voorsiening vir die herversekering met die Regering van die Republiek van versekeringskontrakte in verband met die verstrekking van waarborge aan bank- of finansiële instellings ten opsigte van sekere lenings aangegaan in verband met sekere handelstransaksies uit te brei; en sekere verouderde uitdrukkings te vervang; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 21 Maart 1988.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 78 van 1957, soos gewysig deur artikel 1 van Wet 66 van 1961, artikel 1 van Wet 75 van 1971 en artikel 1 van Wet 81 van 1981

1. Artikel 1 van die Uitvoerkrediet- en Buitelandse Beleggingsherversekeringswet, 1957 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:

“Minister” die Minister van **[Nywerheidswese, Handel en Toerisme]** Ekonomiese Sake en Tegnologie.”

Wysiging van artikel 2 van Wet 78 van 1957, soos vervang deur artikel 2 van Wet 81 van 1981

2. Artikel 2 van die Hoofwet word hierby gewysig deur paragraaf (c) en die woorde wat daarop volg deur die volgende paragraaf en woorde te vervang:

“(c) ’n lening of soortgelyke fasiliteit wat met so ’n handeling, transaksie of belegging in verband staan en deur ’n persoon wat in die Republiek sake doen aan ’n persoon **[wat buite die Republiek sake doen of ander bedrywighede voortsit,]** toegestaan word,

weens enige van die volgende oorsake—

(i) die uitwerking van ’n wetsbepaling, of van ’n order, bevel of regulasie wat die krag van wet het, wat— 20

(aa) die oordrag van betalings van die land van die koper of van die land waarin die belegging gedoen is, na die Republiek verhinder, beperk of beheer; of

(bb) die invoer van goedere in die land van die koper verhinder, beperk of beheer; of 25

(cc) die oordrag van die land waarin die belegging gedoen is na die Republiek van dividende en rentebetalings ten opsigte van die belegging verhinder, beperk of beheer;

EXPORT CREDIT AND FOREIGN INVESTMENTS RE-INSURANCE
AMENDMENT ACT, 1988

Act No. 27, 1988

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Export Credit and Foreign Investments Re-insurance Act, 1957, so as to substitute the definition of Minister; to extend the provision for the re-insurance with the Government of the Republic of insurance contracts relating to the furnishing of guarantees to banking or financial institutions in respect of certain loans negotiated in connection with certain trading transactions; and to substitute certain outdated expressions; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 21 March 1988.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 78 of 1957, as amended by section 1 of Act 66 of 1961, section 1 of Act 75 of 1971 and section 1 of Act 81 of 1981

- 5 1. Section 1 of the Export Credit and Foreign Investments Re-insurance Act, 1957 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "Minister" of the following definition:

 "Minister" means the Minister of **[Industries, Commerce and Tourism]** Economic Affairs and Technology;"

10 **Amendment of section 2 of Act 78 of 1957, as substituted by section 2 of Act 81 of 1981**

2. Section 2 of the principal Act is hereby amended by the substitution for paragraph (c) and the words following thereupon of the following paragraph and words:

- 15 "(c) any loan or similar facility connected with any such act, transaction or investment and granted by a person carrying on business in the Republic to **[a] any person [carrying on business or other activities outside the Republic],** for any of the following causes—
- 20 (i) the operation of a law, or of an order, a decree or a regulation having the force of law, which—
- (aa) prevents, restricts or controls the transfer of payments from the buyer's country or from the country in which the investment was made, to the Republic; or
- (bb) prevents, restricts or controls the importation of goods into the buyer's country; or
- 25 (cc) prevents, restricts or controls the transfer from the country in which the investment was made to the Republic of dividends and interest in respect of the investment;

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- (ii) onteining of verbeurdverklaring;
- (iii) die uitbreek van oorlog;
- (iv) die uitbreek van vyandelikhede, burgeroorlog, rebellie, rewolusie, opstand, of ander oproerigheid buite die Republiek; **[of]**
- (ivA) die versuim om 'n lening wat aangegaan is met die doel om 'n handelstransaksie met 'n persoon in 'n land buite die Republiek aan te gaan, terug te betaal, of om 'n lening wat in verband met sodanige transaksie aangegaan is, terug te betaal; of
- (v) sodanige ander oorsake as wat volgens die beskouing van die Minister in oorlog met die Minister van Finansies, ontstaan uit risiko's wat nie 10 normaalweg versekerbaar is nie."

