



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Stock Exchanges Control Act 1 of 1985
section 51

Stock Exchanges Regulations

Government Notice R.1493 of 1986

[\(RSA GG 10350\)](#)

came into force on date of publication: 18 July 1986

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Definitions

I. In these regulations any word or expression to which a meaning had been assigned in the Act, shall have the same meaning and unless the context otherwise indicates -

“board” means the board established under section 21 of the Act;

“the Act” means the Stock Exchanges Control Act, 1985 (Act 1 of 1985).

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Application for certificates for licences

2. (1) Any person applying for a certificate authorising the issue or renewal of any licence in terms of the Act shall lodge with the Registrar of Financial Institutions, Private Bag X238, Pretoria, a written application -

- (a) on form EB 1 in the case of an application in terms of section 7(1) of the Act; or
- (b) on form EB 2 in the case of an application in terms of section 31(1) of the Act.

(2) An application mentioned in subregulation (1) shall be accompanied by the documents and statements prescribed in the applicable form.

Appeals to Minister

3. (1) Every stock exchange or person desiring to appeal to the Minister in terms of section 2(2) of the Act against any decision of the Registrar, shall within one month after the pronouncement of the decision at issue, lodge a notice of appeal with the Registrar which shall clearly set forth the decision it is desired to appeal against and the grounds for the appeal.

(2) Upon receipt of the notice mentioned in subregulation (1) the Registrar shall prepare a statement of the reasons for his decision.

(3) The Registrar shall dispatch a copy of the statement mentioned in subregulation (2) to the appellant by registered post and require the appellant to declare within 21 days of the dispatch of such statement, or within such further period as the Registrar may approve, whether he proposes to continue with his appeal or not.

(4) If the appellant declares that he does not propose to continue with his appeal or if he fails to make a declaration to the Registrar in terms of subregulation (3), the appeal shall lapse.

(5) If the appellant declares his intention in terms of subregulation (3) to continue with his appeal, he shall with his declaration lodge with the Registrar a reply to the statement in subregulation (2).

(6) Upon the receipt of the appellant's declaration and reply the Registrar shall as soon as may be possible transmit it to the Minister, together with all other relevant documents.

(7) The Minister may require the Registrar or the appellant to furnish him with any further or other information in writing that he considers necessary for a just decision on the appeal.

(8) The Minister shall notify his decision on the appeal to the Registrar, who shall communicate it to the appellant.

Appeals to Appeal Board

4. (1) The board established under section 21 of the Act shall be known as the Stock Exchanges Appeal Board.

(2) An appeal under section 20(1) of the Act against a decision of the committee of a licensed stock exchange shall be noted not later than 10 business days after the date on which the appellant is furnished, in writing, with the committee's reasons for the decision.

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(3) An appeal mentioned in subregulation (2) shall be noted by lodging with the secretary of the board and delivery to the committee concerned of -

- (a) a written notice of appeal in which the grounds of appeal are fully set out; and
- (b) a copy of the written notice of the committee which contains the committee's decision and reasons for the decision appealed against.

(4) The secretary of the committee concerned shall within one month after an appeal has thus been noted, deliver the complete record of the proceedings before the general committee -

- (a) in septuple to the secretary of the board; and
- (b) in duplicate to the applicant:

Provided that in the case of an extremely urgent appeal the secretary of the board may at the directions of the chairman of the board reduce the said one month to not less than 14 days.

(5) The secretary of the committee concerned shall certify that the record concerned is a complete record of the proceedings before the committee and that all the documentary evidence which served before the committee, forms part of the record.

(6) The appellant shall provide the secretary of the board with security for costs in an amount determined by the chairman of the board and in a form acceptable to the secretary of the board within 10 business days after the appellant had been notified in writing by the said secretary of the amount determined for that purpose.

(7) The secretary of the board shall give the appellant and the secretary of the committee concerned at least 10 clear business days notice in writing by registered post of the time and place appointed by the chairman of the board for the hearing of the appeal.

- (8) (a) The appellant may in person or by means of a person authorised by him appear and conduct his appeal.
- (b) The committee concerned may authorise any person to appear on its behalf to oppose the appeal or to represent it at the hearing.

(9) At the conclusion of the evidence the parties to the appeal or the persons authorised to appear on their behalf shall be entitled to be heard in argument.

(10) After conclusion of argument the board shall determine the appeal or reserve its decision for communication to the parties by its secretary at a later date.

(11) The board may decide an appeal even if the appellant or the committee does not appear or is not represented at the hearing.

(12) Save as is otherwise provided in these regulations the general practice and procedure of the board shall be as directed by the chairman of the board.

(13) The secretary of the board shall in every case convey to the appellant or his authorised representative and to the secretary of the committee concerned in writing the decision of the board.

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(14) The secretary of the board shall be appointed from time to time by the Registrar.

