

BUITENGEWONE
OFFISIELLE KOERANT
VAN SUIDWES-AFRIKA.
OFFICIAL GAZETTE

UITGawe OP GESAG.

EXTRAORDINARY
OF SOUTH WEST AFRICA.



PUBLISHED BY AUTHORITY.

10c

Woensdag, 21 Junie 1967

W I N D H O E K

Wednesday, 21 June 1967

No. 2805

I N H O U D

C O N T E N T S

Bladsy/Page

GOEWERMENTSKENNISGEWING:

GOVERNMENT NOTICE:

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Goewermentskennisgewing.

Government Notice.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

The following Government Notice is published for general information.

J. J. KLOPPER,
Sekretaris van Suidwes-Afrika.

J. J. KLOPPER,
Secretary for South West Africa.

Kantoor van die Administrateur,
Windhoek.

Administrator's Office,
Windhoek.

No. 92.]

[21 Junie 1967.

No. 92.]

[21 June 1967.

ORDONNANSIES, 1967: UITVAARDIGING VAN

ORDINANCES, 1967: PROMULGATION OF

Dit het die Administrateur behaag om sy goedkeuring te heg, ooreenkomsdig artikel *twee-en-dertig* van „De Zuidwest-Afrika Konstitutie Wet 1925“ (Wet 42 van 1925), aan die volgende Ordonnansies wat hiermee vir algemene inligting gepubliseer word, ooreenkomsdig artikel *vier-en-dertig* van gemelde Wet:—

The Administrator has been pleased to assent, in terms of section *thirty-two* of the South West Africa Constitution Act, 1925 (Act 42 of 1925), to the following Ordinances which are hereby published for general information in terms of section *thirty-four* of the said Act:—

No.	Titel	Bladsy	No.	Title	Page
No. 27	Wysigingsordonnansie op Huurgelde 1967 . . .	1033	No. 27	Rents Amendment Ordinance, 1967 . . .	1034
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No. 27 van 1967.]

ORDONNANSIE

Om die Proklamasie op Huurgelde 1944 te wysig om 'n redelike huur te omskryf; om voorsiening te maak vir die hou deur huurrade van registers van verhuurde eiendomme; om voorsiening te maak vir instelling van hersieningsrade en om voorsiening te maak vir aanverwante sake.

(Goedgekeur 14 Junie 1967)

(Engelse teks deur die Administrateur geteken)

DIT WORD VERORDEN deur die Wetgewende Vergadering van die Gebied Suidwes-Afrika, soos volg:

Wysiging van artikel 1 van Proklamasie 4 van 1944.

1. Artikel 1 van die Proklamasie op Huurgelde 1944 (Proklamasie 4 van 1944), hierna genoem die hoof proklamasie word hierby gewysig —

- (a) deur in die woordomskrywing van „woning”, na die woord „plek”, die woorde „of konstruksie” in te voeg;
- (b) deur die vervanging van die woordomskrywing „redelike huur” deur die volgende — „redelike huur”, met betrekking tot 'n woning, 'n huur wat 'n huurraad in al die omstandighede van die besondere geval as redelik vasstel: Met dien verstaande dat —
 - a) geen huur as redelik beskou word nie wat, na aftrekking van —
 - (i) die werklike belastings en standplaaslynsies (indien daar is) ten opsigte van die woning betaal, en van die grond waarop dit geleë is en wat in verband daarmee bemon word;
 - (ii) 'n bedrag wat die Raad as 'n redelike aftrekking beskou ten opsigte van meubels of bediening deur die verhuurder verskaf;
 - (iii) premies deur die verhuurder betaalbaar ten opsigte van die versekering van die woning en meubels daarin, teen brand; en
 - (iv) sodanige bedrae (indien daar is) as wat dit raad dit redelik ag om af te trek ten opsigte van invorderingskoste,
 - die verhuurder 'n jaarlikse opbrengs gee van meer as $9\frac{1}{2}$ persent op die gesamentlike waarde van die grond en die verbeterings;
- b) dat $7\frac{1}{2}$ persent beskou word as die basiese rentekoers wat normaalweg deur bougenootskappe gehef word op verbandlenings en indien die rentekoers wat bougenootskappe hef op verbandlenings hoër is as $7\frac{1}{2}$ persent, die bedrag waarmee dit hoër is bygevoeg mag word by genoemde rentekoers van $9\frac{1}{2}$ persent en indien die rentekoers wat bougenootskappe hef laer is as $7\frac{1}{2}$ persent, die bedrag waarmee dit verminder is afgetrek word van $9\frac{1}{2}$ persent;
- c) dat die volgende formule gebruik word by die bepaling van die huurgeld vir 'n kamer:—

$$\frac{B}{A} \times \frac{Y}{1} \times \frac{R}{100} \times \frac{1}{12},$$

No. 27 of 1967.]

ORDINANCE

To amend the Rents Proclamation, 1944 to define a reasonable rent; to provide for the keeping of registers of leased properties by rent boards; to provide for the constitution of revision boards and to provide for matters incidental thereto.

(Assented to 14th June, 1967)

(English text signed by the Administrator)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. Section 1 of the Rents Proclamation, 1944 (Proclamation 4 of 1944), hereinafter referred to as the principal proclamation is hereby amended —

Amendment of
section 1 of
Proclamation 4 of
1944.

(a) by the insertion in the definition of "dwelling" after the word "place" of the words "or construction";

(b) by the substitution for the definition of "reasonable rent" of the following definition:—

"reasonable rent" means in relation to a dwelling, a rent which a rent board determines in all the circumstances of the particular case to be reasonable: Provided —

a) that no rent shall be regarded as reasonable which, after deduction of —

(i) the actual amount of all rates and taxes and stand licences, if any, paid in respect of the dwelling, and of the land on which it is situate and which is occupied in connection with it;

(ii) an amount which the board considers to be a reasonable allowance for any furniture or services supplied by the lessor;

(iii) the premiums payable by the lessor in respect of the insurance of the dwelling and any furniture therein against fire; and

(iv) such amounts (if any) as the board may consider it reasonable to deduct in respect of collection charges,

gives the lessor an annual return of more than 9½ per cent of the combined value of the land and improvements;

b) that 7½ per cent shall be deemed to be the basic rate of interest normally imposed by building societies on mortgage loans and should the rate of interest so imposed by building societies be higher than 7½ per cent, such increased interest shall be added to the said rate of interest of 9½ per cent and should the rate of interest so imposed by building societies be lower than 7½ per cent, such decreased interest shall be deducted from the said rate of interest of 9½ per cent;

c) that the following formula shall be used to determine the rent for a room:—

$$\frac{B}{A} \times \frac{Y}{1} \times \frac{R}{100} \times \frac{1}{12},$$

die waarde van die simbole synde:

Y = die totale waarde van die eiendom;
 A = die oppervlakte van die bewoonbare deel;
 B = die oppervlakte van die kamer wat verhuur word;
 R = rentekoers;";

- (c) deur die invoeging, na die woordomskrywing van „huurraad” van die volgende woordomskrywings — „vervangingskoste” — die bedrag wat dit sal kos om 'n soortgelyke woning as dié waarvoor 'n rede-like huur bepaal moet word op te rig teen heersende boukoste”;
- ,hersieningsraad” — die hersieningsraad ingestel kragtens artikel 10A;”;
- (d) deur die vervanging van die woordomskrywing van „waarde” deur die volgende woordomskrywing:
 „,waarde” — met betrekking tot 'n woning, die vervangingskoste van die woning minus die waardevermindering van 1 tot 5 persent per jaar van die ouderdom van daardie woning, afhangende van die standaard van instandhouding en herstelling; en met betrekking tot die grond — enige munisipale waardasie of enige beëdigde waardasie van daardie grond.”.

Wysiging van artikel 2 van Proklamasie 4 van 1944.

2. Artikel 2 van die hoof proklamasie word hierby gewysig —

- (a) deur die vervanging van subartikel (6) deur die volgende subartikel:—
- „(6) (a) Die lede van 'n huurraad word aangestel vir 'n tydperk van drie jaar en indien 'n lid ophou om 'n lid te wees voor verstryking van sy termyn van aanstelling, mag die Administrateur 'n persoon in sy plek aanstel vir die onverstreke gedeelte van sy ampstermyne.”
- (b) Die lede van 'n huurraad wat nie beampies of werknemers van die Staat is nie mag sodanige vergoeding en sodanige reis en verblyfkoste betaal word as wat van tyd tot tyd deur die Administrateur bepaal mag word.”;
- (b) deur die skrapping van subartikel (8).

Invoeging van artikel 2A van Proklamasie 4 van 1944.

