



**REPUBLIC OF SOUTH AFRICA**

# **GOVERNMENT GAZETTE**

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# **STAATSKOERANT**

**VAN DIE REPUBLIEK VAN SUID-AFRIKA**

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1105.

30 June 1976.

No. 1105.

30 Junie 1976.

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

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

No. 85 of 1976: War Damage Insurance and Compensation Act, 1976.

No. 85 van 1976: Wet op Oorlogskadeversekering en -vergoeding, 1976.

## WET

**Om voorsiening te maak vir die instelling van 'n Oorlogskadefonds; vir Staatsversekering teen die risiko van oorlogskade en vir die betaling van vergoeding en die uitreiking van waarborge deur die Staat ten opsigte van sodanige skade; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

*(Engelse teks deur die Staatspresident geteken.)  
(Goedgekeur op 18 Junie 1976.)*

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

Woord-  
omskrywing.

**1.** In hierdie Wet, tensy uit die samehang anders blyk, beteken—

- (i) „boekjaar” ’n jaar wat op 31 Maart eindig; (i)
- (ii) „fonds” die Oorlogskadefonds bedoel in artikel 2; (ii)
- (iii) „Minister” die Minister van Finansies; (iii)
- (iv) „oorlogskade”—
  - (a) enige skade of verlies gely of uitgawe aangegaan, ten bedrae van nie minder nie as vyftig rand, ten opsigte van—
    - (i) ’n handelsvaartuig wat ’n Suid-Afrikaanse skip is soos omskryf in artikel 2 (1) van die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), of wat die eiendom is van ’n maatskappy waarvan al die aandele gehou word deur aandeelhouders in die Republiek, ongeag of bedoelde handelsvaartuig binne of buite die territoriale waters van die Republiek was toe die skade of verlies gely of die uitgawe aangegaan is;
    - (ii) ’n handelslugvaartuig wat ’n Suid-Afrikaanse lugvaartuig is soos omskryf in artikel 1 van die Lugvaartwet, 1962 (Wet No. 74 van 1962), ongeag of bedoelde handelslugvaartuig in of bokant die Republiek of die territoriale waters daarvan of elders was toe die skade of verlies gely of die uitgawe aangegaan is;
    - (iii) enige vrag aan boord van so ’n handelsvaartuig of handelslugvaartuig; of
    - (iv) enige voorgeskrewe goed in die Republiek, en wat voortspruit uit vyandelike optrede gerig teen die veiligheid van die Republiek, waarby gebruik gemaak word van ander wapens as kernwapens deur die vyand of deur die gewapende magte van die Republiek of ’n bondgenoot van die Republiek;
  - (b) enige ander skade, verlies of uitgawe, ten bedrae van nie minder nie as vyftig rand, gely of aangegaan tydens vyandelike optrede gerig teen die veiligheid van die Republiek en wat voortspruit uit—

## WAR DAMAGE INSURANCE AND COMPENSATION ACT, 1976 Act No. 85, 1976

**ACT**

To provide for the establishment of a War Damage Fund; for State insurance against the risk of war damage and for the payment of compensation and the issue of guarantees by the State in respect of such damage; and to provide for matters connected therewith.

*(English text signed by the State President.)  
(Assented to 18 June 1976.)*

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. In this Act, unless the context otherwise indicates—
- Definitions.
- (i) "financial year" means a year ending on 31 March; (i)
  - (ii) "fund" means the War Damage Fund referred to in section 2; (ii)
  - (iii) "Minister" means the Minister of Finance; (iii)
  - (iv) "prescribed" means prescribed by regulation; (vi)
  - (v) "Treasury" means the Treasury as defined in section 1 (1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975); (v)
  - (vi) "war damage" means—
    - (a) any damage or loss sustained or expenditure incurred, amounting to not less than fifty rand, in respect of—
      - (i) any merchant vessel which is a South African ship as defined in section 2 (1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), or which is owned by a company of which all the shares are held by shareholders within the Republic, irrespective of whether such merchant vessel was within or outside the territorial waters of the Republic at the time when the damage or loss was sustained or the expenditure was incurred;
      - (ii) any commercial aircraft which is a South African aircraft as defined in section 1 of the Aviation Act, 1962 (Act No. 74 of 1962), irrespective of whether such commercial aircraft was in or over the Republic or the territorial waters thereof or elsewhere at the time when the damage or loss was sustained or the expenditure was incurred;
      - (iii) any cargo on board such merchant vessel or commercial aircraft; or
      - (iv) any prescribed property in the Republic, and arising from any hostile action directed against the security of the Republic, in which use is made of weapons other than nuclear weapons by the enemy or by the armed forces of the Republic or an ally of the Republic;