Compulsory accounting records

5. (1) Every stockbroker and carrier against shares shall keep in one of the official languages of the Republic, such accounting records of his transactions as are necessary to present fairly the state of affairs and business of the stockbroker or carrier against shares and to explain the transactions and financial position of the business of the stockbroker or carrier against shares, and every such stockbroker and carrier shall preserve such accounting records in a safe place for a period of at least five years as from the date of the last entry therein.

(2) A stockbroker or a carrier against shares shall be deemed not to have kept proper accounting records in respect of his stockbroking or carrying business for all transactions entered into by him in respect of or connection with securities, if he has not kept at least the following accounting records wherein he has promptly recorded the undermentioned particulars:

- (a) A Transaction Register kept by stockbrokers, in which is recorded -
 - (i) the date of the transaction;
 - (ii) the person from whom the securities were bought or to whom they were sold;
 - (iii) the person for whom the securities were bought or sold;
 - (iv) the quantity and description or class of securities involved in the transaction;
 - (v) the name of the issuer of the securities;
 - (vi) the price per security or unit of stock and the total consideration passing;
 - (vii) the brokerage fees and marketable securities tax or stamp duty separately; and
 - (viii) the terms of the contract.
- (b) A Scrip Register with entries under the name of the securities in which is recorded -
 - (i) the name and class of the securities;
 - (ii) the quantity of securities;
 - (iii) the identification numbers of the documents of title;
 - (iv) the name of the registered holder;
 - (v) the person from whom the securities were received, and the date of receipt; and
 - (vi) the person to whom the securities were delivered and the date of delivery.
- (c) A Scrip Ledger with entries under the name of the client or principal in which is recorded -

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- (i) the name of the client or principal on whose behalf securities are received, purchased, disposed of or sold;
 - (ii) the date of receipt or purchase of the securities and the quantity received or purchased;
 - (iii) the date of disposal or sale of the securities and the quantity disposed of or sold; and
 - (iv) the quantity and description of the securities on hand from time to time.
- (d) Records -
- (i) showing the assets and liabilities of the stockbroker or carrier against shares; and
 - (ii) containing entries from day to day in sufficient detail of all cash received and paid out and of the matters in respect of which receipts and payments take place.
- (e) A Safe Custody Ledger kept separately or as a division of the Scrip Ledger, in respect of safe custody scrip and securities held by or deposited as cover with a stockbroker or a carrier against shares, with entries under the name of the client on whose behalf securities are held in safe custody or as cover or security for a carrying transaction or a bear sale, in which is recorded -
- (i) the name of the client and the type of agreement entered into between the client and the stockbroker or carrier against shares; and
 - (ii) in respect of each security held -
 - (aa) the date of receipt;
 - (bb) the quantity of securities received;
 - (cc) the name of the security;
 - (dd) the identification number of the document of title;
 - (ee) the name of the registered holder; and
 - (ff) the quantity disposed of and the date of disposal.
- (f) A record of authorisations in terms of sections 37 and 38 of the Act in which is recorded -
- (i) the date of the written authorisation;
 - (ii) the name of the grantor; and
 - (iii) particulars of the transaction or transactions to which the authorisation relates.

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(3) The accounting records referred to in subregulation (2) may be kept by making entries in bound books or by recording the matters in question in any other manner, and where such records are not kept by making entries in bound books, adequate precautions shall be taken for guarding against falsification and facilitating its discovery.

Audit under section 43 of the Act

6. (1) If a stockbroker or carrier against shares ceases to operate as such before the last day of February of a particular year, or the other day approved by the Registrar in terms of section 43(1)(c) of the Act, he shall cause his accounting records to be audited within three months, or such longer period as the Registrar may allow, after the cessation of operations and the audit shall cover the period from the preceding first day of March or the day after the day approved by the Registrar in terms of section 43(1)(c) of the Act, to the date of such cessation:

Provided that a partnership of stockbrokers shall be deemed to have ceased to operate on the date of dissolution of the partnership as a result of the death of a partner or the reconstitution of the partnership for any reason other than for the purposes mentioned in subregulation (2).

(2) Where before the last day of February of a particular year, or the other day approved by the Registrar in terms of section 43(1)(c) of the Act, a partnership of stockbrokers dissolves without any existing member thereof leaving the partnership, but solely for the purposes of the admission of an additional member or additional members, such partnership shall not be deemed to have ceased to operate within the meaning of subregulation (1), and the audit referred to in section 43(1)(c) of the Act for that particular year shall cover the transactions entered into by the dissolved and reconstituted partnerships during that particular year.

