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BOARD NOTICE

NOTICE 72 OF 1999

SHORT-TERM INSURANCE ACT, 1998 (ACT NO 53 OF 1998)

POLICYHOLDER PROTECTION RULES (SHORT-TERM INSURANCE)

The Registrar of Short-term Insurance hereby gives notice under section 55(3) of the Short-term Insurance Act, 1998 (Act No 53 of 1998), that it is intended to promulgate, under section 55 of the said Act, the Policyholder Protection Rules (Short-term Insurance) which are set out in the Schedule hereto, as proposed by the Registrar after consultation with the Advisory Committee on Short-term Insurance established by section 6 of the said Act.

All interested persons are hereby invited to make representations in the format/matrix set out below, on the proposed Rules so as to reach the Registrar within 60 days after the date of publication of this Notice, at the following address:

Attention Mr M Botha
Financial Services Board
P.O. Box 35655
MENLO PARK
0102

- (iv) "ensure", in relation to a person or body and any matter mentioned in a provision of these Rules, means to take, any necessary steps in order that the clear objective of the provision is achieved;
- (v) "enter into", in respect of a policy, includes the renewal of any such policy: Provided that in the case of monthly policies only the renewal after the entering into of the policy effected during every consecutive twelfth month of the currency of the policy shall qualify as a renewal referred to in this definition;
- (vi) "inspection" means any inspection contemplated in the Inspection of Financial Institutions Act, 1998 (Act No 80 of 1998);
- (vii) "insurance party involved" means any insurer or independent intermediary directly involved in the entering into or variation of a policy with the policyholder concerned;
- (viii) "insurer" means a short-term insurer, and includes any representative of the insurer, any independent intermediary referred to in section 48(2) of the Act;
- (ix) "policy" means any short-term policy existing on the date envisaged in section 55(5) of the Act or entered into on or after that date, but excludes a reinsurance policy;
- (x) "policyholder" means any natural person, close corporation or partnership who or which holds any policy, and includes any such prospective holder of a policy;
- (xi) "variation", in respect of a policy, means any variation of the premiums or benefits of the policy, excluding any periodic variation in terms of a contractually determined inflation-connected formula, or otherwise in terms of fixed contractually determined provisions.

PURPOSE OF THE RULES

2. The purposes of disclosures referred to in this Part are to enable a policyholder to make informed decisions in regard to short-term insurance products, whether by way of comparison or by the weighing up of alternatives, and to ensure that the parties involved conduct business fairly and with appropriate care and diligence, in the best interests of policyholders and the short-term industry.

PART II

SUMMARY OF THE RULES

- 3.1. A policyholder who deals directly with an insurer without using an independent intermediary or otherwise asking for advice does so at his own risk and has only limited protection in terms of these Rules, unless such policyholder requests that all rights be maintained. The insurer is obliged to explain to the policyholder what his rights are.
- 3.2. All independent intermediaries shall disclose this Summary of the Rules to a policyholder at the earliest reasonable opportunity before entering into any initial or additional insurance transaction with that policyholder. The obligation to disclose this Summary does not apply to direct offerings by an insurer and may also be specifically waived by a policyholder.
- 3.3. All independent intermediaries shall ensure that they disclose at the earliest reasonable opportunity to a policyholder that they deal with, full details of their identity, their qualifications and experience, which insurance products they may sell and which companies they represent and in what legal capacity they operate.
- 3.4. All policyholders entering into an insurance transaction are entitled to be provided with adequate information about the impact of any decision that they are being asked or elect to make. This includes cost, affordability, impact on their insurance portfolio, flexibility and contract terms.