Wysiging van artikel 5 van Wet 78 van 1957, soos gewysig deur artikel 3 van Wet 88 van 1962 en artikel 3 van Wet 81 van 1981

3. Artikel 5 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang: 15

"(1) Die Minister **[stel]** moet 'n Fonds, bekend te staan as die Herversekeringsfonds vir Uitvoerkrediet en Buitelandse Beleggings, **[in]** instel onder die beheer van die Direkteur-generaal: **[Nywerheidswese, Handel en Toerisme]** Handel en Nywerheid, waarin die gelde wat deur die Parlement vir die doeleindes van hierdie Wet bewillig word en premies en ander gelde 20 wat aan die Minister onder herversekeringskontrakte toeval, inbetaal moet word."; en
- (b) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die Minister moet in oorlog met die Minister van Finansies **[bepaal]** van tyd tot tyd die bedrag in die Fonds bepaal wat beskikbaar gehou moet 25 word vir die betaling van enige subartikel (2) bedoelde eise, verpligtings, gelde en koste, en die balans van die gelde in die Fonds bo en behalwe die aldus bepaalde bedrag word geag deposito's vir die doeleindes van die Wet op **[Staatskuldkommissaris, 1969 (Wet No. 2 van 1969)]** die Openbare Beleggingskommissaris, 1984 (Wet No. 45 van 1984), te wees, en 30 daarmee word dienoooreenkomstig gehandel."

Vervanging van artikel 9 van Wet 78 van 1957, soos vervang deur artikel 4 van Wet 81 van 1981

4. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:

"Delegasie van bevoegdhede van Minister

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9. Enige bevoegdheid wat kragtens hierdie Wet deur die Minister alleen uitgeoefen kan word, kan uitgeoefen word deur 'n beampte in die Departement van **[Nywerheidswese, Handel en Toerisme]** Handel en Nywerheid daartoe gemagtig deur die Minister; en enige bevoegdheid wat kragtens hierdie Wet uitgeoefen kan word deur die Minister in 40 oorlog met die Minister van Finansies, kan uitgeoefen word deur 'n beampte in die Departement van **[Nywerheidswese, Handel en Toerisme]** Handel en Nywerheid in oorlog met 'n beampte in die Departement van Finansies onderskeidelik daartoe gemagtig deur die Minister en die Minister van Finansies."

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Kort titel

5. Hierdie Wet heet die Wysigingswet op Uitvoerkrediet- en Buitelandse Beleggingsherversekering, 1988.

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- (ii) expropriation or confiscation;
- (iii) the occurrence of war;
- (iv) the occurrence of hostilities, civil war, rebellion, revolution, insurrection, or other disturbance outside the Republic; **[or]**
- 5 (ivA) the failure to repay a loan negotiated for purposes of entering into a trading transaction with a person in a country outside the Republic, or to repay a loan negotiated in connection with such transaction; or
- (v) such other causes as the Minister may in consultation with the Minister of Finance deem to arise from risks not normally insurable.”.

10 Amendment of section 5 of Act 78 of 1957, as amended by section 3 of Act 88 of 1962 and section 3 of Act 81 of 1981

3. Section 5 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
15 “(1) The Minister shall establish a Fund, to be known as the Re-insurance Fund for Export Credit and Foreign Investments, under the control of the Director-General: **[Industries, Commerce and Tourism]** Trade and Industry, into which shall be paid moneys appropriated by Parliament for the purpose of this Act and premiums and other moneys accruing to the Minister under contracts of re-insurance.”; and
- 20 (b) by the substitution for subsection (3) of the following subsection:
“ (3) The Minister in consultation with the Minister of Finance shall from time to time determine the amount in the Fund which shall be kept available for the payment of any claims, liabilities, fees and costs referred in subsection (2), and the balance of the moneys in the Fund over and
25 above the amount so determined shall be deemed to be deposits for the purposes of the Public **[Debt Commissioners Act, 1969 (Act No. 2 of 1969)]** Investment Commissioners Act, 1984 (Act No. 45 of 1984), and shall be dealt with accordingly.”.

Substitution of section 9 of Act 78 of 1957, as substituted by section 4 of Act 81 of 1981

- 30 4. The following section is hereby substituted for section 9 of the principal Act:

“Delegation of powers of Minister

- 9. Any power which may be exercised under this Act by the Minister alone, may be exercised by any officer in the Department of **[Industries, Commerce and Tourism]** Trade and Industry deputed thereto by the
35 Minister; and any power which may be exercised under this Act by the Minister in consultation with the Minister of Finance, may be exercised by any officer in the Department of **[Industries, Commerce and Tourism]** Trade and Industry in consultation with an officer in the Department of Finance respectively deputed thereto by the Minister and the Minister of
40 Finance.”.

Short title

- 5. This Act shall be called the Export Credit and Foreign Investments Re-insurance Amendment Act, 1988.

