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Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
National Treasury/ Nasionale Tesourie			
357	Short-term Insurance Act (53/1998): Proposed Amendments to the Regulations made under Section 70.....	41523	4
358	Long-Term Insurance Act, 1998: Proposed Amendments to the Regulations made under Section 72.....	41523	12

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

NATIONAL TREASURY**NO. 357****23 MARCH 2018****SHORT-TERM INSURANCE ACT, 1998: PROPOSED AMENDMENTS TO THE
REGULATIONS MADE UNDER SECTION 70**

I, Nhlanhla Nene, Minister of Finance, hereby publish for comment proposed amendments to the Regulations made under section 70 of the Short-term Insurance Act 1998 (Act No. 53 of 1998) and published under GN R. 1493 of 27 November 1998, and amended from time to time, as set out in the Schedule hereto.

The proposed amendments focus mainly on aligning the Regulations with the Insurance Act, 2017 (Act No. 18 of 2017), and on improving the premium collection framework.

The draft Regulations and supporting documents are available on the National Treasury's website at <http://www.treasury.gov.za> and the Financial Services Board's website at <https://www.fsb.co.za>.

Comments on the proposed Regulations may be submitted in writing on or before 23 April 2018 to the National Treasury, c/o Mr Dino Lazaridis at stregulations.insurance@treasury.gov.za or faxed to (012) 315 5206.



**NHLANHLA NENE
MINISTER OF FINANCE**

15/03/2018

SCHEDULE

1. Interpretation

In this Schedule “the Regulations” means the Regulations under the Short-term Insurance Act, 1998 as published in GN R.1493 of 1998 and amended by GN R.462 of 2008, GN R.1076 of 2011, GN 1582 of 2016, GN 1439 of 2017.

2. The Regulations are hereby amended by the substitution of all references in the Regulations to “Registrar” with “Authority”.

3. Part 1 of the Regulations is hereby amended by –

- (a) the deletion in Regulation 1.1 of the definition “effective date”;
- (b) the substitution in Regulation 1.1 for the definition “independent intermediary” of the following definition:
- “**independent intermediary**’ means a person, other than a representative, who renders services as intermediary;”;
- (c) the insertion in Regulation 1.1 after the definition “independent intermediary” of the following definition:
- “**Insurance Act**’ means the Insurance Act, 2017 (Act No. 18 of 2017);”;
- (d) the deletion in Regulation 1.1 of the number preceding and the number following the definition “long-term policy”;
- (e) the insertion in Regulation 1.1 after the definition “long-term policy” of the following definition:
- “**microinsurer**’ has the meaning assigned to it in section 1 of the Insurance Act;”;
- (f) the deletion in Regulation 1.1 of the number preceding and the number following the definition “Part”;
- (g) the substitution in Regulation 1.1 for the definition “representative” of the following definition:
- “**representative**’ means a natural person employed –
- (a) by or working for an insurer and receiving or entitled to receive remuneration; and
- (b) for the purpose of rendering services as intermediary in relation to the policies entered into or to be entered into by the insurer only;”;
- (h) the deletion in Regulation 1.1 of the definition “Schedule”;
- (i) the deletion in Regulation 1.1 of the number preceding and the number following the definition “section”; and
- (j) the substitution in Regulation 1.1 for the definition “services as intermediary” of the following definition:

“**services as intermediary**’ means any act performed by a person –

- (a) the result of which is that another person will or does or offers to enter into, vary or renew a policy; or
 - (b) with a view to –
 - (i) maintaining, servicing or otherwise dealing with;
 - (ii) collecting or accounting for premium payable under; or
 - (iii) receiving, submitting or processing claims under, a policy.”.
4. **Part 3 of the Regulations is hereby deleted.**
5. **Part 4 of the Regulations is hereby amended by the substitution for that Part of the following Part:**

**“PART 4
AUTHORISATION OF AND REQUIREMENTS FOR COLLECTION OF
PREMIUMS BY INTERMEDIARIES
(SECTION 45)**

Authorisation

4.1(1) Any authorisation referred to in section 45 provided by an insurer to an independent intermediary to receive, hold or in any other manner deal with a premium payable under a policy of that insurer must be in writing and must, amongst other things -

- (a) specify the duration of the authorisation and the functions that may be performed under the authorisation;
 - (b) specify the commission payable by the insurer to the independent intermediary for the services rendered under the authorisation;
 - (c) specify the level and standard of services that must be rendered in terms of the authorisation;
 - (d) specify the operational requirements that the independent intermediary must meet at all times to render services under the authorisation;
 - (e) provide for the type and frequency of reporting by the independent intermediary on the services rendered under the authorisation; and
 - (f) provide for the manner in and the means by which an insurer will monitor the independent intermediary’s performance under and compliance with the authorisation.
- (2) An independent intermediary may not delegate an authorisation that has been granted to it in accordance with section 45.