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1976

- (i) die gebruikmaking van 'n wapen waarin atoom- of kernsplyting of -smelting aangewend word, of uit gevangeneeming, beslaglegging, inhegtenisneming, bedwang, aanhouding, rekwisisie, voorkoop, geweld, of politieke optrede van 'n vyandelike aard; of
- (ii) die voorkoming of onderdrukking, deur die gewapende of polisiemagte van die Republiek of 'n bondgenoot van die Republiek, van enige optrede bedoel in subparagraaf (i); of
- (iii) 'n poging tot enige optrede bedoel in subparagraaf (i) of (ii),  
en wat die Minister, na goëddunke, by kennisgewing in die *Staatskoerant* tot oorlogskade verklaar; (vi)

(v) „Tesourie” die Tesourie soos omskryf in artikel 1 (1) van die Skatkis- en Ouditwet, 1975 (Wet No. 66 van 1975); (v)

(vi) „voorgeskryf” by regulasie voorgeskryf. (iv)

Instelling van Oorlogskadefonds.

2. Die Minister kan, so dikwels as wat daar na sy oordeel 'n moontlikheid van die ontstaan van oorlogskade is, 'n fonds, met die naam die Oorlogskadefonds, instel, wat 'n regs persoon is en wat gekrediteer word met—

- (a) premies ontvang ten opsigte van versekeringskontrakte aangegaan en waarborge uitgereik ingevolge die bepalings van artikel 3;
- (b) geld deur die Parlement of enige ander wetgewende gesag in die Republiek of die gebied Suidwes-Afrika vir dié doel bewillig;
- (c) rente ontvang uit die belegging van geld waarvoor die fonds beskik; en
- (d) geld wat die fonds uit enige ander bron toeval.

Oorlogskade-versekering en -vergoeding.

3. (1) Die Minister kan by kennisgewing in die *Staatskoerant*, op die bedinge en voorwaardes deur hom bepaal en in sodanige kennisgewing uiteengesit, 'n skema of skemas instel waarvolgens die persone vermeld in sodanige kennisgewing—

- (a) uit hoofde van 'n versekeringskontrak, met die fonds versekering teen die risiko van oorlogskade kan bekom;
- (b) deur die fonds vergoed kan word vir oorlogskade;
- (c) 'n Regeringswaarborg kan bekom vir die betaling deur die fonds van vergoeding vir enige oorlogskade wat hulle mag ly; en
- (d) 'n Regeringswaarborg kan bekom vir die betaling deur die fonds van die bedrag of enige gedeelte van die bedrag wat die verskil uitmaak tussen die normale premie betaalbaar ten opsigte van versekering teen die risiko van verlies van, skade aan of uitgawe in verband met goed, en enige hoër premie wat ten opsigte van sodanige versekering betaalbaar mag wees in die geval waar sodanige verlies, skade of uitgawe voortspruit uit die gebruikmaking van 'n wapen waarin atoom- of kernsplyting of -smelting aangewend word, of uit ander vyandelike optrede gerig teen die veiligheid van die Republiek, gevangeneeming, beslaglegging, inhegtenisneming, bedwang, aanhouding, rekwisisie, voorkoop, geweld, of politieke optrede van 'n vyandige aard, of uit 'n poging tot enige van bedoelde handeling.

(2) Die Minister kan by die toepassing van subartikel (1) onderskei tussen—

- (a) verskillende soorte goed ten opsigte waarvan 'n skema ingestel is;
- (b) verskillende persone op wie so 'n skema betrekking het;
- (c) verskillende streke of gebiede;
- (d) verskillende soorte oorlogskade waarop so 'n skema betrekking het; en

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- (b) any other damage, loss or expenditure, amounting to not less than fifty rand, sustained or incurred during any hostile action directed against the security of the Republic and arising from—
- (i) the use of any weapon employing atomic or nuclear fission or fusion, or from capture, seizure, arrest, restraint, detention, requisition, pre-emption, violence, or political action of a hostile nature; or
  - (ii) the prevention or suppression, by the armed or police forces of the Republic or an ally of the Republic, of any action referred to in subparagraph (i); or
  - (iii) any attempt at any action referred to in subparagraph (i) or (ii),
- and which the Minister in his discretion, by notice in the *Gazette*, declares to be war damage. (iv)

2. The Minister may, as often as in his opinion there is a possibility of war damage arising, establish a fund, to be known as the War Damage Fund, which shall be a juristic person and shall be credited with—

Establishment  
of War Damage  
Fund.

