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GOVERNMENT GAZETTE

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OFFICE OF THE PRIME MINISTER

KANTOOR VAN DIE EERSTE MINISTER

No. 2190. 21 October 1981.

No. 2190. 21 Oktober 1981.

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

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

No. 81 of 1981: Export Credit Re-insurance Amendment Act, 1981.

No. 81 van 1981: Wysigingswet op Uitvoerkrediet-herversekering, 1981.

Act No. 81, 1981

EXPORT CREDIT RE-INSURANCE AMENDMENT ACT, 1981

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 Re-insurance Act, 1957, relating to the definitions; so as to provide for the re-insurance with the Government of the Republic of insurance contracts in connection with any share or interest acquired in any business undertakings in countries outside the Republic; to change the name of the fund established for the purposes of the Act; and to adapt the references to certain posts and to the Department to the altered designations thereof; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 1 October 1981.)

BE IT ENACTED by the State President and the House of Assembly 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 and section 1 of Act 75 of 1971.

1. Section 1 of the Export Credit Re-insurance Act, 1957 (hereinafter referred to as the principal Act), is hereby amended 5 by—

(a) the substitution for the definition of "Fund" of the following definition:

"Fund" means the **[Export Credit Re-insurance Fund] Re-insurance Fund for Export Credit and Foreign Investments** established under section 5;"; 10

(b) the insertion after the definition of "Fund" of the following definition:

"investment" means any share or interest in any **business undertaking in any country outside the Republic which could promote the exports of the Republic to or the economic development of that country, and which is acquired with the object of earning income;**"; and 15

(c) the substitution for the definition of "Minister" of the following definition: 20

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

Substitution of section 2 of Act 78 of 1957, as amended by section 2 of Act 66 of 1961 and section 1 of Act 88 of 1962.

2. The following section is hereby substituted for section 2 of the principal Act:

Agreement for re-insurance. 2. The Minister may enter into an agreement with 25 any person who is a registered insurer as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), with the object of re-insuring, against the payment of a premium and on such other terms and conditions as may, in consultation with the Minister 30 of Finance, be prescribed in such agreement, any contracts of insurance entered into by such person with, or for the benefit of, persons carrying on business in the Republic, being contracts of insurance against risk of monetary loss or monetary 35

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ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.
- _____** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Uitvoerkrediet-herversekeringswet, 1957, met betrekking tot die woordskrywings; ten einde voorsiening te maak vir die herversekering met die Regering van die Republiek van versekeringskontrakte in verband met enige aandeel of belang verkry in besigheidsondernemings in lande buite die Republiek; die naam van die fonds wat vir die doeleindes van die Wet ingestel is, te verander; en om die verwysings na sekere poste en na die Departement aan te pas by die veranderde benamings daarvan; en om vir bykomende aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 1 Oktober 1981.)

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

1. Artikel 1 van die Uitvoerkrediet-herversekeringswet, 1957 (hieronder die Hoofwet genoem), word hierby gewysig—
- 5 (a) deur voor die omskrywing van „die Gebied” die volgende omskrywing in te voeg:
- „belegging’ enige aandeel of belang in ’n besigheids-
10 onderneming in enige land buite die Republiek wat die Republiek se uitvoer na of die ekonomiese ontwikkeling van daardie land sou kon bevorder, en wat verkry word met die doel om inkomste te verdien;”;
- (b) deur die omskrywing van „Fonds” deur die volgende omskrywing te vervang:
- 15 „Fonds” die **[Uitvoerkrediet-herversekeringsfonds] Herversekeringsfonds vir Uitvoerkrediet en Buitelandse Beleggings** ingestel kragtens artikel 5;” en
- 20 (c) deur die omskrywing van „Minister” deur die volgende omskrywing te vervang:
- „Minister” die Minister van **[Ekonomiese Sake] Nywerheidswese, Handel en Toerisme;**”.