(3) An insurer may not authorise more than one independent intermediary to receive, hold or in any other manner deal with a premium in relation to the same policy if it is a policy forming part of personal lines business.

(4) An insurer must, before it authorises an independent intermediary under section 45, and at all times thereafter, be satisfied that –

- (a) the independent intermediary has the necessary operational ability to satisfactorily perform the functions or activities contemplated in the authorisation;
- (b) such authorisation will not materially increase risk to the insurer; and
- (c) such authorisation will not compromise the fair treatment of or continuous and satisfactory service to policyholders.

(5) An insurer must on an ongoing basis monitor whether an independent intermediary authorised under section 45 receives, holds or in any other manner deals with premiums in accordance with the authorisation and in accordance with this Part.

(6) An insurer must have appropriate contingency plans in place to address any shortcomings in the intermediary's performance of the authorised functions that it may identify through the monitoring contemplated in subregulation (5) or otherwise become aware of.

Requirements relating to receiving premiums

4.2(1) The payment of a premium to an independent intermediary authorised under section 45 to receive a premium is deemed to be a payment to the insurer under the policy concerned.

(2) An independent intermediary who receives premiums must account for such premiums properly and promptly and open and maintain one or more separate bank accounts designated for receiving and remitting premiums only.

(3) All premiums received by an independent intermediary –

- (a) through electronic means must be received into a bank account referred to in subregulation (2); or
- (b) in cash must be deposited into a bank account referred to in subregulation (2) within 2 business days after a premium is received.

(4) When an independent intermediary receives a premium in cash, that independent intermediary must as soon as reasonably practicable after receiving the premium give to the payer a written receipt for the premium received containing the name, address and telephone number of the recipient, the policy number and the name of the insurer on whose behalf the premium is received.

(5) A premium received or deposited into a bank account in accordance with subregulation (3) may only be transferred to the insurer for whom the premium is intended and may not be utilised or transferred for any purpose other than remitting the premium to the insurer concerned.

(6) An independent intermediary must within a period of 15 days after the end of every month, pay to the insurer concerned the total amount of the premiums received during that month.

(7) Despite subregulation (6), an independent intermediary may, subject to the insurer's authorisation, prior to paying the total amount of the premiums received to the insurer reduce that amount by the value of –

- (a) any refund of premiums due and payable by the insurer to any policyholder or prospective policyholder represented by such independent intermediary; and
- (b) any consideration payable to that independent intermediary by the insurer for rendering services as intermediary in respect of the policies concerned.

(8) If more than one independent intermediary is authorised by an insurer to receive premiums in relation to the same policy, the period between the receipt thereof from the insured or any person on his or her behalf and payment to the insurer shall not exceed the period contemplated in subregulation (6).

Returns

4.3(1) An independent intermediary who has been authorised under section 45 must in respect of every month in respect of which the authority is in force, furnish the insurer concerned with returns –

- (a) in the form required by that insurer;
- (b) containing information relating to at least the premiums received, the commission payable to that intermediary and the amounts paid to the insurer; and
- (c) within a period of 15 days after the end of the month concerned.”.

6. Part 5 of the Regulations is hereby amended by -

- (a) the substitution for Regulation 5.2 in Part 5A for the following regulation:

“Time and payment of commission

5.2 Commission shall not be paid or accepted before the date on which the premium in respect of which it is payable has been paid to the insurer.”;

- (b) the substitution for Regulation 5.3 in Part 5A of the following regulation:

“Maximum commission payable

5.3(1) No commission shall exceed, in respect of -

- (a) a motor policy and a policy underwritten under the “Motor” class of non-life insurance business as set out in Table 2 of Schedule 2 of the Insurance Act, 12,5 per cent of the premium payable under the policy;