- (a) premiums received in respect of contracts for insurance entered into, and guarantees issued, in terms of the provisions of section 3;
- (b) money appropriated for this purpose by Parliament or any other legislative authority in the Republic or in the territory of South West Africa;
- (c) interest received from the investment of money at the disposal of the fund; and
- (d) money accruing to the fund from any other source.

3. (1) The Minister may by notice in the *Gazette*, on such terms and conditions as may be determined by him and specified in such notice, establish any scheme or schemes whereunder such persons as may be specified in such notice—

War damage  
insurance and  
compensation.

- (a) may obtain, by virtue of a contract for insurance with the fund, insurance against the risk of war damage;
- (b) may be compensated by the fund for war damage;
- (c) may obtain a Government guarantee for the payment by the fund of compensation for any war damage which they may sustain; and
- (d) may obtain a Government guarantee for the payment by the fund of the amount or any part of the amount representing the difference between the normal premium payable in respect of insurance against the risk of loss of, damage to or expenditure in connection with property, and any higher premium which may be payable in respect of such insurance in the case where such loss, damage or expenditure arises from the use of any weapon employing atomic or nuclear fission or fusion, or from any other hostile action directed against the security of the Republic, capture, seizure, arrest, restraint, detention, requisition, pre-emption, violence, or political action of a hostile nature, or from an attempt at any of such actions.

(2) The Minister may, for the purposes of subsection (1), differentiate between—

- (a) different kinds of property in respect of which a scheme has been established;
- (b) different persons to which such a scheme relates;
- (c) different regions or areas;
- (d) different kinds of war damage to which such a scheme relates; and

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1976

- (e) verskillende skemas na gelang van die tydperk waarvoor die betrokke goed verseker word.
- Aanwending van geld van fonds. 4. Die geld van die fonds word aangewend—
- ter bestryding van oorlogskade aan goed verseker kragtens 'n versekeringskontrak gesluit uit hoofde van die bepalings van artikel 3 (1) (a);
  - vir die betaling van vergoeding uit hoofde van die bepalings van artikel 3 (1) (b);
  - vir die nakoming van verpligtinge wat voortspruit uit 'n waarborg uitgereik uit hoofde van die bepalings van artikel 3 (1) (c) of (d); en
  - ter bestryding van koste verbonde aan die administrasie van hierdie Wet.
- Beperkte nakoming van fonds se verpligtinge. 5. Indien die verpligtinge van die fonds die inkomste daarvan in 'n boekjaar oorskry of die Minister van oordeel is dat dit waarskynlik sal gebeur—
- kan die Minister uitbetalings deur die fonds beperk en van tyd tot tyd 'n grondslag bepaal waarvolgens die verpligtinge van die fonds nagekom word by wyse van jaarlikse rentelose paaiemente;
  - lê die Minister, indien hy kragtens paragraaf (a) optree, 'n verslag oor die aangeleentheid in albei Huisse van die Parlement ter Tafel in die vorm wat hy goedvind en waarin hy aanbeveel dat die Parlement geld bewillig ten einde die fonds in staat te stel om sy verpligtinge na te kom ooreenkomstig die grondslag kragtens paragraaf (a) deur die Minister bepaal.
- Aanwending van geld deur fonds betaal. 6. Die Minister kan na goeddunke vereis dat 'n bedrag geld deur die fonds betaal kragtens 'n skema bedoel in artikel 3, of die gedeelte van sodanige bedrag wat hy bepaal, aangewend word vir die herstel of vervanging, tot bevrediging van die Minister, van daardie oorlogsbeskadigde goed ten opsigte waarvan die betaling geskied het, of vir die ander doel wat hy goedkeur, en kan die stappe doen wat nodig is om te verseker dat bedoelde bedrag of gedeelte daarvan aldus aangewend word.
- Administrasie van skemas en beheer oor fonds. 7. (1) Behoudens die bepalings van subartikel (2)—
- moet die Tesourie die fonds beheer en 'n kragtens artikel 3 ingestelde skema administreer;
  - moet die Tesourie behoorlik boekhou van al die finansiële transaksies, bates en laste van die fonds en so spoedig moontlik na die einde van elke boekjaar rekenings van die fonds se inkomste en uitgawes vir daardie jaar en 'n balansstaat van sy bates en laste aan die einde van daardie jaar opstel:
- Met dien verstande dat die Minister—
- 'n komitee, bekend as die Oorlogskadeversekeringskomitee, kan instel om die Tesourie behulpsaam te wees met die uitvoering van die pligte by hierdie Wet aan die Tesourie opgelê en om die verdere werksaamhede wat die toepassing van hierdie Wet meebring en wat die Minister bepaal, namens die Tesourie te verrig;
  - die persone wat hy geskik ag, as lede van bedoelde komitee kan aanstel op die voorwaardes wat hy ten tyde van hul aanstelling bepaal.
- (2) Die Minister of, onderworpe aan sy goedkeuring, die Tesourie of die Oorlogskadeversekeringskomitee bedoel in subartikel (1), kan 'n ooreenkoms met enige persoon aangaan uit hoofde waarvan daardie persoon onderneem om, teen die besoldiging waarvoor in so 'n ooreenkoms voorsiening gemaak word, skade wat deur die fonds vergoed moet word, te waardeer, en om enige ander werk te verrig wat uit die toepassing van hierdie Wet of uit enige versekering aangegaan ingevolge hierdie Wet voortspruit.