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

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:
- 25 „Ooreenkoms vir her-
versekering. 2. Die Minister kan met enige persoon wat ’n geregistreerde versekeraar soos omskryf in artikel 1 van die Versekeringswet, 1943 (Wet No. 27 van 1943), is, ’n ooreenkoms aangaan met die oogmerk om, teen betaling van ’n premie en op sodanige ander bedinge en voorwaardes as wat in oorleg met die Minister van Finansies in daardie ooreenkoms voorgeskryf mag word, enige versekeringskontrakte wat deur daardie persoon aangegaan word met of ten behoeve van persone wat in die Republiek sake doen, te herverseker, synde versekeringskontrakte teen risiko van geldelike verlies of geldelike skade
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Vervanging van artikel 2 van Wet 78 van 1957, soos gewysig deur artikel 2 van Wet 66 van 1961 en artikel 1 van Wet 88 van 1962.

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detriment attributable to circumstances beyond control of the person suffering the loss or detriment and arising out of or in connection with—

(a) acts or transactions in the course of trade with countries outside the Republic; or **[out of or in connection with]** 5

(b) investments in countries outside the Republic; or

(c) any loan or similar facility connected with any such act **[or]**, transaction or investment and granted by a person carrying on business in the Republic to a person carrying on business or other activities outside the Republic,

for any of the following causes—

[(a)] (i) the operation of a law, or of an order, a decree or regulation having the force of law, which—

[(i)] (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 20

[(ii)] (bb) prevents, restricts or controls the importation of goods into the buyer's country; or

(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; 25

(ii) expropriation or confiscation;

[(b)] (iii) the occurrence of war;

[(c)] (iv) the occurrence of hostilities, civil war, rebellion, revolution, insurrection, or other disturbance outside the Republic; or 30

[(d)] (v) such other causes as the Minister may in consultation with the Minister of Finance deem to arise from risks not normally insurable.”.

Amendment of section 5 of Act 78 of 1957, as amended by section 3 of Act 88 of 1962.

3. Section 5 of the principal Act is hereby amended— 35

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Minister shall establish a Fund, to be known as the **[Export Credit Re-insurance Fund] Re-insurance Fund for Export Credit and Foreign Investments,** 40 under the control of the **[Secretary for Commerce and Industries] Director-General: Industries, Commerce and Tourism,** into which shall be paid moneys appropriated by Parliament for the purpose of this Act and premiums and other moneys accruing to the 45 Minister under contracts of re-insurance.”;

(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 50 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 above the amount so determined shall be deemed to be deposits for the 55 purposes of the Public Debt Commissioners Act, **[1911 (Act No. 18 of 1911),] 1969 (Act No. 2 of 1969),** and shall be dealt with accordingly.”.

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wat te wyte is aan omstandighede buite die beheer van die persoon wat die verlies of skade ly en wat voortvloei uit of in verband staan met—

- 5 (a) handelinge of transaksies in die loop van handel met lande buite die Republiek; of **[uit of in verband met]**
- (b) beleggings in lande buite die Republiek; of
- 10 (c) 'n lening of soortgelyke fasiliteit wat met so 'n handeling, **[of]** 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—
- 15 **[(a)]** (i) die uitwerking van 'n wetsbepaling, of van 'n order, bevel of regulasie wat die krag van wet het, wat—
- [(i)]** (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
- 20 **[(ii)]** (bb) die invoer van goedere in die land van die koper verhinder, beperk of beheer; of
- (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;
- 25 (ii) onteiening of verbeurdverklaring;
- 30 **[(b)]** (iii) die uitbreek van oorlog;
- [(c)]** (iv) die uitbreek van vyandelikhede, burgeroorlog, rebellie, rewolusie, opstand, of ander oproerigheid buite die Republiek; of
- 35 **[(d)]** (v) sodanige ander oorsake as wat volgens die beskouing van die Minister in oorleg met die Minister van Finansies, ontstaan uit risiko's wat nie normaalweg versekerbaar is nie.”.