- (b) a contract identified in category 1, 2 and 3 in the table under regulation 7.2(1) of the Regulations, the maximum commission specified in column two of the Scale below (in relation to the monthly premium band specified in column 1); and
 - (c) any other policy, 20 per cent of the premium payable under the policy;
 - (d) Paragraphs (a), (b) and (c) do not apply to a policy underwritten by a microinsurer.”;
- (c) the substitution for Regulation 5.4 in Part 5A of the following regulation:

“Reversal of commission

5.4 If a premium or any part thereof is for any reason refunded by an insurer, the commission payable in terms of this Part in respect of that premium, or the part of that premium, which is so refunded, shall be refunded, to the insurer by the person to whom it was paid.”;

- (d) the substitution for Regulation 5.5 in Part 5A of the following regulation:

“Commission when policy comprises combination of policies

5.5(1) If a policy is a contract comprising a combination of any two or more of the short-term policies defined in section 1, the maximum commission payable shall be determined by aggregating the maximum payable in terms of this Part in respect of each of the separate kinds of policies comprising the combination by reference to the premium payable for each such policy, and if the premium attributable to each component is not specified in or ascertainable from the policy, the maximum shall not exceed that which would have been payable had the policy been the kind of policy to which the lowest maximum rate of commission applies.

(2) Despite sub-regulation (1), if a policy is a contract comprising a combination of any two or more of the short-term policies defined in section 1 and one of the policies is a contract referred to in category 1, 2 or 3 in the table under regulation 7.2(1), the maximum commission payable shall be determined by aggregating the maximum payable in terms of this Part in respect of each of the separate kinds of policies comprising the combination by reference to the premium payable for each such policy, and if the premium attributable to each component is not specified in or ascertainable from the policy, the maximum commission payable for the whole of the policy shall not exceed the maximum commission allowable under Scale in Regulation 5.3(1).”;

- (e) the substitution in paragraph (2) in Regulation 5.6 in Part 5B for the definition “cell structure” of the following definition:

“**cell structure**’ has the meaning assigned to it in section 1 of the Insurance Act.”; and

- (f) the substitution for Regulation 5.10 in Part 5C of the following regulation:

“Definitions

5.10 In this Part 5C “binder function” has the meaning assigned to it in Part 6.”.

7. Part 6 of the Regulations is hereby amended by –

- (a) the substitution in Regulation 6.1 for the definition “commercial lines business” of the following definition:

“**commercial lines business**’ means short-term insurance business other than in respect of personal lines business;”;

- (b) the substitution in Regulation 6.1 for the definition “governing body” of the following definition:

“**governing body**’ has the meaning assigned to it in section 1 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);”;

- (c) the substitution in Regulation 6.1 for the definition “insurer” of the following definition:

“**insurer**’ means a short-term insurer but excludes SASRIA as defined in section 1 and referred to in the Conversion of SASRIA Act, 1998 (Act 134 of 1998);”;

- (d) the substitution in Regulation 6.1 for the definition “policy” of the following definition:

“**policy**’ means a policy other than a short-term reinsurance policy;”;

- (e) the insertion in Regulation 6.1 after the definition “this Part” of the following definition:

“**transformation in the insurance sector**’ has the meaning assigned to it in section 1 of the Insurance Act;”;

- (f) the insertion after paragraph (q) in subregulation (1) in Regulation 6.3 of the following paragraph:

“(qA) must provide for mechanisms and measures that will assist the insurer in meeting procurement, enterprise and supplier development targets relating to the transformation in the insurance sector;”.

8. Part 8 of the Regulations is hereby amended by the substitution for that Part of the following Part:**“PART 8
TITLE AND COMMENCEMENT**

8.1 These regulations are called the Regulations under the Short-term Insurance Act, 1998.

8.2 The amendments to the Regulations, subject to subregulation 8.3, take effect on 2 July 2018.

8.3 Despite regulation 8.2, the following amendments made to the Regulations through Government Notice 1439 as published in Government Gazette 41334 on 15 December 2017 take effect as follows –

- (a) insertion of subregulations (2) and (3) in regulation 5.8 in Part 5B takes effect –

- (i) on the effective date for binder agreements entered into on or after the effective date;
- (ii) for binder agreements entered into after 1 January 2017 but before the effective date, the earliest of –
 - (aa) 6 months after the effective date; or
 - (bb) the date on which any amendment to binder fees payable under such binder agreement is made;
- (iii) for binder agreements entered into before 1 January 2017, the earliest of –
 - (aa) 12 months after the effective date; or
 - (bb) the date on which any amendment to binder fees payable under such binder agreement is made;
- (b) insertion of subregulation (2) in regulation 6.2A in Part 6 takes effect 24 months after the effective date; and
- (c) amendment to paragraph (p) in subregulation (1) in regulation 6.3 in Part 6 takes effect 24 months after the effective date.