- 3.5 An insurer shall ensure that it communicates at least once with a policyholder to provide details of:- its identity; the product being purchased or transaction being undertaken, including, the relevant costs associated with the transaction; the contractual terms and the institutional details for transactions and complaints.
- 3.6 An insurer shall ensure that it accredits independent intermediaries on the products that those independent intermediaries may sell or service for that insurer, based on appropriate information and training.
- 3.7 Any policyholder that has a complaint about the conduct of an independent intermediary or insurer in complying with these rules or otherwise must address that complaint to the compliance officer at the insurer or to the short-term insurance ombudsman if applicable or if still unsatisfied to the Registrar at the Financial Services Board.
- 3.8 Any insurer or independent intermediary that fails to comply with these Rules may be guilty of an offence and liable for prosecution.
- 3.9 An insurance party involved shall ensure that where a policy is to be entered into or varied, disclosures of particular information are made to each policyholder concerned prior to the relevant effective date of such entering into or variation, in accordance with the provisions of the Rules in Part III.
- 3.10 All disclosures contemplated in rule 3.9 shall be in writing or, if so made orally or otherwise at the request of the policyholder, be confirmed in writing (any such written document being referred to in these Rules as a disclosure document) within thirty days after such disclosure and shall be furnished to every policyholder.
- 3.11 The furnishing of any disclosure document shall not prevent a policyholder from lodging a complaint with any insurance party involved or the Registrar or any other appropriate body or person, or from obtaining any other legal redress, on the grounds of misleading or false disclosures, or for any non-disclosure, or on any other ground related to such disclosures or non-disclosures recognised by law for the purposes of such redress.

3.12 The following principles shall apply in regard to disclosures contemplated in Part III:

- (a) The onus of compliance with the provisions of this Part shall rest on the insurance party involved: Provided that a responsibility shall vest in the insurer to be satisfied by the taking of reasonable steps that where such onus rests on an independent intermediary, that independent intermediary shall at all times properly comply with the provisions contained in Part III;
- (b) disclosure documents must be framed in plain language and in a format designed to promote easy comprehension and to avoid uncertainty or confusion.

PART III

DETAILS OF DISCLOSURE

4. Principles of disclosures

4.1 The following shall apply to disclosure contemplated in these Rules:

- (a) The independent intermediary or insurer as applicable shall bear the onus of proving that a disclosure has been made.
- (b) Disclosure must be in plain language and set out so as to promote easy comprehension and to avoid uncertainty or confusion.
- (c) Disclosure shall be made at an appropriate time and need only be made in respect of significant or material transaction and may be made in writing, orally, using any appropriate electronic media or by telefax.
- (d) An insurer or independent intermediary as appropriate shall ensure that they confirm any disclosure to the policyholder in writing where requested or agreed to by the policyholder.
- (e) Disclosures need not be duplicated or repeated to the same policyholder unless material or significant changes which will affect that policyholder have occurred or the transactions contemplated make it desirable or necessary.

- (f) Disclosures may be validly made using standard forms or format.

5. Obligatory disclosures

5.1 An independent intermediary before dealing with a policyholder in respect of an insurance transaction shall ensure that at least the following disclosures, where applicable, are made once to the policyholder:

- (a) full names, titles or designations, postal and physical addresses of the independent intermediary's head office and issuing office, and telephonic and electronic numbers, communication details of contact persons;
- (b) the status and relationship with the insurer involved and proof of authority or mandate to act, including whether more than 10% shares are held directly or indirectly in the insurer, whether they are affiliated companies and whether more than 30% of business is placed with any particular insurer in any one year;
- (c) whether they hold professional indemnity insurance and, if so, the name of the underwriting insurer and the limit (if any) of any such indemnity;
- (d) details of required claims notification procedures; and
- (e) the amount of the consideration referred to in section 48 of the Act accruing to the independent intermediary in respect of the relevant entering into or variation of the policy concerned, and of any fee contemplated in section 8(5) of the Act (if any);

5.2 An insurer shall ensure that it makes at least the following disclosures to the policyholder, as soon as is practical after an insurance transaction is initiated:

- (a) full registered name and abbreviation name, postal and physical addresses of the head office and issuing office, telephonic and electronic numbers, and communication details of contact persons;