3. Die volgende artikel word hierby ingevoeg na artikel 2 van die hoof proklamasie:—

„Verhuurder moet huurraad verwittig van enige woning deur hom verhuur.”

2A (1) Binne een maand vanaf datum van inwerkingtreding van die Wysigings Ordonnansie op Huurgelde, 1967 en daarna voor of op die 31ste dag van Maart van elke jaar, moet 'n verhuurder van enige woning wat binne die jurisdiksie van 'n huurraad val, in 'n vorm soos van tyd tot tyd deur die Administrateur voorgeskryf mag word, aan sodanige huurraad kennis gee van enige sodanige woning deur hom verhuur.

(2) Enige sodanige verhuurder moet, in 'n vorm van tyd tot tyd deur die Administrateur voorgeskryf, aan sodanige huurraad kennis gee —

- (a) onmiddellik wanneer iemand hom as verhuurder van daardie woning opvolg, en
 (b) onmiddellik wanneer enige sodanige woning aan 'n ander huurder as 'n huurder waarvan reeds aan sodanige huurraad kennis gegee is, verhuur word.

(3) Enige verhuurder wat versuim om 'n kennisgewing wat kragtens hierdie artikel vereis word, te verstrek is aan 'n misdryf skuldig en is by skuldigbevinding, strafbaar met 'n boete van hoogstens tweehonderd rand.

the value of the symbols being:

Y = total value of the property;
 A = area of the habitable portion;
 B = area of the room which is leased;
 R = rate of interest;";

- (c) by the insertion after the definition of "rent board" of the following definitions:

"'replacement cost' means the erection cost, at ruling building costs, of a dwelling similar to the one for which a reasonable rent is to be determined; 'revision board' means a revision board constituted in terms of section 10A;";

- (d) by the substitution for the definition of "value" of the following definition:

"'value' in relation to any dwelling, means the replacement cost of the dwelling minus depreciation of 1 to 5 per cent *per annum* of the age of such dwelling, depending on the standard of maintenance and repair; and in relation to any land, means any municipal value or sworn appraisal of such land.".

2. Section 2 of the principal proclamation is hereby amended —

Amendment of
section 2 of
Proclamation 4 of
1944.

- (a) by the substitution for sub-section (6) of the following sub-section:—

"(6) (a) The members of a rent board shall be appointed for a period of three years and should a member cease to be a member before the expiration of the period of his appointment, the Administrator may appoint a person in his stead for the unexpired portion of the period of his appointment.

(b) The members of a rent board who are not officers or employees of the State may be paid such remuneration and such travelling and subsistence allowances as the Administrator may from time to time determine.";

- (b) by the deletion of sub-section (8).

3. The following section is hereby inserted after section 2 of the principal proclamation:—

Insertion of
section 2A in
Proclamation 4 of
1944.

*Lessor to notify
rent board of
any dwelling
leased by him.

2A. (1) Within one month from the date of commencement of the Rents Amendment Ordinance, 1967 and thereafter on or before the 31st day of March in each year, the lessor of any dwelling situate within the area of jurisdiction of a rent board shall, on a form from time to time prescribed by the Administrator, give notice to such rent board of any such dwelling leased by him.

(2) Any such lessor shall, on a form prescribed from time to time by the Administrator, give notice to such rent board —

- (a) immediately he is succeeded as lessor of any such dwelling, and
(b) immediately any such dwelling is leased by him to any lessee other than a lessee of whom such rent board has already been notified.

(3) Any lessor who fails to give any notice in terms of this section shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand.

(4) Die Administrateur kan van tyd tot tyd, deur proklamasie in die *Offisiële Koerant*, en vanaf 'n datum in sodanige proklamasie neergelê, wonings geleë binne 'n area wat in sodanige proklamasie omskryf is en waarvoor 'n huurraad ingestel is, uitsluit van die werking van die bepalings van hierdie artikel.

Wysiging van artikel 3 van Proklamasie 4 van 1944 soos gewysig deur artikel 1 van Ordonnansie 16 van 1957.

4. Artikel 3 van die hoof proklamasie word hiermee gewysig deur die invoeging, na subartikel (1), van die volgende subartikel:—

„(1) A. 'n Huurraad hou 'n register van verhuurde eiendomme geleë in die gebied waarvoor sodanige huurraad aangestel is.”

Wysiging van artikel 6 van Proklamasie 4 van 1944.

5. Artikel 6 van die hoof proklamasie word hierby gewysig —

- (a) deur die weglatting in paragraaf (a) van die woorde „of ingevolge subartikel (2) van artikel *veertien* ingedien; of“;
- (b) deur die weglatting van paragraaf (b).

Invoeging van artikel 9A in Proklamasie 4 van 1944.

6. Die volgende artikel word hierby ingevoeg na artikel 9 van die hoof proklamasie:—

,Betaling van huur hoér as bedrag aan huurraad kennis gegee.

9A. Indien, nadat kennis van verhuring van 'n woning gegee is ingevolge die bepalings van artikel 2A (1), 'n verhuurder wetens van 'n huurder verlang of hom toegelaat het om vir sodanige woning 'n huur te betaal wat hoër is as die bedrag wat in sodanige kennisgewing omskryf is, is sodanige verhuurder, ditsy hy aldan nie die verhuurder van daardie woning was op die datum toe bedoelde kennisgewing gegee is, aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand en die hof wat hom skuldig bevind kan, behalwe enige straf wat hy mag ople, die verhuurder gelas om onverwyld aan die huurder enige som terug te betaal wat deur die huurder aan hom meer betaal is as die aldus genoemde bedrag. So 'n bevel het die uitwerking van 'n siviele vonnis ten gunste van die huurder en kan ten uitvoer gelê word asof dit so 'n vonnis was.”

Invoeging van artikel 10A in Proklamasie 4 van 1944.

7. Die volgende artikel word hierby ingevoeg na artikel 10 van die hoof proklamasie:—

,Instelling van hersieningsrade.

10A. (1) 'n Verhuurder of huurder wat hom veronreg voel deur 'n beslissing van 'n huurraad met betrekking tot die vasstelling van 'n redelike huur, kan daardie beslissing op hersiening neem na 'n hersieningsraad wat vir die doeleindes van sodanige hersiening deur die Administrateur ingestel mag word.

(2) Elke sodanige hersieningsraad bestaan uit:—

- (a) 'n landdros met ten minste tien jaar ondervinding as landdros of 'n advokaat of prokureur van die Suidwes-Afrika Afdeling van die Hooggereghof van Suid-Afrika met minstens tien jaar praktiese ondervinding as advokaat of prokureur, soos die geval mag wees en enige sodanige persoon sal die voorsitter van die hersieningsraad wees.
- (b) twee persone met ondervinding of kennis van die waarde van eiendomme en wat nie lede van die huurraad of beampies of werknemers van die Staat is nie.

(4) The Administrator may from time to time by proclamation in the *Official Gazette* and from a date specified in any such proclamation exclude dwellings situate in an area, specified in any such proclamation, for which a rent board has been constituted, from the operation of the provisions of this section.”.

4. Section 3 of the principal proclamation is hereby amended by the insertion after sub-section (1) of the following sub-section:—

“(1)A. A rent board shall keep a register of leased properties situate within the area of jurisdiction of such rent board.”.

Amendment of
section 3 of
Proclamation 4 of
1944 as amended by
section 1 of Ordin-
ance 16 of 1957.

5. Section 6 of the principal proclamation is hereby amended —

Amendment of
section 6 of
Proclamation 4 of
1944.

(a) by the deletion in paragraph (a) of the words “or under sub-section (2) of section *fourteen*, or”;

(b) by the deletion of paragraph (b).

6. The following section is hereby inserted after section 9 of the principal proclamation:—

Insertion of
section 9A in
Proclamation 4 of
1944.

“Payment of rent
in excess of
amount notified
to rent board.

9A. If, after a notice of the lease of a dwelling has been given, in terms of section 2A (1), the lessor of such dwelling has knowingly required or permitted the lessee of such dwelling to pay for that dwelling a rent exceeding the amount specified in such notice, such lessor shall, whether or not he was the lessor of that dwelling at the date of the giving of the said notice, be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand and the court convicting him may, in addition to any penalty which it may impose, order him forthwith to refund to the lessee any sum paid to him by the lessee in excess of the said amount and such order shall have the effect of, and may be executed as if it were a civil judgment in favour of the lessee.”.

7. The following section is hereby inserted after section 10 of the principal proclamation:—

Insertion of
section 10A in
Proclamation 4 of
1944.

“Constitution of
revision boards.

10A. (1) Any lessor or lessee who is aggrieved by any decision of a rent board in respect of the determination of a reasonable rent, may take such matter on review to a revision board which may, for the purposes of such review be constituted by the Administrator.