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- (e) different schemes according to the period for which the property in question is insured.

## 4. The money of the fund shall be utilized—

Utilization of money of fund

- (a) for the defraying of war damage to property insured under a contract of insurance entered into by virtue of the provisions of section 3 (1) (a);
- (b) for the payment of compensation by virtue of the provisions of section 3 (1) (b);
- (c) for the meeting of liabilities arising from any guarantee issued by virtue of the provisions of section 3 (1) (c) or (d); and
- (d) for the defraying of costs incidental to the administration of this Act.

## 5. If in any financial year the liabilities of the fund exceed its revenue or the Minister is of the opinion that this is likely to happen—

Limited meeting of fund's liabilities.

- (a) the Minister may limit payments by the fund and may from time to time determine a basis according to which the liabilities of the fund shall be met by means of annual interest-free instalments;
- (b) the Minister shall, if he acts in terms of paragraph (a), lay upon the Tables of both Houses of Parliament a report on the matter in such form as he may deem fit and in which he shall recommend that money be appropriated by Parliament so as to enable the fund to meet its liabilities in accordance with the basis determined by the Minister under paragraph (a).

## 6. The Minister may in his discretion require that an amount of money paid by the fund in terms of a scheme referred to in section 3, or such part of such amount as may be determined by him, shall be utilized for the repair or replacement, to the satisfaction of the Minister, of that war-damaged property in respect of which the payment was made, or for such other purpose as he may approve, and may take such steps as may be necessary in order to ensure that the said amount or part thereof is so utilized.

Utilization of money paid by fund.

## 7. (1) Subject to the provisions of subsection (2)—

Administration of schemes and control of fund.

- (a) the Treasury shall control the fund and administer any scheme established under section 3;
- (b) the Treasury shall keep a proper record of all the financial transactions, assets and liabilities of the fund and shall prepare, as soon as possible after the end of each financial year, accounts of the revenue and expenditure of the fund for such year and a balance sheet of its assets and liabilities as at the end of that year:

## Provided that the Minister—

- (i) may establish a committee, to be known as the War Damage Insurance Committee, to assist the Treasury in the execution of the duties imposed upon the Treasury by this Act and to perform on behalf of the Treasury such further functions as the application of this Act may entail and which the Minister may determine;
- (ii) may appoint such persons as he may deem fit, as members of the said committee on such conditions as he may determine at the time of their appointment.

## (2) The Minister or, subject to his approval, the Treasury or the War Damage Insurance Committee referred to in subsection (1), may enter into an agreement with any person by virtue of which such person undertakes, at such remuneration as may be provided for in such agreement, to assess any damage which the fund is required to compensate, and to perform any other work arising from the application of this Act or from any insurance effected under this Act.