- (b) details of procedures (if any) for the resolution of complaints by policyholders, including complaints in respect of independent intermediaries or representatives involved;
- (c) claims notification procedures;
- (d) name, class or type of policy involved;
- (e) nature and extent of monetary obligations assumed by the policyholder, manner of payment of premiums and the consequences of non-payment of such premiums;

5.3 As regards the policy involved, an insurer shall ensure that it makes at least the following disclosures to the policyholder, as soon as is practical after an insurance transaction is initiated, including, where applicable, its variation:

- (a) name, class or type of policy involved;
- (b) nature of benefits for the policyholder, manner of deriving or obtaining thereof, and manner of payment or furnishing of benefits, as the case may be;
- (c) nature and extent of monetary obligations assumed by the policyholder, manner of compliance therewith and consequences of non-compliance;
- (d) loadings, excesses payable, exclusions or other special terms or conditions.

5.4 A document containing the suggested key features is annexed as Annexure 1 to these Rules.

Other disclosures

6. The provisions of this Part shall not be construed as preventing any insurance party involved in any particular case to make any other or additional disclosures to a policyholder before the effective date, where such disclosures will promote the better achieving of the objects of these Rules and are deemed necessary or expedient in the

circumstances of the particular case, or to comply with any other code of business conduct provisions applying lawfully to any such party.

Standardised disclosures

7. Without prejudice to the provisions of Rules 4 and 5, an insurer, or any of its independent intermediaries with the concurrence of the insurer, may draft standardised disclosure documentation in respect of any particular class or type of policy, to be used for the purpose of complying with the provisions of this Part: Provided that -

- (a) such documentation is current on any relevant effective date; and
- (b) such use does not exonerate any insurance party involved from compliance with any disclosure requirement of this Part not addressed, or not fully addressed, in such documentation.

Consequences of non-compliance

8.1 Where a policyholder considers that a provision of this Part has been contravened or not complied with by any insurance party involved in a policy held by him or her, such policyholder may lodge a written complaint to the insurance party involved and, if such complaint is not resolved to the satisfaction of the policyholder, to the Registrar: Provided that the foregoing provisions of this rule shall with the necessary changes also apply to any insurer, independent intermediary, representative or any other interested member of the public who or which considers that any provision of this Part has in connection with any policy and in any particular case been contravened or not complied with.

8.2 The Registrar shall, on receipt of any such complaint, require the insurance party involved by written notice to provide the Registrar within a period determined by the Registrar with a full reply to the complaint.

8.3 (a) The Registrar may, whether an inspection has been carried out or not, and where a breach of these Rules has been established to the Registrar's satisfaction, after informing the insurance party or parties involved of the intention so to act and affording them a reasonable opportunity to respond

thereto, by written notice require any insurance party involved to take particular corrective steps in accordance with a specified timetable, and the Registrar may take any other step in connection with the breach which is available to the Registrar in law.

- (b) An insurance party involved to which a notice contemplated in rule 8.2 or paragraph (a) of rule 8.3 has been directed, shall within the period determined by the Registrar in the notice, or within any extended period determined by the Registrar on written application by the party, comply with the requirements stated in the relevant notice.

PART IV

VOID PROVISIONS AND FORMAT

Void provisions

9.1 A provision of a policy of which the effective date of the entering into thereof is a date on or after a date 90 days after the date referred in section 55(5) of the Act, is void to the extent that it provides expressly or by implication -

(a) that before a claim under the policy is considered by the insurer, the policyholder must undergo a polygraph, lie detector or truth verification, or any other similar, test or procedure which is furnished or made available by the insurer or any other person in terms of an arrangement with the insurer and which is conducted under the control of the insurer or such other person;

(b) for an inducement of any nature for a policyholder to voluntarily agree to undergo a test or procedure envisaged in paragraph 9.1(a) where the policyholder submits a claim under the policy;

(c) that where a policyholder under other circumstances than those contemplated in paragraph 9.1(b) voluntarily agrees to undergo a test or procedure envisaged in paragraph 9.1(a) where the policyholder submits a claim under the policy, and the policyholder fails to pass such test, the claim will be repudiated or the policy will become void merely as a result of such failure to pass the test or procedure;

- (d) that in the event of any dispute arising under the policy, the dispute can only be resolved by means of arbitration.