(2) Any revision board so constituted shall consist of —

(a) a magistrate with at least ten years experience as magistrate or an advocate or attorney of the South West Africa Division of the Supreme Court of South Africa who has at least ten years practical experience as advocate or attorney, as the case may be, and any such person shall be the chairman of the revision board.

(b) two persons who have experience or knowledge of the value of properties and who are not members of any rent board or officers or employees of the State.

(3) 'n Verhuurder of huurder het die reg om, indien hy die verlang, by monde van 'n advokaat of prokureur of ander verteenwoordiger voor sodanige hersieningsraad te verskyn of om skriftelike verklaarings of argumeante ter stawing van die aansoek om hersiening aan sodanige hersieningsraad voor te lê.

(4) 'n Hersieningsraad kan die beslissing van die betrokke huurraad bekragting of kan, met inagneming van die bepalings van hierdie proklamasie, sodanige ander beslissing gee as wat na sy mening, die betrokke huurraad behoort te gegee het, en sodanige hersieningsraad kan die betrokke huurraad gelas om alles te doen wat nodig is om aan die beslissing van die hersieningsraad gevolg te gee.

(5) 'n Lid van die hersieningsraad wat nie 'n beampete of werknemer van die Staat is nie, kan sodanige vergoeding en sulke reisen verblyftoeleae betaal word as wat die Administrateur van tyd tot tyd mag bepaal.

Skrapping van
artikel 14 van
Proklamasie 4 van
1944.

8. Artikel 14 van die hoof proklamasie word hierby geskrap.

Kort titel.

9. Hierdie ordonnansie sal bekend staan as die Wysingsordonnansie op Huurgelde 1967.

(3) Any such lessor or lessee shall be entitled, should he so desire, to be represented at the proceedings of any such revision board by an advocate or attorney or any other representative or to present to such revision board written statements or arguments in support of his application for review.

(4) A revision board may confirm the decision of the rent board concerned, or may, subject to the provisions of this Proclamation, give such other decision as, in its opinion, the rent board concerned should have given and such revision board may order that all steps be taken to give effect to the decision of the said revision board.

(5) Any member of a revision board who is not an officer or employee of the State may be paid such remuneration and such travelling and subsistence allowances as the Administrator may from time to time determine.

8. Section 14 of the principal proclamation is hereby deleted.

Deletion of
section 14 of
Proclamation 4 of
1944.

9. This ordinance shall be called the Rents Amendment Ordinance, 1967.

Short title.

No. 28 van 1967.]

ORDONNANSIE

Om 'n getrouheidswaarborgfonds vir prokureurs, notarisse en transportbesorgers te stig; om voorsiening te maak vir die beheer en bestuur van sodanige fonds en die betaling van eise daaruit; en vir ander daarmee verbandhoudende sake.

(*Goedgekeur 14 Junie 1967*)

(*Engelse teks deur die Administrateur geteken*)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Staatspresident dermate sodanige toestemming nodig is vooraf verkreeë en deur boodskap van die Administrateur aan die Wetgewende Vergadering meegedeel ooreenkomstig die bepalings van artikel 26 van die Zuidwest Afrika Konstitutie Wet 1925 (Wet 42 van 1925) van die Republiek van Suid-Afrika, VERORDEN:

Woordbepaling

1. In hierdie ordonnansie, tensy dit met die samehang onbestaanbaar is, beteken —
 - „raad” die raad van die prokureursorde;
 - „getrouheidswaarborgsertifikaat” 'n sertifikaat ingevolge artikel 17;
 - „fonds” die Getrouheidswaarborgfonds vir Prokureurs, Notarisse en Transportbesorgers van Suidwes-Afrika gestig ingevolge artikel 2;
 - „voorgeskryf” voorgeskryf by regulasies uitgevaardig ingevolge hierdie ordonnansie;
 - „hoofwet” die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet 1934, (Wet 23 van 1934), soos gewysig, van die Republiek van Suid-Afrika soos toegepas op die Gebied by die Wysigingsordonnansie op die Toelating van Prokureurs, Notarisse en Transportbesorgers 1959 (Ordonnansie 7 van 1959);
 - „prokureursorde” die Prokureursorde van Suidwes-Afrika ingestel ingevolge die bepalings van die Wetsgenootschap (Zuid-West Afrika) Private Proklamatie 1921 (Proklamasie 32 van 1921), soos gewysig.

**Stigting van
Getrouheidswaarborgfonds.**

2. Hierby word daar gestig 'n fonds wat heet die Getrouheidswaarborgfonds vir Prokureurs, Notarisse en Transportbesorgers.

**Berusting van
fonds.**

3. Die fonds berus by en word beheer deur 'n beherende liggaam bestaande uit die dan diensdoende president van die prokureursorde, benewens twee lede van die prokureursorde wat deur die raad in die maand Junie in elke jaar gekies moet word, en die prokureursorde het die reg om deur die raad van tyd tot tyd uit sy geledere sekundusse vir die lede wat deur die raad gekies is, aan te stel.

**Beherende
liggaam.**

4. Sodanige beherende liggaam heet „Die Raad van Beheer oor die Getrouheidswaarborgfonds vir Prokureurs, Notarisse en Transportbesorgers van Suidwes-Afrika” onder watter naam hy eisend en verwerend kan optree en hy heet hierna „die beheerraad”.

No. 28 of 1967.]

ORDINANCE

To establish a fidelity guarantee fund for attorneys, notaries and conveyancers; to provide for the control and management of such fund and the payment of claims therefrom; and for other matters incidental thereto.

(Assented to 14th June, 1967)

(English text signed by the Administrator)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President in so far as such consent is necessary previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provision of section 26 of the South West Africa Constitution Act, 1925 (Act 42 of 1925) of the Republic of South Africa, as follows:—

1. In this ordinance, unless inconsistent with the context — *Definitions.*

“council” means the council of the society;

“fidelity fund certificate” means a certificate issued in terms of section 17;

“fund” means the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund of South West Africa established under section 2;

“prescribed” means prescribed by regulations made under this ordinance;

“principal Act” means the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act 23 of 1934), as amended, of the Republic of South Africa as applied to the Territory by the Attorneys, Notaries and Conveyancers Admission Amendment Ordinance, 1959 (Ordinance 7 of 1959);

“society” means the Law Society of South West Africa established under the provisions of the Law Society (South West Africa) Private Proclamation, 1921 (Proclamation 32 of 1921), as amended.

2. There is hereby established a fund to be known as the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund of South West Africa. *Establishment of Fidelity Guarantee Fund.*

3. The fund shall be vested in and administered by a controlling body consisting of the president for the time being of the society in addition to two members of the society to be elected by the council during the month of June in each year and the society shall have the right through the council from time to time to appoint from amongst its members alternates to the members elected by the council. *Vesting of fund.*

4. Such controlling body shall be known as “The Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund of South West Africa Board of Control” under which title it may sue and be sued and shall be herein-after referred to as “the board of control”. *Controlling body.*

Ampstermyne.

5. 'n Gekose lid van die beheerraad beklee sy amp totdat sy opvolger van tyd tot tyd gekies is, en tensy 'n ander in sy plek in enige jaar gekies word, soos in artikel 3 bepaal, word hy geag herkies te gewees het.

Ampsontruiming.

6. Die amp van 'n lid van die beheerraad word ontruim —

- (a) as hy sterf; of
- (b) as hy kranksinnig word; of
- (c) as hy ophou om lid te wees van die prokureursorde; of
- (d) as hy insolvent raak of 'n skikking ofakkord met sy skuldeisers tref; of
- (e) as hy ophou om as prokureur, notaris of transportbesorger in die Gebied te praktiseer; of
- (f) as hy aan 'n misdryf skuldig bevind word wat, na die mening van die raad, hom belet om as lid van die beheerraad voort te dien; of
- (g) as hy bedank en sy bedanking deur die raad en die beheerraad aanvaar word.

Vergaderings.

7. Wanneer nodig kom die beheerraad byeen op sodanige tyd en plek soos hy van tyd tot tyd besluit.

Verkiesing van ampsdraers.

8. Die beheerraad kies jaarliks sy eie voorsitter en ondervoorsitter en by afwesigheid van hulle albei van 'n vergadering, kies die oorblywende lid van die beheerraad of sy sekundus en die sekundusse van die voorsitter en ondervoorsitter uit hul gelede 'n voorsitter vir daardie vergadering.

Kworum by vergaderings, meerderheidsbeslissings en voorsitter se stemreg.

