

OFFICIAL GAZETTE

EXTRAORDINARY
OF SOUTH WEST AFRICA.

BUITENGEWONE

OFFISIËLE KOERANT



UITGAWE OP GESAG.

VAN SUIDWES - AFRIKA.

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No. 78, 1957.]

ACT

To promote trade with countries outside the Union by providing for the re-insurance with the Government of the Union of insurance contracts in connection with export transactions.

(Afrikaans text signed by the Officer Administering the Government.)

(Assented to 24th June, 1957.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Definitions.

1. (1) In this Act, unless the context otherwise indicates—
 - (i) "buyer" means a person carrying on business outside the Union; (vii)
 - (ii) "contract of re-insurance" means a contract of re-insurance entered into in terms of an agreement referred to in section *two*; (v)
 - (iii) "Fund" means the Export Credit Re-insurance Fund established under section *five*; (iii)
 - (iv) "Minister" means the Minister of Economic Affairs; (viii)
 - (v) "person" includes any company, association, partnership, individual, government agency or semi-government agency; (ix)
 - (vi) "the Territory" means the territory of South-West Africa and includes for all purposes the portion of the Territory known as the "Rehoboth Gebiet" and defined in the First Schedule to Proclamation by the Administrator of the Territory No. 28 of 1923; (i)
 - (vii) "the Union" includes the Territory; (ii)
 - (viii) "this Act" includes any regulation made thereunder; (vi)
 - (ix) "trade with countries outside the Union" includes any transaction (including a transaction for the rendering of a service) involving a consideration in money or money's worth accruing from a person in the course of carrying on business or other activities outside the Union to a person carrying on business in the Union. (iv)

(2) For the purposes of this Act a sale of goods to a person who intends to export such goods from the Union shall be deemed to be a transaction in the course of trade with a country outside the Union in terms of section *two*.

Agreement for re-insurance.

2. The Minister may enter into an agreement with any person who is a registered insurer as defined in section *one* 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 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 Union, being contracts of insurance against risk of monetary loss or monetary detriment attributable to circumstances beyond control of the person suffering the loss or detriment and resulting from failure to receive payment in connection with acts or transactions in the course of trade with countries outside the Union for any of the following causes:

- (a) the operation of a law, or of an order, a decree or regulation having the force of law, which in circumstances beyond the control of the insured and of the buyer—
 - (i) prevents, restricts or controls the transfer of payments from the buyer's country to the Union; or
 - (ii) prevents, restricts or controls the importation of goods into the buyer's country;
- (b) the occurrence of war between the buyer's country and the Union or any other country;
- (c) the occurrence of war, hostilities, civil war, rebellion, revolution, insurrection, or other disturbance in the buyer's country; or

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

- Percentage cover.** 3. A contract of re-insurance shall specify the maximum percentage of the loss, as defined in such contract, which is covered by the indemnity under such contract, and such percentage shall not exceed ninety *per centum* of the loss as so defined.
- Premiums.** 4. The rate of premium for any contract of re-insurance shall be fixed by the Minister in consultation with the Minister of Finance, having regard to the various factors which have a bearing on the risks covered by the contract and to the cost of administering this Act.
- Financial arrangements.** 5. (1) The Minister shall establish a Fund, to be known as the Export Credit Re-insurance Fund, under the control of the Secretary for Commerce and Industries, into which shall be paid moneys appropriated by Parliament for the purposes of this Act and premiums and other moneys accruing to the Minister under contracts of re-insurance.
- (2) There shall be paid out of the Fund:
- (a) all moneys required for the discharge of claims or other liabilities under contracts of re-insurance;
 - (b) any fees referred to in section *six* and any remuneration and allowances referred to in sections *seven* and *eight*;
 - (c) such other costs of administering this Act as may be determined by the Minister in consultation with the Minister of Finance.
- (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 sub-section (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 purposes of the Public Debt Commissioners Act, 1911 (Act No. 18 of 1911), and shall be dealt with accordingly.
- Membership of organizations.** 6. The Minister may in consultation with the Minister of Finance arrange for the Union to become a member of any organization membership of which may promote the operation or purposes of this Act, and any fees payable to secure or to retain such membership shall be defrayed out of the Fund.
- Establishment of committees.** 7. (1) The Minister shall establish an advisory committee, and such other committee or committees as he may deem necessary, to advise him on any matter in connection with the administration and operation of this Act.
- (2) (a) The members of any committee established under sub-section (1) shall be appointed at such remuneration and allowances and on such conditions as may be determined by the Minister in consultation with the Minister of Finance, and the said remuneration and allowances shall be paid out of the Fund.
- (b) A member of any committee referred to in sub-section (1), who is in the full-time employment of the State, shall not receive any remuneration in respect of his services as such a member, and any travelling or subsistence allowance paid to such a member shall be in accordance with the laws governing his employment by the State.
- Administration of Act.** 8. (1) Subject to the provisions of section *seven*, the Minister shall administer this Act through officers appointed in accordance with the laws regulating the public service: Provided that the Minister may enter into an agreement with any other person whereunder that person undertakes to perform any work arising from this Act or from any re-insurance effected under this Act.
- (2) The Minister may in consultation with the Minister of Finance determine the remuneration and allowances to be paid to such other person engaged in terms of the proviso to sub-section (1) in respect of his services, and the said remuneration and allowances shall be paid out of the Fund.
- 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 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 in consultation with an officer in the Department of Finance respectively deputed thereto by the Minister and the Minister of Finance.

Offences and penalties.

10. (1) Any person who wilfully makes a false or misleading statement in or in connection with a contract of insurance which forms the subject of a contract of re-insurance, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

(2) Whenever any person is convicted of an offence under this Act, he shall forfeit all rights under the contract of insurance in respect of which such offence was committed and the court so convicting him may summarily enquire into and assess the monetary equivalent of any advantage which he may have gained in consequence of that offence, and may, in addition to any other penalty imposed in respect of that offence, impose upon him a fine equal to the amount so assessed and, in default of payment thereof, imprisonment for a period not exceeding six months.

(3) A magistrate's court shall have jurisdiction to impose such additional penalty as is contemplated in sub-section (2), even though such penalty may, either alone or together with any other penalty imposed by that court, exceed the punitive jurisdiction of a magistrate's court.

Regulations.

11. The Governor-General may make any regulations which are not inconsistent with this Act and which he considers necessary or expedient for the achievement of the purposes and objects of this Act.

Application to South-West Africa.

12. This Act shall apply also in the Territory.

Short title.

19. This Act shall be called the Export Credit Re-insurance Act, 1957.