9.2 Paragraph 9.1 shall not be construed as voiding a provision of a policy that the parties may, after a dispute under the policy has arisen, voluntarily agree to submit the dispute to arbitration or, in the absence of such a provision, as voiding any agreement between the parties to that effect.

Format of policies

10. An insurer involved shall ensure that a policy of which the effective date of the entering into thereof is a date on or after a date 90 days after the date referred in section 55(5) of the Act, is only issued to a policyholder concerned if the provisions of the policy are recorded, as regards layout, letter types and spacing, in an easily readable manner and if the wording of every provision of the policy has a reasonably precise ascertainable meaning.

PART V GENERAL

Additional duties of insurers and independent intermediaries

- 11.1 (a) Subject to paragraph 11.1(b), an insurer must, where an agreement is to be entered into with an independent intermediary for the rendering of services as independent intermediary, furnish the independent intermediary with a written mandate or authority to act on behalf of the insurer, setting out the terms and conditions of such mandate or authority.
- (b) An insurer must in the case of an agreement contemplated in paragraph 11.1(a) existing immediately prior to the date referred to in section 55(5) of the Act, and which does not contain any written mandate or authority contemplated in paragraph 11.1(a), within 30 days after the said date furnish such independent intermediary with such written mandate or authority.

11.2 An insurance party involved -

- (a) shall ensure that any debit order to be signed by a policyholder on or after a date 30 days after the date referred to in section 55(5) of the Act, for the payment of premiums to any such party, shall not be drafted to be in favour of any other person (whether conjointly with the insurance party involved or as an alternative) but such first mentioned party;
- (b) shall not unilaterally terminate any current debit order signed by a policyholder without having informed the policyholder in writing of the intention so to terminate the debit order at least 30 days before the effective date of such envisaged termination.

11.3 An insurer shall not -

- (a) unilaterally terminate any policy without informing the policyholder in writing at least 30 days before the date on which such termination is to become effective, of such termination;
- (b) terminate any policy merely by giving notice thereof to an independent intermediary involved in the policy.

11.4 An insurer shall ensure that where any decision has been made as to the repudiation of any claim under a policy, or as regards the quantum of a claim which is in dispute, the policyholder concerned is in writing informed of the reasons for the decision and that the policyholder may within a period of not less than ninety days after the date of the relevant decision make representations to the relevant insurer in respect of such decision.

11.5 An insurer shall ensure that a policy to be entered into on or after a date 90 days after the date referred to in section 55(5) of the Act, contains a provision for a period of grace for the payment of premiums of not less than 15 days after the relevant due date: Provided that in the case of a monthly policy, such provision must apply with effect from the second month of the currency of the policy.

Termination and alteration of certain agreements and relationships

12.1 No termination of any agreement contemplated in rule 11.1(a) and (b) between any insurer and an independent intermediary, irrespective of whether the termination has been mutually agreed upon, or is effected by any one party by notice to the other, shall be effective unless -

- (a) all policyholders holding still current policies entered into by that insurer through the intermediation of that independent intermediary, have beforehand been in writing informed of the termination by either the insurer or the independent intermediary, or by both; and
- (b) both such insurance parties are beforehand satisfied that all reasonable steps have been taken for such information to reach all such policyholders.

12.2 The provisions of rule 12.1 shall, with the necessary changes, apply in respect of any change occurring in the status or relationship, or authority or mandate, of any independent intermediary, referred to in Rule 5.1(b).