9. Twee lede van die beheerraad of hulle sekundusse maak 'n kworum by enige vergadering van sodanige raad uit en 'n beslissing van die meerderheid van die lede teenwoordig by enige sodanige vergadering is die beslissing van die raad: Met dien verstande dat die voorsitter in die geval van 'n staking van stemme by 'n vergadering 'n beslissende stem benewens sy beraadslagende stem het.

Besluit deur alle lede onderteken geldig.

10. 'n Skriftelike besluit van die beheerraad deur alle lede daarvan onderteken, is ten volle van krag en geldig sonder die noodsaaklikheid om 'n vergadering te hou om dit aan te neem.

Fonds word in trust gehou.

11. Die fonds word deur die beheerraad vir die hierna aangegewe doeleindes in trust gehou.

Fonds word in aparte bankrekening gehou.

12. Alle gelde waaruit die fonds bestaan, moet in afwagting van die belegging of aanwending daarvan coreenkomstig hierdie ordonnansie op krediet van 'n rekening wat geopen moet word en wat heet „Die Getrouheidswaarborgfondsrekening vir Prokureurs, Notarisse en Transportbesorgers van Suidwes-Afrika“ betaal word in, of corgedra word aan 'n bank geregistreer ingevolge die Bank Wet 1965 (Wet 23 van 1965) of 'n bouvereniging geregistreer ingevolge die Bouverenigingswet 1965 (Wet 24 van 1965) wat asdan in die Gebied sake doen.

Gelde word in fonds betaal.

13. Die fonds bestaan uit —

- (a) alle bedrae aan of op rekening van die fonds betaal as jaarlikse bydraes ooreenkomsdig die bepalings van hierdie ordonnansie met daardie doel;
- (b) die inkomste wat van tyd tot tyd uit die belegging van die fonds soos hierna bepaal, oploop;
- (c) alle bedrae deur die prokureursorde gegee of voorgeskiet;
- (d) alle gelde wat deur of namens die fonds verhaal word by die uitoefening van 'n reg van aksie deur hierdie ordonnansie verleen;
- (e) alle gelde van 'n versekeringsmaatskappy namens die fonds ontvang;

5. An elected member of the board of control shall hold office until his successor has been elected from time to time and unless another is elected in his place in any year as provided for in section 3 he shall be deemed to have been re-elected.

6. The office of a member of the board of control shall be vacated — *Vacation of office.*

- (a) if he dies; or
- (b) if he becomes of unsound mind; or
- (c) if he ceases to be a member of the society; or
- (d) if he becomes insolvent or makes any arrangement or composition with his creditors; or
- (e) if he ceases to practise as an attorney, notary or conveyancer within the Territory; or
- (f) if he is convicted of any offence which in the opinion of the council, debars him from continuing as a member of the board of control; or
- (g) if he resigns and his resignation is accepted by the council and the board of control.

7. The board of control shall meet whenever necessary at such time and place as it may from time to time decide. *Meetings.*

8. The board of control shall annually elect its own chairman and vice-chairman and in the absence from any meeting of both of them the remaining member of the board of control or his alternate and the alternates of the chairman and vice-chairman shall elect a chairman for that meeting from amongst their number. *Election of office bearers.*

9. Two members of the board of control or their alternates shall form a quorum at any meeting of such board and a decision of the majority of the members present at any such meeting shall be the decision of that board: Provided that in the event of an equality of votes at any meeting the chairman shall have a casting vote in addition to his deliberative vote. *Quorum at meetings and majority decisions and chairman's voting power.*

10. A resolution in writing of the board of control signed by all the members thereof shall be of full force and effect without the necessity of holding a meeting to pass the same. *Resolution signed by all members effective.*

11. The fund shall be held in trust by the board of control for the purposes hereinafter set forth. *Fund to be held in trust.*

12. All moneys constituting the fund shall, pending the investment or application thereof in accordance with this ordinance, be paid or transferred into a bank registered under the Banks Act, 1965 (Act 23 of 1965) or a building society registered under the Building Societies Act, 1965 (Act 24 of 1965) for the time being carrying on business in the Territory to the credit of an account to be called "The Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund of South West Africa Account". *Funds to be separate kept in account.*

13. The fund shall consist of —

- (a) all sums paid to or on account of the fund as annual contributions in accordance with the provisions of this ordinance in that behalf;
- (b) the income from time to time accruing from the investment of the fund as hereinafter provided;
- (c) all sums given or advanced by the society;
- (d) all moneys recovered by or on behalf of the fund in the exercise of any right of action conferred by this ordinance;
- (e) all moneys received on behalf of the fund from any insurance company;

Moneys payable into fund.

- (f) enige ander gelde wat wettig in die fonds inbetaal word.

Uitgawe uit fonds.

14. Behoudens die bepalings van hierdie ordonnansie word daar van tyd tot tyd uit die fonds uitbetaal na vereis word —

- (a) die bedrag van alle eise, met insluiting van koste toegeken of vasgestel teen die fonds soos hierna bepaal;
- (b) alle regskoste aangegaan by die verdediging van eise teen die fonds ingestel of andersins aangegaan met betrekking tot die fonds;
- (c) alle premies betaalbaar ten opsigte van versekeringskontrakte deur die beheerraad ingevolge artikel 24 aangegaan;
- (d) alle terugbetalings aan 'n lid van die prokureursorde of aan sy boedel ingevolge artikel 26 gedoen;
- (e) die onkoste aangegaan met die beheer van die fonds met insluiting van toelaes aan lede van die beheerraad ten opsigte van hulle dienste of hulle redelike reisonkoste aangegaan in verband met die bestuur van die fonds;
- (f) enige onkoste tevore deur die beheerraad gemagtig, wat deur die prokureursorde aangegaan kan word ooreenkomsdig die bepalings van artikel 33 van die hoofwet;
- (g) enige lenings en rente daarop;
- (h) enige ander gelde betaalbaar uit die fonds ooreenkomsdig hierdie ordonnansie of regulasies ingevolge die bepalings van hierdie ordonnansie uitgevaardig.

Ouditering van rekenings.

15. (1) Die rekenings van die fonds word geouditeer deur 'n rekenmeester deur die beheerraad aangestel.

(2) Elke persoon wat ingevolge hierdie artikel as ouditeur optree, moet uiterlik op die een-en-dertigste dag van Augustus in elke jaar 'n balansstaat en wins- en verliesrekening van die fonds opstel en onmiddellik aan die voorsitter van die beheerraad gesertifiseerde afskrifte daarvan en van sy verslag daaroor voorlê.

Bydraes aan die fonds deur prokureurs, notaris en transportbesorger.

16. (1) Behoudens die bepalings van subartikel (2) moet elke prokureur, notaris of transportbesorger wat in een of meer hoedanighede, hetsy vir sy eie rekening of in vennootskap praktiseer, wanneer hy in enige jaar om 'n getrouheidswaarborgsertificaat ingevolge artikel 17 aansoek doen, benewens alle ander gelde en ledegelde, dan deur hom betaalbaar sodanige som as 'n jaarlikse bydrae tot die fonds betaal soos van tyd tot tyd deur die beheerraad bepaal: Met dien verstande dat tot tyd en wyl die bedrag van die fonds, insluitende enige beleggings daarvan, en na aftrekking van die bedrag van alle onbetaalde eise en ander verpligte wat teen die fonds uitstaande is op die voorafgaande een-en-dertigste dag van Desember, minder is as eenhonderduisend rand, sodanige bydrae nie minder mag wees as twintig rand nie: Met dien verstande voorts dat as so 'n prokureur, notaris en transportbesorger op of na die eerste dag van Julie begin praktiseer, hy ten opsigte van daardie jaar, die helfte van die bedrag van die bydraes wat vasgestel is, betaal.

(2) As 'n prokureur, notaris of transportbesorger wat nie reeds in besit van 'n getrouheidswaarborgsertificaat is nie, voornemens is om vir sy eie rekening of in vennootskap te begin praktiseer, moet hy voordat hy aldus begin praktiseer, aan die sekretaris van die prokureursorde kennis van sodanige voorneme gee en daarop word hy aanspreeklik om die bedrag van genoemde bydrae aan die fonds te betaal.

(3) Alle bydraes betaalbaar ingevolge hierdie artikel, word aan die prokureursorde betaal, wat aan die beheerraad die bedrae aanstuur binne een maand na ontvangs daarvan.

(f) any other moneys that may be lawfully paid into the fund.

14. Subject to the provisions of this ordinance there shall from time to time be paid out of the fund as required — Expenditure from fund.