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Bankrekening en audit.	<p><b>8.</b> (1) 'n Bankrekening op die naam van die fonds word by die Suid-Afrikaanse Reserwebank gehou.</p> <p>(2) Die rekenings en balansstaat bedoel in artikel 7 (1) (b) word deur die Ouditeur-generaal geouditeer.</p>
Belegging van geld wat nie onmiddellik nodig is nie.	<p><b>9.</b> (1) Enige geld van die fonds wat nie vir onmiddellike gebruik nodig is nie, word by die Staatskuldkommissarisse of by 'n deur die Minister goedgekeurde finansiële instelling belê, en kan, wanneer benodig, getrek word.</p> <p>(2) Enige onbestede saldo van die geld van die fonds aan die einde van 'n boekjaar word as 'n krediet van die fonds na die daaropvolgende boekjaar oorgedra.</p>
Ontbinding van fonds.	<p><b>10.</b> (1) Die Minister kan, wanneer hy, met inagneming van die doel waarvoor die fonds ingestel is, oortuig is dat die voortbestaan van die fonds nie langer geregverdig is nie, die fonds by kennisgewing in die <i>Staatskoerant</i> ontbind.</p> <p>(2) Enige onbestede saldo van die geld van die fonds, hetsy dit kragtens artikel 9 belê is al dan nie, waarmee die fonds op die datum van sodanige ontbinding gekrediteer is, word, ondanks andersluidende bepalings in enige ander wet, in die Staatsinkomstefonds inbetaal.</p> <p>(3) Enige verpligting van die fonds ingevolge die bepalings van hierdie Wet wat op die datum van sodanige ontbinding nog nie nagekom is nie, gaan oor op die Staat.</p>
Regulasies.	<p><b>11.</b> Die Minister kan regulasies uitvaardig aangaande enige aangeleentheid wat hy nodig of dienstig ag om voor te skryf ten einde die bereiking van die oogmerke van hierdie Wet te bevorder of te vergemaklik.</p>
Toepassing in Suidwes-Afrika.	<p><b>12.</b> Hierdie Wet en enige wysiging daarvan is ook in die gebied Suidwes-Afrika van toepassing.</p>
Herroeping van wette.	<p><b>13.</b> (1) Die Oorlogskade-versekeringswet, 1941 (Wet No. 21 van 1941), die Wysigingswet op Oorlogskadeversekering, 1942 (Wet No. 25 van 1942), en artikel 7 (2) van die Tweede Finansiewet, 1948 (Wet No. 49 van 1948), word hierby herroep.</p> <p>(2) Artikel 6 van die Finansiewet, 1964 (Wet No. 76 van 1964), word hierby herroep met ingang van 'n datum wat die Staatspresident by proklamasie in die <i>Staatskoerant</i> bepaal.</p>
Kort titel.	<p><b>14.</b> Hierdie Wet heet die Wet op Oorlogskadeversekering en -vergoeding, 1976.</p>



## WAR DAMAGE INSURANCE AND COMPENSATION ACT, 1976 Act No. 85, 1976

8. (1) A banking account in the name of the fund shall be kept with the South African Reserve Bank. Banking account and audit.

(2) The accounts and balance sheet referred to in section 7(1)(b) shall be audited by the Auditor-General.

9. (1) Any money of the fund which is not required for immediate use, shall be invested with the Public Debt Commissioners or with a financial institution approved by the Minister and may be withdrawn when required. Investment of money not immediately required.

(2) Any unexpended balance of the money of the fund at the end of any financial year shall be carried forward as a credit of the fund to the next succeeding financial year.

10. (1) The Minister may, when he, having regard to the purpose for which the fund was established, is satisfied that the continued existence of the fund is no longer justified, dissolve the fund by notice in the *Gazette*. Dissolution of fund.

(2) Any unexpended balance of the money of the fund, whether or not it is invested in terms of section 9, standing to the credit of the fund at the date of such dissolution, shall, notwithstanding anything to the contrary contained in any other law, be paid into the State Revenue Fund.

(3) Any liability of the fund in terms of the provisions of this Act which has not been met at the date of such dissolution, shall devolve upon the State.

11. The Minister may make regulations as to any matter which he considers it necessary or expedient to prescribe in order that the achievement of the purposes of this Act may be promoted or facilitated. Regulations.

12. This Act and any amendment thereof shall apply also in the territory of South West Africa. Application in South West Africa.

13. (1) The War Damage Insurance Act, 1941 (Act No. 21 of 1941), the War Damage Insurance Amendment Act, 1942 (Act No. 25 of 1942), and section 7 (2) of the Second Finance Act, 1948 (Act No. 49 of 1948), are hereby repealed. Repeal of laws.

(2) Section 6 of the Finance Act, 1964 (Act No. 76 of 1964), is hereby repealed with effect from a date fixed by the State President by proclamation in the *Gazette*.

14. This Act shall be called the War Damage Insurance and Compensation Act, 1976. Short title.