8.4 For purposes of regulation 8.3 “effective date” means 1 January 2018.”.

NATIONAL TREASURY

NO. 358

23 MARCH 2018

**LONG-TERM INSURANCE ACT, 1998: PROPOSED AMENDMENTS TO THE
REGULATIONS MADE UNDER SECTION 72**

I, Nhlanhla Nene, Minister of Finance, hereby publish for comment proposed amendments to the Regulations made under section 72 of the Long-term Insurance Act and published under GN R. 1492 of 27 November 1998, and amended from time to time, as set out in the Schedule hereto.

The proposed amendments focus mainly on aligning the Regulations with the Insurance Act, 2017 (Act No. 18 of 2017), and on improving the premium collection framework.

The draft Regulations and supporting documents are available on the National Treasury's website at <http://www.treasury.gov.za> and the Financial Services Board's website at <https://www.fsb.co.za>.

Comments on the proposed Regulations may be submitted in writing on or before 23 April 2018 to the National Treasury, c/o Mr Dino Lazaridis at ltregulations.insurance@treasury.gov.za or faxed to (012) 315 5206.



NHLANHLA NENE
MINISTER OF FINANCE

15/03/2018

SCHEDULE

1. Interpretation

In this Schedule “the Regulations” means the Regulations under the Long-term Insurance Act, 1998 as published in GN R.1492 of 1998 and amended by GN R.197 of 2000, GN R.164 of 2002, GN R.1209 of 2003, GN R.1218 of 2006, GN R.186 of 2007, GN R.952 of 2008, GN R.1077 of 2011, GN R.170 of 2015, GN 1582 of 2016, GN 1437 of 2017.

2. The Regulations are hereby amended by the substitution of all references in the Regulations to “Registrar” with “Authority”.

3. Part 1 of the Regulations is hereby amended by –

- (a) the insertion in Regulation 1.1 after the definition “Companies Act” of the following definition:

“**disability event**’ in respect of a –

- (a) registered insurer, has the meaning assigned in section 1 of the Act; and
- (b) licensed insurer, has the meaning assigned in section 1 of the Insurance Act;”;
- (b) the deletion in Regulation 1.1 of the definition “effective date”;
- (c) the insertion in Regulation 1.1 after the definition “disability event” of the following definition:

“**fund**’ in respect of a –

- (a) registered insurer, has the meaning assigned to it in section 1 of the Act; and
- (b) licensed insurer, has the meaning assigned to it in Schedule 2 of the Insurance Act;”;
- (d) the insertion in Regulation 1.1 after the definition “fund” of the following definition:

“**fund policy**’ in respect of a –

- (a) registered insurer, has the meaning assigned to it in section 1 of the Act; and
- (b) licensed insurer, means a policy underwritten under the fund risk or fund investment class of long-term insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;”;
- (e) the insertion in Regulation 1.1 after the definition “fund policy” of the following definition:

“**health event**’ in respect of a –

- (a) registered insurer, has the meaning assigned to it in section 1 of the Act; and

- (b) licensed insurer, has the meaning assigned to it in section 1 of the Insurance Act;”;
- (f) the insertion in Regulation 1.1 after the definition “health policy” of the following definition:

“**Insurance Act**’ means the Insurance Act, 2017 (Act No. 18 of 2017);”;
- (g) the deletion in Regulation 1.1 of the number preceding and the number following the definition “Part”;
- (h) the insertion in Regulation 1.1 after the definition “policy” of the following definition:

“**Policyholder Protection Rules**’ means the Policyholder Protection Rules made under section 62 of the Act;”;
- (i) the deletion in Regulation 1.1 of the definition “Schedule”; and
- (j) the deletion in Regulation 1.1 of the number preceding and the number following the definition “section”.