Records, monitoring systems and annual reports

13.1 An insurance party involved must in writing or by any appropriate electronic means keep record of all disclosures required to be made by the provisions of these Rules, including the manner of disclosure, in respect of the entering into or variation of any particular policy, which records must be kept available for a period of at least three years for inspection by the Registrar.

13.2 Insurers and independent intermediaries shall within 6 months from the date of coming into operation of these Rules, ensure that they provide:

- (a) for monitoring systems to measure compliance with these Rules ;
- (b) where necessary, for information or training courses for persons employed or contracted in such business, in respect of the implementation by them of these Rules;

- (c) for the accreditation of the relevant knowledge, competency and proficiency of such persons in the products that they represent within 6 months of such person becoming active;
- (d) for the ongoing recordal of the knowledge, competency and proficiency of accredited persons

13.3 Every insurer shall, within a period of four months after the end of every financial year, submit a written report to the Registrar, in respect of the period of every such financial year, on -

- (a) all steps taken by the insurer to ensure compliance with the provisions of these Rules, and the reasons for any non-compliance which may have occurred;
- (b) problems experienced by the insurer and any of its representatives with the interpretation or implementation of these Rules, and suggestions or recommendations for improvements or other amendments; and
- (c) full details of any complaints received by the insurer in connection with the implementation of these Rules, and of all steps taken in connection therewith.

Special duties of Registrar

14. The Registrar -

- (a) may take any step deemed necessary or expedient to inform policyholders and the public in general of the existence, ambit and meaning of these Rules and of available avenues or mechanisms for lodging of complaints;
- (b) shall ensure that copies of these Rules and of any guidelines referred to in paragraph 14(c) are readily available at the Registrar's office for distribution at the request of any person at a reasonable fee determined on a non-profit basis by the Registrar to cover costs and expenses;

(c) may from time to time, with the concurrence of the Advisory Committee, issue non-binding -

- (i) guidelines on the interpretation and implementation of these Rules; and
- (ii) best conduct directives for independent intermediaries and representatives;

(d) shall -

- (i) annually compile a compliance review summarising the import of reports referred to in Rule 13.3 and containing advice deemed necessary or expedient in connection with the achieving of the objects of these Rules, including recommendations on the amendment of these Rules or of the Act, including advice not specifically connected to such reports; and
- (ii) submit such compliance review to the Advisory Committee for consideration;

Waiver of rights

15. No waiver by any policyholder of any right or benefit granted or furnished to the policyholder by any provision of these Rules, shall be valid and enforceable.

Penalties

16. An insurance party involved who contravenes or fails to comply with a provision of these Rules shall be guilty of an offence and on conviction liable to a penalty or fine referred to in section 64(1)(c) or 65(1)(c), as the case may be, of the Act.

PART V

TITLE

Title

17 These Rules shall be called the Policyholder Protection Rules (Short-term Insurance).

Quotation No:

ANNEXURE 1**KEY FEATURES DOCUMENT**

The intention of this document is to provide key information that you may need to know before deciding to take out your proposed new policy.

Name of Insured:	John Smith	Class of Insurance:	Motor
Name of Insurer:	SA Eagle Insurance Company		Kroonstad.
Name of Intermediary:	Price Forbes	Office:	Kroonstad
	Contact Person:		R M Maitland
Head Office of Intermediary	25 Sauer Street Johannesburg.		
Contact person & telephone:	H van der Merwe - 011 378-3000		
Intermediary authorized to collect premiums in terms of Insurance Act:	Yes		Authorization No:
	No		123456

The cover to be provided:-**The vehicle & registration No:-**

BMW 320 ABC 123 GP

The vehicle & registration No:-

Market value* R100 000.

*This is the cost of purchasing a similar vehicle of similar condition and mileage. It is normally worked out by taking the average of the trade-in and selling prices as published in the Auto Dealers Digest.