- (a) the amount of all claims including costs allowed or established against the fund as hereinafter provided;
- (b) all legal expenses incurred in defending claims made against the fund or otherwise incurred in relation to the fund;
- (c) all premiums payable in respect of contracts of insurance entered into by the board of control pursuant to section 24;
- (d) all refunds made to a member of the society or to his estate pursuant to section 26;
- (e) the expenses involved in the administration of the fund, including allowances to members of the board of control in respect of their services or their reasonable travelling expenses incurred in connection with the management of the fund;
- (f) any expense previously authorised by the board of control which may be incurred by the society in accordance with the provisions of section 33 of the principal Act;
- (g) any loans and interest thereon;
- (h) any other moneys payable out of the fund in accordance with this ordinance or with regulations made under the provisions of this ordinance.

15. (1) The accounts of the fund shall be audited by Audit of accounts. an accountant appointed by the board of control.

(2) Every person acting as auditor under this section shall, not later than the thirty-first day of August in each year, frame a balance sheet and profit and loss account of the fund and forthwith submit certified copies thereof and of his report thereon to the chairman of the board of control and to the council.

16. (1) Subject to the provisions of sub-section (2) every attorney, notary or conveyancer whether practising in one or more capacities either on his own account or in partnership, on making application in any year for a fidelity fund certificate under section 17, shall, in addition to all other fees and subscriptions then payable by him pay as an annual contribution to the fund such sum as shall be fixed by the board of control from time to time: Provided that until such time as the amount of the fund, including any investments thereof, and after deducting the amount of all unpaid claims and other liabilities outstanding against the fund at the preceding thirty-first day of December, amounts to less than one hundred thousand rand, such annual contribution shall be not less than twenty rand: Provided further that if such attorney, notary and conveyancer commences to practise on or after the first day of July, he shall, in respect of that year, pay half the amount of the contribution which has been so fixed.

Contributions to the fund by attorneys, notaries and conveyancers.

(2) If an attorney, notary or conveyancer who is not already in possession of a fidelity fund certificate intends to commence to practise on his own account or in partnership, he shall before commencing so to practise give notice of such intention to the secretary of the society and he shall thereupon become liable to pay to the fund the amount of the aforesaid contribution.

(3) All contributions payable under this section shall be paid to the society, which shall remit the amounts so received to the board of control within one month of receipt thereof.

Aansoek om en uitrekking van getrouheidsfondssertifikate.

17. (1) Elke prokureur, notaris of transportbesorger wat as sodanig praktiseer of voornemens is om as sodanig te begin praktiseer, hetsy vir sy eie rekening of in vennootskap, moet by die sekretaris van die prokureursorde in die voorgeskrewe vorm om 'n getrouheidsfondssertifikaat aansoek doen.

(2) Sodanige aansoek moet vergesel gaan van die bydrae by artikel 16 voorgeskryf.

(3) By ontvangs van sodanige aansoek en bydrae en as hy hom oortuig het dat die aansoeker al sy verpligtings teenoor die prokureursorde ten opsigte van sy ledegeld vir lidmaatskap daarvan nagekom het, moet sodanige sekretaris onverwyld 'n getrouheidsfondssertifikaat in die voorgeskrewe vorm aan die aansoeker uitreik wat geldig is tot die een-en-dertigste dag van Desember van die jaar ten opsigte waarvan dit uitgereik is.

(4) Geen getrouheidsfondssertifikaat word uitgereik nie tensy en totdat die bepalings van subartikels (1), (2) en (3) nagekom is, en enige sodanige sertifikaat wat instryd met hierdie artikel uitgereik is, is ongeldig.

Belegging van fonds.

18. Enige gelde in die fonds wat nie vir die doeleindes daarvan onmiddellik nodig is nie, word in sodanige staats-effekte of ander sekuriteite belê soos voorgeskryf word.

Aanwending van fonds.

19. (1) Behoudens die bepalings van hierdie ordonnansie word die fonds gehou en aangewend ten einde persone te vergoed wat geldelike verlies ly weens die diefstal gepleeg na die inwerkingtreding van hierdie ordonnansie deur 'n praktiserende prokureur, notaris of transportbesorger, of deur sy klerk of bediende, van enige geld of ander goedere deur of namens sodanige persone toevertrou aan hom of aan sy klerk of bediende in die loop van sy praktyk as sodanig of terwyl hy optree as eksekuteur of administrateur in 'n boedel van 'n oorlede persoon of as trustee in 'n insolvente boedel of in 'n ander dergelike hoedanigheid: Met dien verstande dat hierdie artikel nie geag word van toepassing te wees nie op —

(a) 'n verlies deur enige persoon gely deur middel van 'n prokureur, notaris of transportbesorger terwyl hy in die diens is van enige persoon behalwe 'n ander prokureur, notaris of transportbesorger; of

(b) 'n verlies veroorsaak deur 'n prokureur, notaris of transportbesorger wie se eerlikheid deur een of ander persoon gewaarborg is, hetsy algemeen of ten opsigte van die besondere transaksies.

(2) Elke aksie teen die beheerraad ten opsigte van die fonds kan, behoudens die bepalings van hierdie ordonnansie en die daaringevolge uitgevaardigde regulasies, in die Hooggereghof van Suid-Afrika (Suidwes-Afrika-afdeling) ingestel word.

(3) Niemand het 'n eis teen die beheerraad nie ten opsigte van enige diefstal —

(a) voor die inwerkingtreding van hierdie ordonnansie gepleeg; of

(b) na die inwerkingtreding van hierdie ordonnansie gepleeg tensy —

(i) binne drie maande nadat die eiser van die diefstal te wete gekom het, skriftelike kennis van sodanige eis aan die raad en aan die beheerraad gegee is; en

(ii) sodanige bewys soos die beheerraad redelik vereis, voorgelê word deur die eiser aan die gencemde raad binne ses maande nadat 'n skriftelike eis aan hom gestuur is deur die genoemde raad:

Met dien verstande dat as die genoemde raad, ingagnemende alle omstandighede, oortuig is dat 'n eis of die vereiste bewys so spoedig moontlik ingedien of voorgelê is, die raad na sy goeddunke enige van die tydperke waarna in hierdie paragraaf verwys word, mag verleng.

17. (1) Every attorney, notary or conveyancer practising as such or intending to commence to practise as such, whether on his own account or in partnership, shall apply in the prescribed form to the secretary of the society for a fidelity fund certificate.

Applications for
and issue of
fidelity fund
certificates.

(2) Such application shall be accompanied by the contribution prescribed by section 16.

(3) Upon receipt of such application and contribution, and if he is satisfied that the applicant has discharged all his liabilities to the society in respect of his subscription for membership thereof, such secretary shall forthwith issue to the applicant a fidelity fund certificate in the prescribed form which shall be valid until the thirty-first day of December of the year in respect of which it was issued.

(4) No fidelity fund certificate shall be issued unless and until the provisions of sub-sections (1), (2) and (3) have been complied with, and any such certificate which may have been issued in contravention of this section shall not be valid.

18. Any moneys in the fund which are not immediately required for the purposes thereof shall be invested in such Government or other securities as may be prescribed.

Investment of
fund.

19. (1) Subject to the provisions of this Ordinance, the fund shall be held and applied for the purpose of reimbursing persons who may suffer pecuniary loss by reason of the theft committed after the commencement of this ordinance by a practising attorney, notary or conveyancer, or by his clerk or servant, of any money or other property entrusted by or on behalf of such persons to him or to his clerk or servant in the course of his practice as such or whilst acting as executor or administrator in the estate of a deceased person or trustee in an insolvent estate or in any other like capacity: Provided that this section shall not be deemed to apply —

Application of
fund.

- (a) to any loss suffered by any person through an attorney, notary or conveyancer whilst in the employ of any person other than another attorney, notary or conveyancer; or
- (b) to any loss caused by any attorney, notary or conveyancer whose fidelity has been guaranteed by some other person, either generally or in respect of the particular transaction.

(2) Every action against the board of control in relation to the fund, may subject to the provisions of this ordinance and the regulations made thereunder, be brought in the South West Africa Division of the Supreme Court of South Africa.

(3) No person shall have any claim against the board of control in respect of any theft —

- (a) committed before the commencement of this ordinance; or
- (b) committed after the commencement of this ordinance unless —
 - (i) notice of such claim is given in writing to the council and to the board of control within three months after the claimant becomes aware of the theft; and
 - (ii) such proof as the board of control may reasonably require is furnished by the claimant to the said board within six months after a written demand is sent to him by the said board:

Provided that if the said board is satisfied that having regard to all the circumstances a claim has been lodged or the proof required by it has been furnished as soon as practicable, it may, in its discretion, extend any of the periods referred to in this paragraph.