4. Part 2 of the Regulations is hereby deleted.

5. Part 3 of the Regulations is hereby amended by -

- (a) the substitution in Regulation 3.1 in Part 3A for the definition “credit scheme” of the following definition:

“**credit scheme**’ for purposes of Table 1 of Annexure 1 means a group scheme under which every life insured is indebted to or a surety of the policyholder whose insurable interest as policyholder arises solely from that indebtedness or suretyship;”;
- (b) the substitution in Regulation 3.1 in Part 3A for the definition “fund member policy” of the following definition:

“**fund member policy**’ in respect of a –

 - (a) registered insurer means an individual policy-
 - (i) of which a fund is the policyholder;
 - (ii) under which a specified member of the fund (or the surviving spouse, children, dependants or nominees of the member) is the life insured; and
 - (iii) which is entered into by the fund exclusively for the purpose of funding that fund’s liability to the member (or the surviving spouse, children, dependants or nominees of the member) in terms of the rules of that fund;
 - (b) licensed insurer means a policy with an individual as defined in Schedule 2 of the Insurance Act underwritten under sub-classes (a) to (d) of the Risk class, or the Life Annuity, Individual Investment or Income Drawdown classes of life

insurance business as set out in Schedule 2 of Table 1 of the Insurance Act and –

- (i) of which a fund is the policyholder;
 - (ii) under which a specified member of the fund (or the surviving spouse, children, dependants or nominees of the member) is the life insured; and
 - (iii) which is entered into by the fund exclusively for the purpose of funding that fund's liability to the member (or the surviving spouse, children, dependants or nominees of the member) in terms of the rules of that fund;";
- (c) the substitution in Regulation 3.1 in Part 3A for the definition "group scheme" of the following definition:

"group scheme" in respect of a –

- (a) registered insurer, means a scheme or arrangement which provides for the entering into of one or more policies, other than an individual policy, in terms of which two or more persons without an insurable interest in each other, for the purposes of the scheme, are the lives insured;
 - (b) a licensed insurer, means a policy with a group as defined in Schedule 2 of the Insurance Act;";
- (d) the substitution in Regulation 3.1 in Part 3A for the definition "individual policy" of the following definition:

"individual policy" means –

- (a) in respect of a registered insurer, a policy under which a particular person is the life insured, or two or more particular persons having an insurable interest in each other are the lives insured jointly;
 - (b) in respect of a licensed insurer, a policy with an individual as defined in Schedule 2 of the Insurance Act;";
- (e) the deletion in Regulation 3.1 of the definition "Policyholder Protection Rules";
- (f) the substitution in Regulation 3.1 in Part 3A for the definition "representative" of the following definition:

"representative" means a person employed or mandated by a long-term insurer for the purpose of rendering services as intermediary only in relation to policies –

- (a) entered into or to be entered into by that insurer;
- (b) entered into or to be entered into by another insurer which is also part of the same group of companies that the insurer is part of;
- (c) entered into or to be entered into on or after 1 January 2018 by another insurer which has a written agreement with that insurer in terms of which the

person employed or mandated by that insurer may render services as intermediary in relation to-

- (i) a class of policies of that other insurer which none of the insurers referred to in paragraphs (a) and (b) are registered to underwrite; or
 - (ii) a class or types of policies of that other insurer which the Registrar has determined by notice on the official web site; or
- (d) entered into prior to 1 January 2018 by another insurer which concluded a written agreement with that insurer prior to 1 January 2017 in terms of which the person employed or mandated by that insurer may render services as intermediary in relation to that other insurer's policies;";
- (g) the substitution in Regulation 3.1 in Part 3A for the definition "Table" of the following definition:
- "Table 1'** means Table 1 of Annexure 1 to this Part that applies to registered insurers only;";
- (h) the insertion in Regulation 3.1 in Part 3A after the definition "Table 1" of the following definition:
- "Table 2'** means Table 2 of Annexure 1 to this Part that applies to licensed insurers only;";
- (i) the substitution in subregulation (4) in Regulation 3.2 in Part 3A for paragraph (b) of the following paragraph:
- (b)** except in the case of a policy and benefit component of a kind specified in items 1.1, 2.1.1, 2.2.1, 3.2.1 and 5.1.1 of Table 1 or items 1(a), 4(a)(i), 4(b)(i), 5(a)(i)(aa), 5(a)(ii)(aa), 5(c)(ii)(aa) and 6(a)(i) of Table 2;";
- (j) the substitution in paragraph (b) in subregulation (1) in Regulation 3.3 in Part 3A for subparagraph (i) of the following subparagraph:
- (i)** in the case of a policy and benefit component of a kind specified in items 1.1, 2.1.1, 2.2.1, 3.2.1 and 5.1.1 of Table 1 or items 1(a), 4(a)(i), 4(b)(i), 5(a)(i)(aa), 5(a)(ii)(aa), 5(c)(ii)(aa) and 6(a)(i) of Table 2, primary commission may be paid and accepted in one or more amounts after the policy has been entered into;";
- (k) the substitution of Regulation 3.4 in Part 3A for of the following regulation:
- "Maximum commission payable**
- 3.4(1) No primary commission shall exceed, in respect of each kind of policy and benefit component specified in column 2 of Table 1 or Table 2, an amount arrived at by applying, in the case of-
- (a) a single premium policy, other than a fund policy and a group scheme, the percentage specified in column 3 of Table 1 or Table 2 to the amount of the premium concerned;