Excesses:

Basic - R1000.00

Hijack or theft - R2 000 unless

Drivers under 25 - an additional R1 000

Other

Premium :-

R5 000 per annum or R450.00 per month.

Period of Cover:

Either 12 months or 1 month from the date required and as confirmed by the Intermediary or Insurer.

Main Exclusions:

Unlicensed drivers

Driving under influence of alcohol or drugs.

Others

Warranties:

Vehicle to be kept in a locked garage at night. Gearlock to be fitted.

NB: No cover will apply if a warranty is not adhered to.**Costs:-**

Premium Not all amounts paid in premium go towards the settlement of claims. All insurers incur administration and acquisition costs whether the policy is placed direct or via an intermediary. The administration and acquisition costs of the proposed insurer during their last Financial year was

%

The maximum amount of commission that may be paid by Insurers from your premium and which is included in the above percentage. is laid down in the Insurance Act at:-

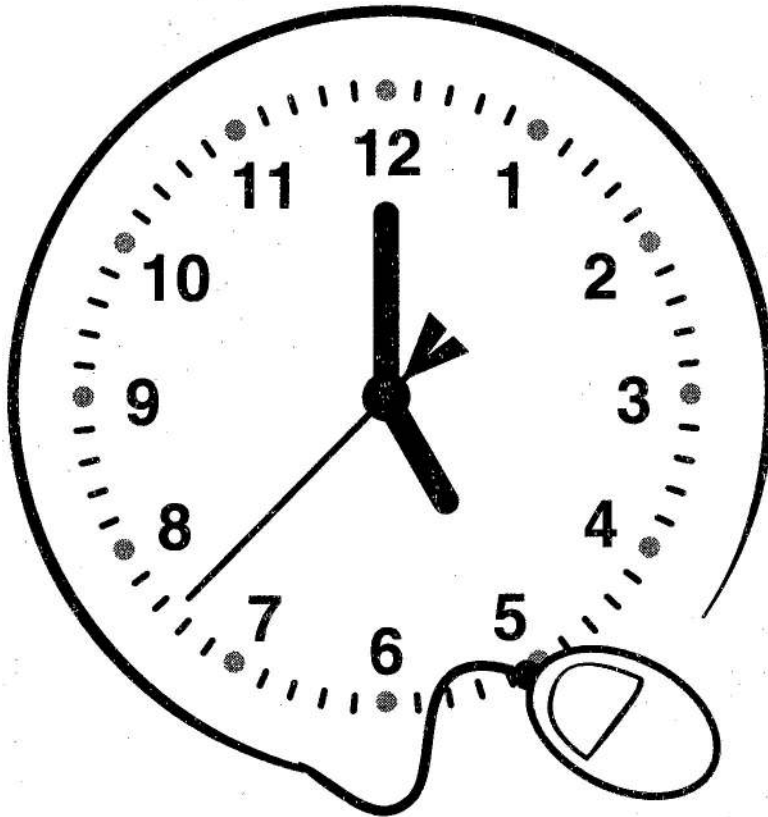
Motor - 12½% and All Other Insurance - 20%

Other Costs - In addition to the above commission, your intermediary will charge you the following amount on an ongoing basis:

R15.00 per month.**IMPORTANT MESSAGE:**

It is impossible to set out all of the terms and conditions of a proposed policy in a document of this nature and this document does not constitute a contract between yourself and the Insurer. You may, if you wish, request a full copy of the proposed policy before or after making your decision. Further, the statements that you have made in your proposal, in writing or verbal, form the basis of the proposed policy.