(4) 'n Eis om terugbetaling ingevolge hierdie artikel word beperk, in die geval van geld toevertou aan 'n prokureur, notaris of transportbesorger, tot 'n bedrag gelyk aan die bedrag wat werklik oorhandig is, sonder rente en in die geval van waarborgs of ander eiendom, tot 'n bedrag gelyk aan die gemiddelde markwaarde van sodanige waarborgs of eiendom soos op die datum wanneer die geskrewe eis die eerste keer om aflewering ingestel is, of, indien daar geen gemiddelde markwaarde is nie, die redelike markwaarde soos op die datum van daardie waarborgs of ander eiendom, sonder rente.

Else teen fonds.

20. (1) Die beheerraad kan te eniger tyd nadat die diefstal ten opsigte waarvan sodanige eis ontstaan het, gepleeg is, enige eis teen die fonds ontvang en hy kan, behoudens die bepalings van artikel 19, dit vereffen, maar niemand mag sonder verlof van die beheerraad 'n aksie teen die fonds begin nie tensy en totdat die eiser gebruik gemaak het van alle toepaslike regte van aksie en ander regsmiddels beskikbaar teen die prokureur, notaris of transportbesorger (of sy boedel), ten opsigte van wie die eis ontstaan het en teen alle ander persone aanspreeklik ten opsigte van die verlies deur sodanige eiser gely.

(2) Niemand mag van die beheerraad 'n groter bedrag verhaal nie as die restant van die deur hom gelede verlies nadat van die totale bedrag van sodanige verlies die bedrag of waarde van alle gelde of ander voordele uit enige ander bron as die fonds, deur hom ontvang of ontvang te word, afgetrek word ter vermindering van sodanige verlies.

(3) Geen bedrag word betaal of is betaalbaar uit die fonds as rente op die bedrag van enige vonnis verkry of van enige eis teen die fonds erken nie.

(4) Geen reg van aksie bestaan teen die beheerraad nie ten opsigte van 'n verlies deur enigiemand gely weens 'n diefstal wat deur 'n prokureur, notaris of transportbesorger gepleeg word te eniger tyd nadat die eiser of persone wat wettig kragtens en deur hom eis, 'n skriftelike kennisgewing van die sekretaris van die prokureursorde of die beheerraad ontvang het om hom of hulle te waarsku teen die indiensneming of verdere indiensneming van sodanige prokureur, notaris of transportbesorger.

(5) Geen reg van aksie bestaan teen die beheerraad nie ten opsigte van 'n verlies deur die vrou van 'n prokureur, notaris of transportbesorger gely weens 'n diefstal deur daardie prokureur, notaris of transportbesorger gepleeg of ten opsigte van 'n verlies deur 'n prokureur, notaris of transportbesorger gely, weens 'n diefstal deur 'n vennoot van daardie prokureur, notaris of transportbesorger gepleeg, of weens 'n diefstal gepleeg deur 'n bediende van sodanige prokureur, notaris of transportbesorger of van 'n firma waarvan hy vennoot is.

(6) Geen aksie vir skadevergoeding bestaan teen die prokureursorde of 'n lid of bediende van die prokureursorde of raad of die beheerraad vir enige kennisgewing te goeder trou en sonder kwaadwilligheid vir die doeleindes van subartikel (4) verstrek nie.

(7) Enige aksie teen die beheerraad ten opsigte van enige verlies gely deur enigiemand weens diefstal deur 'n prokureur, notaris of transportbesorger of deur sy klerk of bediende moet ingestel word binne een jaar van die datum waarop die genoemde raad die betrokke persoon of sy regsvteenwoordiger kennis gegee het dat die eis waarop die aksie betrekking het, verwerp is.

**Verweermiddels
ten opsigte van
else teen fonds.**

21. In 'n aksie ingestel teen die beheerraad in verband met die fonds is alle verweermiddels wat vir die persoon teen wie die eis ontstaan het beskikbaar sou gewees het, vir die beheerraad beskikbaar.

**Subrogasie tot
rente van aksie.**

22. By betaling uit die fonds van enige gelde ter algehele of gedeeltelike vereffening van enige eis ingevolge hierdie ordonnansie, word die beheerraad volgens die mate van sodanige betaling gesubrogeer tot alle regte en regsmiddels van die eiser teen enige prokureur, notaris of

(4) A claim for reimbursement under this section shall be limited, in the case of money entrusted to an attorney, notary or conveyancer, to an amount equal to the amount actually handed over, without interest, and, in the case of securities or other property, to an amount equal to the middle market value of such securities or property at the date when written demand is first made for their delivery, or, if there be no middle market value, the fair market value as at the date of such securities or other property, without interest.

20. (1) The board of control may receive and subject to the provisions of section 19, settle any claim against the fund at any time after the commission of the theft in respect of which such claim arose, but no person may, without leave of the board of control commence an action against the fund unless and until the claimant has exhausted all relevant rights of action and other legal remedies available against the attorney, notary or conveyancer (or his estate) in respect of whom the claim arose and against all other persons liable in respect of the loss suffered by such claimant.

Claim against fund.

(2) No person shall recover from the board of control an amount greater than the balance of the loss suffered by him after deducting from the total amount of such loss the amount or value of all moneys or other benefits received or receivable by him from any source other than the fund in reduction of such loss.

(3) No amount shall be paid or payable out of the fund as interest on the amount of any judgment obtained or of any claim admitted against the fund.

(4) No right of action shall lie against the board of control in respect of any loss suffered by any person by reason of any theft that may be committed by an attorney, notary or conveyancer at any time after the claimant or persons legally claiming under and through him have received a notification in writing from the secretary of the society or the board of control warning him or them against the employment or continued employment of such attorney, notary or conveyancer.

(5) No right of action shall lie against the board of control in respect of any loss suffered by the wife of an attorney, notary or conveyancer by reason of any theft committed by that attorney, notary or conveyancer or in respect of any loss suffered by any attorney, notary or conveyancer by reason of any theft committed by any partner of that attorney, notary or conveyancer or by reason of any theft committed by a servant of such attorney, notary or conveyancer or of any firm in which he is a partner.

(6) No action for damages shall lie against the society or any member or servant of the society or council or the board of control for any notification given in good faith and without malice for the purposes of sub-section (4).

(7) Any action against the board of control in respect of any loss suffered by any person as a result of any theft committed by an attorney, notary or conveyancer or by his clerk or servant, shall be commenced within one year of the date of the notification directed to such person or his legal representative by the said board informing him of its rejection of the claim to which such action relates.

21. In any action brought against the board of control in relation to the fund, all defences which would have been available to the person against whom the claim arose shall be available to the board of control.

Defences to claims against fund.

22. On payment out of the fund of any moneys in settlement in whole or in part of any claim under this ordinance, the board of control shall be subrogated, to the extent of such payment, to all the rights and remedies

Subrogation to rights of action.

transportbesorger en enige ander persoon of persone in verband met wie die eis ontstaan het, of ingeval van sy dood of insolvensie of ander regsonbevoegdheid, teen sy persoonlike verteenwoordiger of ander persone wat bevoegdheid besit om sy boedel te administreer.

As fonds onvoldoende is om sodanige eise te vereffen moet restant teen toekomstige byvoegings bereken word.

23. (1) Geen geld of ander goedere behorende aan 'n prokureursorde behalwe die fonds, is beskikbaar ter vereffening van 'n vonnis in verband met die fonds verkry, of ter betaling van 'n eis deur die beheerraad toegestaan nie; maar indien die fonds te enige tyd onvoldoende is om vir die vereffening van alle sodanige vonnisse en eise voor-siening te maak, word hulle in die mate waarin hulle nie aldus vereffen word nie, teen toekomstige byvoegings aan die fonds bereken.

(2) Die beheerraad kan na sy volstrekte goeddunke beslis oor die orde waarin die vonnisse en eise teen die fonds, bereken soos voormeld, vereffen word, en kan, indien die opgelope bedrag nie voldoende is om alle sodanige vonnisse en eise ten volle te vereffen nie, 'n sodanige vonnis of eis in geheel of gedeeltelik vereffen.

(3) Sonder beperking van die diskresie van die beheerraad moet hy by die aanwending van die fonds ter vereffening van sodanige vonnisse en eise soos voormeld, die volgende reëls in ag neem —

- (a) hy moet die betreklike mate van die ontbering deur die verskillende eisers gely of wat hulle waarskynlik sal ly ingeval hulle eise teen die fonds in geheel of gedeeltelik nie vereffen word nie, in aanmerking neem;
- (b) behoudens paragraaf (a) word eise vir bedrae van hoogstens eenduisend rand, behalwe onder spesiale omstandighede, ten volle vereffen voordat eise vir bedrae van meer as eenduisend rand vereffen word in 'n groter mate as eenduisend rand;
- (c) wanneer alle ander oorwegings ewe sterk is, kry eisers onder mekaar voorrang ooreenkomsdig die datums van die vonnisse of die datums waarop die eise deur die beheerraad erken is, na gelang.