- (b) a multiple premium policy, other than a fund policy and a group scheme, the percentage specified in column 4 of Table 1 or Table 2 to the total amount of the premium payable during the premium-paying term, calculated as if the premium payable during the first premium period were payable at that level throughout the premium-paying term of the policy, which commission may be paid and accepted in one or more amounts at the discretion of the long-term insurer: Provided that such commission shall not exceed, in the case of a policy and benefit component specified in item 1.1, 2.1.1, 2.2.1, 3.2.1 and 5.1.1 of Table 1 or items 1(a), 4(a)(i), 4(b)(i), 5(a)(i)(aa), 5(a)(ii)(aa), 5(c)(ii)(aa) and 6(a)(i) of Table 2, an amount equal to the percentage specified in column 5 of Table 1 or Table 2 of the premium payable during the first premium period of the policy; or
- (c) a fund policy or a group scheme, an amount which shall not exceed 12/m of the aggregate commission on the annualised premium as provided for in Scale A.

(1A) No commission shall exceed, in respect of a contract identified in category 1 and 3 in the table under regulation 7.2(1) of the Regulations, the maximum commission specified in column two of the Scale below:

SCALE

Individual and group policy	
Column 1	Column 2
Monthly premium band	Maximum Commission Level
Above R1,200	5%
R601 to R1,200	10%
R300 to R600	15%
Less than R300	20%

(2) No secondary commission shall exceed one-third of the amount of the primary commission paid in respect of the policy and benefit component concerned: Provided that if such commission is paid and accepted in more than one amount, the value thereof discounted at 15 per cent per annum, or such other rate of interest as may be prescribed by the Registrar from time to time, compounded annually to the beginning of the second premium period of the policy, shall not exceed one third of the value of the primary commission excluding interest.”;

- (l) the substitution in subparagraph (i) in paragraph (a) in subregulation (2) in Regulation 3.5 in Part 3A for the words following subparagraph (cc) of the following words:

“for any reason not paid on its due date, including that the policy has been made paid-up or surrendered, but excluding termination upon a health event, a disability event or the death of a life insured, during the first two premium periods in the case of a policy referred to in items 1.1, 2.1.1, 2.2.1, 3.2.1 and 5.1.1 of Table 1 or items 1(a), 4(a)(i), 4(b)(i), 5(a)(i)(aa), 5(a)(ii)(aa), 5(c)(ii)(aa) and 6(a)(i) of Table 2 the commission payable in terms of this Part shall be recalculated by reference to the scale and shall not exceed the percentage of maximum commission in column A or B, respectively, and any amount of commission which has already been paid in excess of the commission as so recalculated, shall be reversed by the long-term insurer and refunded to it by the person to whom it was paid.”;

- (m) the substitution in paragraph (b) in subregulation (2) in Regulation 3.5 in Part 3A for subparagraph (i) of the following subparagraph:

“(i) not apply to the extent that, and for so long as, payment of an unpaid premium is effected by means of the maintenance of the policy in force as contemplated in Rules 15.11 and 15.12 of the Policyholder Protection Rules;”

- (n) the substitution in Regulation 3.7 in Part 3A for subregulation (2) of the following subregulation:

“(2) Despite sub-regulation (1), if, in respect of a policy which comprises more than one benefit component and one of the benefit components is a contract referred to in category 1 or 3 in the table under regulation 7.2(1) of the Regulations, it is not specified in or ascertainable from the written provisions of the policy what portion of the total premium payable is attributable to the different benefit components, the commission payable in respect of that policy shall not exceed the maximum commission allowable under the Scale in Regulation 3.4(1A).”; and