- (3) If a stockbroker ceases to operate as contemplated in subregulation (1), he shall -
- (a) not later than one month after the date of cessation of operations, send to each of his clients with whom he has dealt during the previous six months a letter in a form approved by the committee of the stock exchange concerned and posted on his behalf by the auditor, notifying the client of the fact that he has ceased his stockbroking activities; and
 - (b) furnish the Registrar and the committee of the said stock exchange with -
 - (i) the auditor's report referred to in section 43(2)(b) of the Act and in subregulation (4) for the period mentioned in subregulation (1); and
 - (ii) a certificate by the auditor of the stockbroker in which he states whether he has satisfied himself that -
 - (aa) the letter referred to in subregulation (3)(a) was sent to each client of the stockbroker;
 - (bb) according to the accounting and other records the stockbroker has met in full all the commitments and obligations arising out of his stockbroking business or has transferred, with the consent of the committee of the stock exchange concerned, such commitments and obligations to another stockbroker; and
 - (cc) according to the accounting and other records all safe custody securities and other securities belonging to clients of the stockbroker held by the stockbroker when he ceased his stockbroking activities had been

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delivered to the owners of such securities or have been dealt with in the manner directed by such owners of such securities.

(4) In addition to the matters provided for in section 43(2)(b) of the Act, the auditor's report shall mention -

- (a) which period is covered by the audit;
- (b) whether or not all available vouchers and documents have been examined and, if not, the reasons for not carrying out a full examination;
- (c) whether the arrangement whereby securities which according to the relevant accounting and other records should have been in the possession of the stockbroker or carrier on the date to which the balance sheet relates, for his own account or on behalf of any other person, including any securities held in safe custody, but which were stated to be in the possession or custody of any person other than the said stockbroker or carrier, is not inconsistent with the provisions of the Act and any written mandate given to the stockbroker or carrier by the owner of the securities;
- (d) whether the stockbroker or carrier against shares had on the last day of February of a particular year, or on the other day approved by the Registrar in terms of section 43(1)(c) of the Act, assets which exceeded his liabilities by the amount set forth in section 15 or 31(2)(b) of the Act;
- (e) whether or not investigations carried out, as at the date of the balance sheet, indicate that the stockbroker or carrier appears to comply with the provisions of sections 34, 35 and 36 of the Act, and whether or not the auditor during the course of his audit became aware of any contravention of the said provisions;
- (f) whether the provisions of sections 37 and 38 of the Act relating to the alienation and pledge of securities held by a stockbroker or carrier against shares have been observed; and
- (g) whether the balance sheet is in agreement with the accounting records of the stockbroker or carrier against shares concerned and reasonably presents the financial position of the business of the stockbroker or carrier against shares as at the date to which such balance sheet refers.

Claims against money or securities deposited with the Treasury

7. (1) Any person who has a claim for payment out of a sum deposited with the Treasury in terms of section 31(2) of the Act, which claim arises out of transactions in securities with the depositor and which claim remains wholly or partly unsatisfied after the depositor has been excused, may apply to the Registrar for payment out of the amount lodged with the Treasury in the name of the depositor, of that part of his claim which remains unsatisfied.

(2) Upon receipt of a request contemplated in subregulation (1) the Registrar shall, after satisfying himself that the claim is valid, cause a notice to be inserted once in each of three consecutive weeks in the *Gazette* and in such English and Afrikaans newspapers as he deems necessary, that a claim against the deposit has been received.

(3) A notice mentioned in subregulation (2) shall -

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- (a) state the full name and address of the depositor against whose deposit a claim has been lodged;
- (b) call upon all persons who have claims against the said depositor, which claims arise out of transactions in securities with the depositor, to lodge their claims with the Registrar within the period specified in the notice, which period shall be not less than 30 clear days after the last date on which the notice is published;
- (c) require every claim to be accompanied by the production of all documents or other evidence relating to the claim and together with a sworn statement that
 - (i) the amount claimed is actually due;
 - (ii) the liability of the depositor arose out of transactions in securities;
 - (iii) the depositor has been excused; and
 - (iv) that the amount claimed is that portion of the liability of the depositor which remains unsatisfied after he has been excused; and
- (d) state that no claim which is received after the date specified in the notice will be considered.

(4) The Registrar shall authorise the Treasury to sell, or cause to be sold, such part of the securities as may be in its possession as he may consider necessary to satisfy that portion of any liability arising out of any transaction entered into by the depositor in respect of securities that remains unsatisfied after the depositor has been excused.

(5) The price at which a sale referred to in subregulation (4) shall be effected shall be as the Treasury may determine.

(6) The Registrar may require the depositor to perform any act the Treasury shall specify to enable such sale to be effected, and the depositor is compelled to comply promptly with any such requirement.

(7) The Treasury shall make payment to the person entitled thereto and shall obtain a full receipt for the moneys so paid.

(8) Where two or more claims have to be satisfied out of any deposit lodged with the Treasury and the total amount of the deposit is not sufficient to satisfy all such claims in full, the amount available shall be distributed by the Treasury on a pro rata basis amongst all claimants who have lodged their claims in the manner prescribed by these regulations and proved them to the satisfaction of the Registrar.

Repeal of regulations

8. The regulations promulgated by Government Notice, R. 1817, dated 8 October 1976, are hereby repealed.

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Forms EB1 and EB2