3. Artikel 5 van die Hoofwet word hierby gewysig—

- 40 (a) deur subartikel (1) deur die volgende subartikel te vervang:
- „(1) Die Minister stel 'n Fonds, bekend te staan as die **[Uitvoerkrediet-herversekeringsfonds]** Her-versekeringsfonds vir Uitvoerkrediet en Buitelandse Beleggings, in onder die beheer van die **[Sekretaris van Handel en Nywerheid]** Direkteur-generaal: Nywerheidswese, Handel en Toerisme, waarin die gelde wat deur die Parlement vir die doeleindes van hierdie Wet bewillig word en premies en ander gelde wat aan die Minister onder herversekeringskontrakte toeval, inbetaal moet word.”; en
- 50 (b) deur subartikel (3) deur die volgende subartikel te vervang:
- „(3) Die Minister in oorleg met die Minister van Finansies bepaal van tyd tot tyd die bedrag in die Fonds wat beskikbaar gehou moet word vir die betaling van enige in 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 **[„Openbare Schuld Kommissarissen Wet, 1911” (Wet No. 18 van 1911),]** Wet op Staatskuldkommissaris, 1969 (Wet No. 2 van 1969), te wees, en daarmee word dienooreenkomstig gehandel.”.
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Wysiging van artikel 5 van Wet 78 van 1957, soos gewysig deur artikel 3 van Wet 88 van 1962.

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Substitution of section 9 of Act 78 of 1957.

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 **[Commerce and Industries]** Industries, Commerce and Tourism deputed thereto by the 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 **[Commerce and Industries]** Industries, Commerce and Tourism in consultation with an officer in the Department of Finance respectively deputed thereto by the Minister and the Minister of Finance.”

Substitution of section 13 of Act 78 of 1957.

5. The following section is hereby substituted for section 13 of the principal Act:

“Short title.

13. This Act shall be called the **[Export Credit Re-insurance Act]** Export Credit and Foreign Investments Re-insurance Act, 1957.”

Substitution of long title of Act 78 of 1957, as amended by section 7 of Act 88 of 1962.

6. The following long title is hereby substituted for the long title of the principal Act:

“ACT

To promote trade with countries outside the Republic by providing for the re-insurance with the Government of the Republic of insurance contracts in connection with export transactions, investments and loans or similar facilities connected with such transactions.”

Short title.

7. This Act shall be called the Export Credit Re-insurance Amendment Act, 1981.

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4. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang: Vervanging van artikel 9 van Wet 78 van 1957.
- 5 „Delegasie van bevoegd- hede van Minister. 9. Enige bevoegdheid wat kragtens hierdie Wet deur die Minister alleen uitgeoefen kan word, kan uitgeoefen word deur 'n beamppte in die Departement van **[Handel en Nywerheid]** Nywerheidswese, Handel en Toerisme daartoe gemagtig deur die Minister; en enige bevoegdheid wat kragtens hierdie Wet uitgeoefen kan word deur die Minister in oorleg met die Minister van Finansies, kan uitgeoefen word deur 'n beamppte in die Departement van **[Handel en Nywerheid]** Nywerheidswese, Handel en Toerisme in oorleg met 'n beamppte in die Departement van Finansies onderskeidelik daartoe gemagtig deur die Minister en die Minister van Finansies.”
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5. Artikel 13 van die Hoofwet word hierby deur die volgende artikel vervang: Vervanging van artikel 13 van Wet 78 van 1957.
- 20 „Kort titel. 13. Hierdie Wet heet die **[Uitvoerkrediet- herversekeringswet]** Uitvoerkrediet- en Buitelandse Beleggingsherversekeringswet, 1957.”
6. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang: Vervanging van lang titel van Wet 78 van 1957, soos gewysig deur artikel 7 van Wet 88 van 1962.
- 25 „WET
- Ter bevordering van handel met lande buite die Republiek deur voorsiening te maak vir die herversekering met die Regering van die Republiek van versekeringskontrakte in verband met uitvoertransaksies, beleggings en lenings of soortgelyke fasiliteite wat met sodanige transaksies in verband staan.”
- 30 7. Hierdie Wet heet die Wysigingswet op Uitvoerkrediet- herversekering, 1981. Kort titel.