Beheerraad kan versekerings-kontrakte aangaan.

24. (1) Die beheerraad kan na goeddunke met 'n persoon of maatskappy wat getrouheidsversekeringsbesigheid in die Gebied of in die Republiek van Suid-Afrika doen, 'n kontrak aangaan waardeur die fonds in die mate en op die wyse soos deur sodanige kontrak bepaal, skadeloos gestel word teen aanspreeklikheid om eise ingeval hierdie ordonnansie te betaal.

(2) 'n Sodanige kontrak moet ten opsigte van prokureurs, notarisse en transportbesorgers oor die algemeen aangegaan word.

Aanwending van versekeringsgelede.

25. Geen eiser teen die beheerraad besit enige reg van aksie teen enige persoon of maatskappy met wie 'n skadeloosstellingskontrak aangegaan is ingeval artikel 24 ten opsigte van sodanige kontrak, of het 'n reg of eis op enige geldie deur die versekeraar betaal ooreenkomsdig 'n sodanige skadeloosstellingskontrak nie; maar alle sodanige geldie word in die fonds gestort en word vir of ter vereffening van relevante eise aangewend.

Beheerraad kan in sekere gevalle bydraes terug-betaal.

26. Ingeval 'n prokureur, notaris of transportbesorger ten opsigte van wie geen eis ingeval hierdie ordonnansie ingestel is nie, of indien so 'n eis ingestel is, ten opsigte van wie sodanige eis nie gehandhaaf is nie, sterf of ophou om sy professie te beoefen, kan die beheerraad na goeddunke en nadat hy hom daarvan oortuig het dat daar waarskynlik geen eis ingestel sal word nie, aan hom of aan sy boedel, na gelang 'n bedrag van hoogstens die gesamentlike bedrag van sy bydraes tot die fonds betaal.

Prokureur, notaris of transportbesorger moet geldige getrouheidsfondssertifikaat hou.

27. Geen prokureur, notaris of transportbesorger mag na die inwerkingtreding van hierdie ordonnansie vir sy eie rekening of in vennootskap as sodanig optree of praktiseer nie tensy hy in besit van 'n geldige getrouheidsfondssertifikaat is.

of the claimant against any attorney, notary or conveyancer and any other person or persons in relation to whom the claim arose, or in the event of his death or insolvency or other disability against his personal representatives or other persons having authority to administer his estate.

23. (1) No money or other property belonging to the society other than the fund shall be available for the satisfaction of any judgment obtained in relation to the fund, or for the payment of any claim allowed by the board of control, but if at any time the fund is not sufficient to provide for the satisfaction for all such judgments and claims they shall, to the extent to which they are not so satisfied, be charged against future accumulations of the fund.

If fund insufficient to satisfy such claims balance to be charged against future accumulations.

(2) The board of control may in its absolute discretion determine the order in which the judgments and claims charged against the fund as aforesaid shall be satisfied, and may, if the amount accumulated is not sufficient to satisfy all such judgments and claims in full, satisfy any such judgment or claim in whole or in part.

(3) Without limiting the discretion of the board of control, it shall, in applying the fund towards the settlement of such judgments and claims as aforesaid, have regard to the following rules —

- (a) it shall take into consideration the relative degrees of hardship suffered or likely to be suffered by the several claimants in the event of their claims against the fund not being satisfied in whole or in part;
- (b) subject to paragraph (a) claims for amounts not exceeding one thousand rand shall, unless in special circumstances, be satisfied in full before claims for amounts exceeding one thousand rand are satisfied to a greater extent than one thousand rand;
- (c) where all considerations are equal, claimants shall have priority amongst themselves according to the dates of the judgments or the dates when the claims were admitted by the board of control, as the case may be.

24. (1) The board of control may in its discretion enter into any contract with any person or company carrying on fidelity insurance business in the Territory or the Republic of South Africa whereby the fund will be indemnified to the extent and in the manner provided by such contract against liability to pay claims under this ordinance.

Board of control may enter into contracts of insurance.

(2) Any such contract shall be entered into in respect of attorneys, notaries, and conveyancers generally.

25. No claimant against the board of control shall have any right of action against any person or company with whom a contract of indemnity has been made under section 24 in respect of such contract, or have any right or claim to any moneys paid by the insurer in accordance with any such contract of indemnity, but all such moneys shall be paid into the fund and shall be applied in or towards the settlement of relevant claims.

Application of insurance moneys.

26. In the event of the death or on the retirement from the practice of his profession of an attorney, notary or conveyancer in respect of whom no claim has been made under this Ordinance, or, if any such claim has been made, in respect of whom such claim has not been sustained, the board of control may in its discretion and after satisfying itself that no claim is likely to be made, pay to him or to his estate, as the case may be, a sum not exceeding the aggregate amount of his contributions to the fund.

Board of control may refund contributions in certain cases.

27. No attorney, notary or conveyancer shall after the commencement of this ordinance, act or practise as such on his own account or in partnership unless he is in possession of a valid fidelity fund certificate.

Attorney, notary or conveyancer to be in possession of valid fidelity fund certificate.

Prokureur,
notaris of
transport-
besorger wat
sonder 'n
getrouheids-
fondssertifikaat
praktiseer.

Prokureur mag
nie optree of geld
verhaal sonder 'n
getrouheids-
fondssertifikaat
nie.

Prokureur,
notaris of
transport-
besorger mag
nie sonder 'n
getrouheidsfonds-
sertifikaat
praktiseer nie.

Fonds van
inkomste- en
ander belastings
vrygestel.

Fonds van
versekerings-
wette vrygestel.

Bewaring van
rekords en
dokumente.

Administrateur
kan regulasies
vir doeleindes
van hierdie
ordonnansie
opstel.

28. Elkeen wat vir sy eie rekening of in vennootskap regstreeks of onregstreeks as prokureur, notaris of transportbesorger optree of praktiseer sonder om asdan 'n getrouheidsfondssertifikaat te hou wat dan van krag is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand en by wanbetaling met gevangenisstraf van hoogstens ses maande.

29. Niemand wat na die inwerkingtreding van hierdie ordonnansie as prokureur (vir sy eie rekening of in vennootskap) vir enige ander persoon optree, mag iemand in regte aanspreek, vervolg, verdedig of 'n aksie of geding of protes in die hof voer nie, of kan 'n aksie of geding ter verhaal van enige gelde, beloning of uitgawe vir of ten opsigte van enige besigheid, saak of iets deur hom as prokureur gedoen, handhaaf nie sonder dat hy in besit van 'n getrouheidsfondssertifikaat is en elkeen wat die bepalings van hierdie artikel oortree of versuim om hulle na te kom, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand en by wanbetaling, met gevangenisstraf van hoogstens ses maande.

30. Niemand wat na die inwerkingtreding van hierdie ordonnansie as prokureur, notaris of transportbesorger (vir sy eie rekening of vennootskap) vir enige ander persoon optree, kan 'n aksie of geding handhaaf ter verhaal van enige gelde, beloning of uitgawe vir of ten opsigte van 'n opdrag vir, of die opstel, voorberei, grosseer, seël, registreer of inskrywing van 'n akte, dokument of stuk nie, tensy hy 'n getrouheidsfondssertifikaat het en elkeen wat die bepalings van hierdie artikel oortree of versuim om hulle na te kom, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand en by wanbetaling, met gevangenisstraf van hoogstens ses maande.

31. Die inkomste van die fonds is van die bepalings van enige wet betreffende die betaling van inkomstebelasting of 'n belasting of heffing deur die Staat, vrygestel.

32. Geen bepalings van 'n wet betreffende versekerings (behalwe 'n wet betreffende die verpligte versekerings van werknekemers) of die verskaffing van sekuriteit in verband daarmee, is op die fonds van toepassing nie.

33. Alle rekords en dokumente in die bewaring van die beheerraad betreffende 'n eis teen die fonds, moet bewaar word in die kantoor van die sekretaris van die beheerraad: Met dien verstande dat die voorsitter van die raad, na tien jaar van die datum waarop die eis waarna so 'n rekord of dokument verwys, deur die raad afgehandel is of daaroor uitspraak deur die hof gegee is, of onuitvoerbaar gemaak is deur die verstryking van enige tydperk genoem in artikel 19 (3) of artikel 20 (7), kan gelas dat so 'n rekord of dokument verwyder word na 'n plek van veiligheid, of vernietig word of andersins oor beskik word.

