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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1048.

30 May 1989

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30 Mei 1989

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. 56 of 1989: Reinsurance of Material Damage and Losses Act, 1989.

No. 56 van 1989: Wet op Herversekering van Eiendomskade en -verliese, 1989.

ACT

To consolidate the laws empowering the Minister of Finance to enter into agreements with insurers binding the Government to compensate insurers in respect of certain losses or damage to property; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 17 May 1989.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—

“loss of or damage to property” means any loss of or damage to property related to or caused by—

- (a) any act (whether on behalf of any organization, body, person or group of persons) calculated or directed to overthrow or influence any state or government, or any provincial, local or tribal authority, with force, or by means of fear, terrorism or violence; 10
- (b) any act which is calculated or directed to bring about loss or damage in order to further any political aim, objective or cause, or to bring about any social or economic change, or in protest against any state or government, or any provincial, local or tribal authority, or for the purpose of inspiring fear in the public, or any section thereof; 15
- (c) any riot, strike or public disorder (including civil commotion, labour disturbances or lock-outs), or any act or activity which is calculated or directed to bring about a riot, strike or such disorder;
- (d) any attempt to perform any act referred to in paragraph (a), (b) or (c);
- (e) the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in paragraph (a), (b), (c) or (d); 20

“Minister” means the Minister of Finance.

Minister may enter into agreement with insurer

2. The Minister may enter into an agreement with a registered insurer as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), in terms of which he— 25

- (a) binds the Government of the Republic to pay to such insurer in respect of every calendar year an amount equal to the amount, as determined on the basis set forth in such agreement, of the loss, if any, sustained by the insurer in such year under policies of insurance in terms of which the insurer assumed the obligation to indemnify the owners of such policies against— 30

- (i) loss of or damage to property situated in the Republic or in any state the territory of which previously formed part of the Republic; or 35

WET

Tot samevatting van die wetsbepalings wat die Minister van Finansies magtig om ooreenkomste met versekeraars aan te gaan wat die Regering bind om vergoeding ten opsigte van sekere verliese of skade aan eiendom aan versekeraars te betaal; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 17 Mei 1989.)

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

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- 5 “Minister” die Minister van Finansies;
“verlies van of skade aan eiendom” enige verlies van of skade aan eiendom wat betrekking het op of veroorsaak is deur—
- (a) enige optrede (ongeach of dit ten behoeve van enige organisasie, liggaam, persoon of groep persone is) wat daarop bereken of gerig is om enige staat of regering, of enige provinsiale, plaaslike of stamowerheid, met dwang, of deur vrees, terrorisme of geweld, omver te werp of te beïnvloed;
- 10 (b) enige optrede wat daarop bereken of gerig is om verlies of skade te veroorsaak ten einde enige politieke doel, oogmerk of saak te bevorder, of om enige maatskaplike of ekonomiese verandering teweeg te bring, of in protes teen enige staat of regering, of enige provinsiale, plaaslike of stamowerheid, of met die doel om vrees by die publiek, of enige deel daarvan, te wek;
- 15 (c) enige oproer, staking of openbare onrus (met inbegrip van burgerlike oproer, arbeidsonluste of uitsluitings), of enige daad of handeling wat tot gevolg het of daarop gerig is om oproer, staking of sodanige onrus te veroorsaak;
- 20 (d) enige poging tot optrede in paragraaf (a), (b) of (c) bedoel;
- (e) die optrede van ’n wettig ingestelde owerheid by die beheer, voorkoming of onderdrukking van, of terwyl op ’n ander wyse gehandel word met, ’n gebeurtenis in paragraaf (a), (b), (c) of (d) bedoel.
- 25

Minister kan ooreenkoms met versekeraar aangaan

2. Die Minister kan met ’n geregistreerde versekeraar soos omskryf in artikel 1 van die Versekeringswet, 1943 (Wet No. 27 van 1943), ’n ooreenkoms aangaan
- 30 waarkragtens hy—
- (a) die Regering van die Republiek bind om aan sodanige versekeraar ten opsigte van elke kalenderjaar ’n bedrag te betaal gelyk aan die bedrag, soos bepaal op die grondslag wat in die ooreenkoms uiteengesit is, van die verlies, as daar is, wat die versekeraar in sodanige jaar gely het ingevolge
- 35 versekeringspolisse waarkragtens die versekeraar die verpligting aanvaar het om die eienaars van sodanige polisse te vrywaar teen—
- (i) verlies van of skade aan eiendom wat in die Republiek of in ’n staat waarvan die grondgebied voorheen deel van die Republiek uitgemaak het, geleë is; of

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- (ii) consequential loss resulting from such loss or damage to the extent determined by the Minister from time to time;
- (b) binds the Government of the Republic to make loans or grant advances to such insurer of such amounts and on such terms and conditions as he may agree upon with the insurer; and
- (c) shall have the right to appoint any officer in the public service or other person as a member of the board of directors of such insurer.

Premiums shall be protected against creditor other than insurer

3. Notwithstanding anything to the contrary contained in any other law or the common law, premiums received after the commencement of the Finance Amendment Act, 1989 (Act No. 45 of 1989), by any person other than the insurer referred to in section 2 on behalf of such insurer in connection with policies of insurance referred to in section 2 (a), shall not constitute an asset of such person and shall not be subject to attachment by any creditor other than the insurer referred to in section 2.