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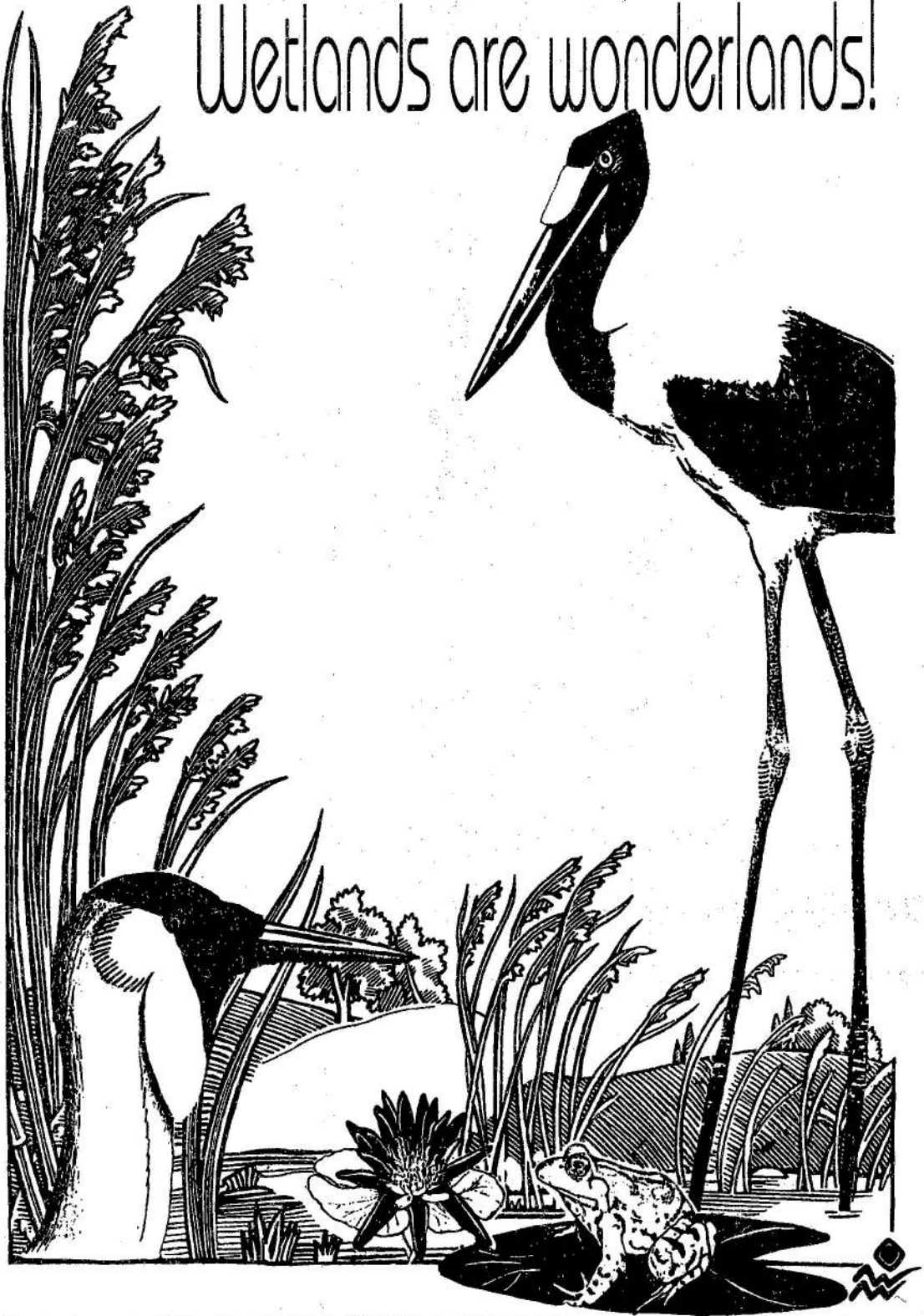
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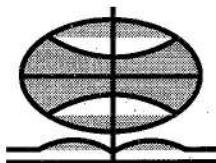
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CONTENTS**No.****Page
No. Gazette
No.****BOARD NOTICE**

72	Short-term Insurance Act (53/1998): Policy holder Protection Rules (Short-term Insurance).....	1	20277
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