34. (1) Vir die doeleindes van hierdie ordonnansie kan die Administrateur na oorleg met die Regter-President van die Hooggereghof van Suid-Afrika (Suidwes-Afrika-afdeling) en na oorleg met die president van die prokureursorde, van tyd tot tyd regulasies vir al of enige van die volgende doeleindes uitvaardig —

- (a) om voorsiening te maak vir die metode van betaling en verhaal van enige bydrae;
- (b) om voorsiening te maak vir die belegging van soveel van die fonds as wat vir die doeleindes daarvan nie onmiddellik vereis word nie;
- (c) ter voorskrywing van formuliere en tye van kennis wat aan die prokureursorde en die beheerraad gegee moet word ten opsigte van eise teen fonds en die besonderhede daarvan, en die voorwaardes waarop en die mate waarin die beheerraad enige sodanige eise kan vereffen sonder om van 'n regsproses gebruik te maak;

28. Every person who directly or indirectly acts or practises as an attorney, notary or conveyancer on his own account or in partnership without having at the time a fidelity fund certificate then in force shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or, in default of payment, to imprisonment for a period not exceeding six months.

Attorney, notary or conveyancer practising without a fidelity fund certificate.

29. No person acting as an attorney (on his own account or in partnership) for any other person shall, after the commencement of this ordinance, sue, prosecute, defend or carry on any action or suit or any proceedings in any court or shall be capable of maintaining any action or suit for the recovering of any fee, reward or disbursement for or in respect of any business, matter or thing done by him as an attorney unless he is in possession of valid fidelity fund certificate and any person who contravenes or fails to comply with any provision of this section shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or, in default of payment, to imprisonment for a period not exceeding six months.

Attorney may not act or recover fees without a fidelity fund certificate.

30. No person acting as an attorney, notary or conveyancer (on his own account or in partnership) for any other person shall after the commencement of this ordinance be capable of maintaining any action or suit for the recovery of any fee, reward or disbursement for or in respect of instructions for, or drawing, preparing, ingrossing, stamping, registering or recording any deed, document or instrument unless he is in possession of a valid fidelity fund certificate and any person who contravenes or fails to comply with any provision of this section shall be guilty of an offence, and liable on conviction to a fine not exceeding two hundred rand or, in default of payment, to imprisonment for a period not exceeding six months.

Attorney, notary or conveyancer may not act without a fidelity fund certificate.

31. The income of the fund shall be exempt from the provisions of any law relating to payment of income tax or any tax or levy by the State.

Fund exempt from income tax and other taxes.

32. No provisions of any law relating to insurance (other than a law relating to the compulsory insurance of employees) or the provision of security in connection therewith shall apply to the fund.

Fund exempt from insurance laws.

33. Any record or document in the custody of the board of control relating to a claim made against the fund shall be preserved at the office of the secretary of the said board: Provided that the chairman of the said board may, after ten years from the date on which the claim to which such record or document relates, is settled by the said board or is adjudicated upon by the court or is rendered unenforceable by the expiration of any of the periods referred to in section 19 (3) or section 20 (7), direct that such record or document be removed to some other place of custody or be destroyed or otherwise disposed of.

Preservation of records and documents.

34. (1) For the purposes of this ordinance the Administrator in consultation with the Judge President of the South West Africa Division of the Supreme Court of South Africa and after consultation with the President of the society, may from time to time make regulations for all or any of the following purposes:—

Administrator may make regulations for purposes of this ordinance.

- (a) providing for the method of payment and recovery of any contribution;
- (b) providing for the investment of so much of the fund as is not immediately required for the purposes thereof;
- (c) prescribing forms and times of notice to be given to the society and the board of control in respect of claims against the fund and the particulars thereof, and the conditions subject to which and the extent to which the board of control may settle any such claims without recourse being had to legal proceedings;

- (d) ter voorsiening van sertifikaatformuliere wat uitgereik moet word aan persone wat as prokureurs, notarisse of transportbesorgers praktiseer, verklaarings, aansoeke, kennisgewings en dokumente wat gebruik moet word word ten opsigte van 'n aansoek of weiering van 'n aansoek ingevalgelyke hierdie ordonnansie;
- (e) ter verkryging van enige getuienis dat 'n persoon toegelaat is om te praktiseer of nog praktiseer of opgehou het om te praktiseer of aangehou of opgehou het om as prokureur, notaris of transportbesorger te praktiseer, en oor die algemeen ter verkryging van inligting wat nodig of billik geag word ter vasstelling van die meriete van aansoeke om sertifikate of daarmee verbandhoudende sake;
- (f) ter verkiezing van 'n voorsitter, ondervoorsitter en ander ampsdraers van die beheerraad;
- (g) vir die aanstelling, besoldiging en ontslag van enige administratiewe of klerklike beampies van die beheerraad;
- (h) vir die stigting van kantore vir en die reëeling van die bestuur en beheer van die beheerraad, met inbegrip van die wyse waarop en vorm waarin alle kontrakte, aktes en dokumente deur, vir of namens die beheerraad opgestel en verkry word;
- (i) vir die magtiging van die beheerraad om enigiemand te dagvaar en onder eed te ondervra, wie se getuienis nodig geag word om die genoemde raad in staat te stel om te besluit oor die geldigheid van enige eis ingedien wat betref die fonds;
- (j) oor die algemeen vir sodanige ander sake soos nodig beskou word ten einde die doelstellings van hierdie ordonnansie ten volle uit te voer.

(2) Enige regulasies deur die Administrateur uitgevaardig, soos voormeld, word in die *Offisiële Koerant* gepubliseer, en is dan van dieselfde krag en geldigheid asof hulle in hierdie ordonnansie opgeneem was.

Invoeging van
paragraaf 8 *quat*
in Bylae A by
Ordonnansie 7
van 1959.

35. Bylae A van die Wysigingsordonnansie op die Toelating van Prokureurs, Notarisse en Transportbesorgers 1959 (Ordonnansie 7 van 1959) word hierby gewysig deur die invoeging na paragraaf 8ter van die volgende paragraaf:—

„*8quat* Die verwysing in artikel 33 (3) van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet 1934 (Wet 23 van 1934) na die Prokureurs, Notarisse en Transportbesorgers Getrouheidswaarborgfonds gestig by die Toelating van Prokureurs Wysigings- en Regspraktisyngetroouheidsfonds-wet 1941 (Wet 19 van 1941) beteken 'n verwysing na Getrouheidswaarborgfonds vir Prokureurs, Notarisse en Transportbesorgers van Suidwes-Afrika ingestel by die Ordonnansie op die Regspraktisyngetroouheidsfonds 1967.”

Kort titel en
inwerkingtreding.

36. Hierdie ordonnansie heet die Ordonnansie op die Regspraktisyngetroouheidsfonds 1967 en tree op die eerste dag van Januarie 1968 in werking.

- (d) for providing forms of certificate to be issued to persons practising as attorneys, notaries or conveyancers, declarations, applications, notices and documents to be used in relation to any application or refusal of any application under this ordinance;
- (e) for requiring any evidence that a person has been admitted to practise or is still practising or has ceased practising or has continued or discontinued practising as an attorney, notary or conveyancer or as to the reason of any person discontinuing practice and generally for the obtaining of information which may be considered necessary or reasonable for the purposes of determining the merits of applications for certificates or matters in relation thereto;
- (f) for the election of a chairman, vice-chairman and other office-bearers of the board of control;
- (g) for the appointment, remuneration and dismissal of any administrative or clerical officers of the board of control;
- (h) for the establishment of offices for and the regulation of the management and administration of the board of control, including the manner and form in which all contracts, deeds and documents shall be drawn and executed by, for, or on behalf of the board of control;
- (i) empowering the board of control to sub-poena and to examine on oath any person whose evidence is deemed necessary to enable the said board to decide upon the validity of any claim submitted in relation to the fund;
- (j) generally, for such other matters as may be considered necessary for the purpose of giving full effect to the intent of this ordinance.

(2) Any regulations made by the Administrator as aforesaid shall be published in the *Official Gazette*, and shall thereupon have the same force and effect as if they were enacted in this ordinance.

35. Schedule A to the Attorneys, Notaries and Conveyancers Admission Amendment Ordinance, 1959 (Ordinance 7 of 1957) is hereby amended by the insertion after paragraph 8ter of the following paragraph:—

Insertion of
paragraph 8 quat
in Schedule A
to Ordinance 7
of 1959.

„8quat The reference in section 33 (3) of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act 23 of 1934) to the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund established under the Attorneys Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941 (Act 19 of 1941) shall mean a reference to the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund of South West Africa established under the Legal Practitioners' Fidelity Fund Ordinance, 1967.”

36. This ordinance shall be called the Legal Practitioners' Fidelity Fund Ordinance, 1967 and shall come into operation on the first day of January, 1968.

Short title and
commencement.