Restrictions on insurance against loss of and damage to property

4. No person, whether as insurer or insured, shall within or outside the Republic enter into an insurance contract in terms of which the insurer assumes the obligation in respect of property situated in the Republic, including the territorial waters of the Republic, to indemnify, in terms of the policy issued by virtue of such contract, the owner of such policy against loss of or damage to property, including consequential loss referred to in section 2 (a), unless—

- (a) the insurer is a registered insurer who has entered into an agreement contemplated in section 2; or
- (b) the insurer referred to in paragraph (a) has declared in writing that he is not prepared to assume such obligation or any part of such obligation or any other obligation in connection with such property, whether on the conditions contemplated in such insurance contract or on any other conditions.

Offences

5. Any person contravening the provisions of section 4 shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Repeal of laws and savings

6. (1) Subject to the provisions of subsection (2) the laws mentioned in the Schedule are hereby repealed to the extent set out in the third column thereof.

(2) Anything done under a provision of a law repealed by subsection (1) and which could have been done under a provision of this Act, shall be deemed to have been done under the latter provision.

Short title

7. This Act shall be called the Reinsurance of Material Damage and Losses Act, 1989.

Schedule

No. and year of law	Title	Extent of repeal
Act 94 of 1978	Finance Act, 1978	Section 6
Act 113 of 1984	Finance Act, 1984	Section 16
Act 77 of 1986	Finance Act, 1986	Section 18
Act 6 of 1987	Financial Institutions Amendment Act, 1987	Section 18
Act 45 of 1989	Finance Amendment Act, 1989	The whole

WET OP HERVERSEKERING VAN EIENDOMSKADE EN
-VERLIESE, 1989

Wet No. 56, 1989

- (ii) gevolglike verlies wat uit bedoelde verlies of skade voortspruit in die mate wat die Minister van tyd tot tyd bepaal;
- (b) die Regering van die Republiek bind om aan sodanige versekeraar lenings te maak of voorskotte toe te staan van die bedrae en op die voorwaardes en bedinge waarop hy met die versekeraar mag ooreenkom; en
- (c) die reg sal hê om 'n beampte in die staatsdiens of enige ander persoon as lid van die raad van direkteure van sodanige versekeraar aan te stel.

Premies is beskerm teen krediteur behalwe versekeraar

3. Ondanks andersluidende bepalings van enige ander wet of die gemene reg maak premies wat na die inwerkingtreding van die Finansiewysigingswet, 1989 (Wet No. 45 van 1989), ten opsigte van versekeringspolis in artikel 2 (a) bedoel, deur 'n ander persoon as die versekeraar in artikel 2 bedoel ten behoewe van so 'n versekeraar ontvang is, nie deel uit van die bates van daardie persoon nie en is dit nie deur enige krediteur behalwe die versekeraar in artikel 2 bedoel, vir beslaglegging vatbaar nie.

Beperkings op versekering teen verlies van en skade aan eiendom

4. Niemand, hetsy as versekeraar of versekerde, mag 'n versekeringsooreenkoms binne of buite die Republiek aangaan nie waarkragtens die versekeraar ten opsigte van eiendom wat in die Republiek, met inbegrip van die territoriale waters van die Republiek, geleë is, die verpligting aanvaar om ingevolge die polis wat uit hoofde van die ooreenkoms uitgereik word die eienaar van die polis te vrywaar teen verlies van of skade aan eiendom, met inbegrip van gevolglike verlies in artikel 2 (a) bedoel, tensy—

- (a) die versekeraar 'n geregistreerde versekeraar is wat 'n ooreenkoms in artikel 2 beoog, aangegaan het; of
- (b) die versekeraar in paragraaf (a) bedoel, skriftelik verklaar het dat hy nie bereid is nie om daardie verpligting of enige gedeelte van daardie verpligting of 'n ander verpligting in verband met daardie eiendom, hetsy op die voorwaardes in die versekeringsooreenkoms beoog of op enige ander voorwaardes, te aanvaar.

Misdrywe

5. Iemand wat die bepalings van artikel 4 oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R10 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met daardie boete sowel as daardie gevangenisstraf.

Herroeping van wette en voorbehoude

6. (1) Behoudens die bepalings van subartikel (2) word die wette in die Bylae vermeld hierby herroep in die mate in die derde kolom daarvan aangedui.

(2) Enigiets gedoen kragtens 'n bepaling van 'n wet wat by subartikel (1) herroep is en wat kragtens 'n bepaling van hierdie Wet gedoen sou kon word, word geag kragtens laasgenoemde bepaling gedoen te gewees het.

Kort titel

7. Hierdie Wet heet die Wet op Herversekering van Eiendomskade en -verliese, 1989.

Bylae

No. en jaar van wet	Titel	In hoeverre herroep
Wet 94 van 1978	Finansiewet, 1978	Artikel 6
Wet 113 van 1984	Finansiewet, 1984	Artikel 16
Wet 77 van 1986	Finansiewet, 1986	Artikel 18
Wet 6 van 1987	Wysigingswet op Finansiële Instellings, 1987	Artikel 18
Wet 45 van 1989	Finansiewysigingswet, 1989	Die geheel

