

# INSURANCE

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***War Damage Insurance and Compensation Act 85 of 1976***, as amended in South Africa prior to Namibian independence.

**Summary:** This Act establishes a War Damage Fund for state insurance schemes against the risk of war damage, and for compensation for war damage on conditions determined by the Minister of Finance. “War damage” includes damage to specified property arising from “any hostile action directed against the security of the Republic,” and from attempts by the security forces of the Republic or any of its allies to suppress such hostile action, but only if the Minister of Finance declares these defensive actions to have caused war damage.

**Applicability to SWA:** Section 12 states “This Act and any amendment thereof shall apply also in the territory of South West Africa.”

## **Second Finance Act 27 of 1987.**

**Summary:** This Act identifies certain special risks (including riot or civil commotion, strikes, lock outs and labour disturbances in addition to acts to overthrow or influence any State or Government or any local authority with force or by means of fear, terrorism or violence), authorises Cabinet to enter into an agreement with a registered insurer for coverage of such special risks, and authorises Cabinet to undertake to pay annually to the insurer an amount equal to any loss sustained by the insurer during that year in respect of such risks. The National Special Risks Insurance Association (NASRIA) is registered insurer which operates in terms of this agreement. See [www.nasria.com.na](http://www.nasria.com.na).

**Regulations:** The operation of the National Special Risks Association (NASRIA) is affected by the State-Owned Enterprises Governance Act 2 of 2006.

## **Short-term Insurance Act 4 of 1998.**

**Summary:** This Act regulates the short-term insurance business in Namibia. It came into force on 1 July 1998 (GN 142/1998, GG 1887), replacing the portions of the *Insurance Act 27 of 1943* dealing with short-term insurance.

**Amendments:** The Namibia Financial Institutions Supervisory Authority Act 3 of 2001 amends section 1 and substitutes section 4.

**Regulations:** Regulations made in terms of previous legislation survive in terms of section 72 of the new Act. However, new regulations are contained in GN /1998 (GG 1887). These regulations repeal a large number of regulations made in terms of the previous Act insofar as they relate to short-term insurance.

A declaration in terms of section 25(3) is contained in GN 10/2003 (GG 2909).

GN 123/2007 (GG 3877) determines the percentage of value of each reinsurance contract to be ceded by way of reinsurance to the Namibia National Reinsurance

Corporation in respect of all classes of reinsurance business specified in Schedule 1 of the Act.

**Cases:** *Chief Executive Officer of Namibia Financial Institutions Supervisory Authority v Legal Shields Namibia Ltd* 2005 NR 151 (HC).

## **Long-term Insurance Act 5 of 1998.**

**Summary:** This Act regulates the long-term insurance business in Namibia. It came into force on 1 July 1998 (GN 144/1998, GG 1888), replacing the remaining portions of the *Insurance Act 27 of 1943*.

**Amendments:** The Namibia Financial Institutions Supervisory Authority Act 3 of 2001 amends section 1 and substitutes section 4.

**Regulations:** Regulations made in terms of previous legislation survive in terms of section 73 of the new Act. However, new regulations are contained in GN 145/1998 (GG 1887), as amended by GN 47/2000 (GG 2274), GN 143/2001 (GG 2579) and GN 31/2008 (GG 3985). These regulations repeal a large number of regulations made in terms of the previous Act insofar as they are unrepealed by the Short-Term Insurance Regulations.

National standards developed by the Long-Term Insurance Industry are published for public comment and general information in General Notice 228/2002 (GG 2805).

A declaration in terms of section 25(3) is contained in GN 11/2003 (GG 2909).

**Appointments:** Appointments to the Namibian National Reinsurance Corporation Board are announced in GN 17/2006 (GG 3577).

**Cases:**

*Channel Life Namibia Limited v Finance in Education (Pty) Ltd* 2004 NR 125 (HC)  
*Otto v Channel Life Namibia Ltd & Another* 2007 (1) NR 328 (HC), *Channel Life Namibia Ltd v Otto* 2008 (2) NR 432 (SC) (section 54(1))  
*Ex Parte Momentum Group Ltd & Another* 2007 (2) NR 453 (HC) (section 36)

See also *Wilke NO v Swabou Life Assurance Company Limited* 1997 NR 224 (HC), confirmed in *Wilke NO v Swabou Life Assurance Company Limited* 2000 NR 23 (HC), which concerns section 63(3) of the previous *Insurance Act 27 of 1943*.

## **Namibia National Reinsurance Corporation Act 22 of 1998.**

**Summary:** This Act provides for the establishment of the Namibia National Reinsurance Corporation to carry on reinsurance business in Namibia. It came into force on 1 July 1999 (GN 108/1999, GG 2129).

**Regulations:** In terms of section 39(5), the percentage of value of reinsurance contracts to be ceded is set by GN 109/1999 (GG 2129), which was subsequently replaced by GN 3/2003 (GG 2893) and then by GN 123/2007 (GG 3877).

In terms of section 39(2), classes of insurance business and percentage of value of policies to be ceded is set by GN 110/1999 (GG 2129), which was subsequently replaced by GN 4/2003 (GG 2893).

In terms of section 43(2), the rate of reinsurance commission payable in respect of insurance business ceded or offered to the Namibia National Reinsurance Corporation is set by GN 111/1999 (GG 2129), which was subsequently replaced in its entirety by GN 46/2000 (GG 2274) and GN 124/2007 (GG 3877).

The effective date for the three initial notices in terms of the Act, GN 19-111/1999, was set at 1 September 1999, changed to 1 November 1999 by GN 183-185/1999 (GG 2179), then changed to 1 January 2000 by GN 245-247/1999 (GG 2224), then to 1 April 2000 by GN 8-10/2000 (GG 2259), then to 17 April 2000 by GN 44-46/2000 (GG 2274), then to 22 August 2000 by GN 150-152/2000 (GG 2354), then to 1 October 2000 by GN 203-205/2000 (GG 2399), then to 1 November 2000 by GN 238-240/2000 (GG 2417), then to 1 February 2001 by GN 265-267/2000 (GG 2439). A further change to the effective date was made by GN 2-4/2003 (GG 2893), which applied retrospectively and changed the relevant date for these notices to 1 January 2002.

Regulations relating to the short-term and long-term reinsurance business are contained in GN 155/1999 (GG 2160).

**Appointments:** The members of the Board of Directors are announced in GN 112/1999 (GG 2129) and GN 190/2002 (GG 2845).

**Application:** The application of this Act is affected by the State-Owned Enterprises Governance Act 2 of 2006.

**Cases:** *Namibia Insurance Association v Government of Namibia* 2001 NR 1 (HC).

## **Demutualisation Levy Act 9 of 2002.**

**Summary:** This Act provides for a levy on the free reserves of mutual insurers in respect of their demutualisation.

See also *Export Credit and Foreign Investments Re-insurance Act 78 of 1957 (IMPORT AND EXPORT)*.