- (o) the amendment of Annexure 1 in Part 3A as follows:

- (i) the substitution of the title “Table” with the following title:

“**Table 1 – Registered insurers**”; and

- (ii) the addition of Table 2 after Table 1 as follows:

“Table 2 - Licensed insurers

In this Table –

“**Credit Life**” means a life insurance policy written under the Credit Life class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

“**credit provider policy**” means a policy referred to in paragraph (a)(i) of the definition of “individual” as defined in Schedule 2 of the Insurance Act;

“**death event**” has the meaning assigned to such term in section 1 of the Insurance Act;

“**employer policy**” means a policy referred to in paragraph (a)(ii) of the definition of “individual” as defined in Schedule 2 of the Insurance Act;

“**Fund**” in item 3 means a fund policy;

“**Fund Member**” in item 4 means a fund member policy;

“**Funeral**” means a life insurance policy written under the Funeral class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

“**Group Death**” means a policy written under sub-class “e” of the Risk class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

“**Group Disability**” means a policy written under sub-class “g” or “h” of the Risk class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

“Group Health” means a policy written under sub-class “f” of the Risk class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

“Individual Death” means a policy written under sub-class “a” of the Risk class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

“Individual Disability” means a policy written under sub-classes “c” or “d” of the Risk class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

“Individual Health” means a policy written under sub-class “b” of the Risk class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

“Individual Investment” means a life insurance policy, excluding a fund member policy, written under the Individual Investment class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

“life event” has the meaning assigned to such term in section 1 of the Insurance Act;

“Microinsurance” means a life insurance policy written by a microinsurer as defined in section 1 of the Insurance Act; and

“Risk” means a life insurance policy written under the Risk class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;

Item	Class of insurance business		Maximum percentage				Notes		
			Multiple premium policy						
			Single premium policy	Basic percentage	Limit per proviso to reg 3.4(1)(b)	Up-front payment reg 3.3(1)(b)(i) applicable			Secondary commission reg 3.2(4)(b) applicable
Item	Column 2		Column 3	Column 4	Column 5	Column 6	Column 7		
1.	Policy not elsewhere specified	(a) not immediate annuity (b) immediate annuity	(i) not compulsory (ii) compulsory, not tied (iii) compulsory, tied	% 3.0 1.5 1.5 Nil 3.0	% 85.0 not applicable not applicable not applicable nil	yes* no no no no	yes* no no no no		
2.	Individual Investment	unrelated to a life event which undertakes to provide one or more sums of money, on a fixed or determinable future date, as policy benefits							
3.	Fund	Scale A							
4.	Fund Member	(a) funding a retirement annuity fund	(i) upon entry, not a transfer (ii) upon entry, a transfer from a fund other than a retirement annuity fund to (iii) upon entry, a transfer from another retirement annuity fund	(aa) a fund chosen by the member (bb) a fund not chosen by the member	Scale A 2.5 1.5 nil nil	Scale A 3.0 not applicable not applicable not applicable	not applicable 75.0 not applicable not applicable not applicable	no yes* no no no	no yes* No no no
5.	Risk	(a) Individual Death	(i) upon entry, not a transfer (ii) upon entry, a transfer from another fund (i) Term cover only (ii) Other than term cover only	(aa) Other than an employer policy (bb) Employer policy (aa) Other than an employer policy (bb) Employer policy	2.5 1.5 7.5	3.0 not applicable 3.25	75.0 not applicable 85.0	yes* no yes	yes* no yes
					Scale A 3.0	Scale A 3.25	n/a 85.0	no yes*	no yes*
					Scale A	Scale A	n/a	no	no

	(b) Group Death	Scale A	Scale A	n/a	no	no
6.	(c) Individual Disability and Individual Health		7.5	3.25	no	no
	(i) Term cover only			3.25	no	no
	(ii) Other than term cover only	Scale A	3.0	Scale A	no	no
	(aa) Other than employer policy			85.0	yes	yes
	(bb) Employer policy				no	no
	(d) Group Disability and Group Health	Scale A		Scale A	no	no
6.	(a) Other than credit provider policy	7.5	7.5	3.25	yes	yes
	(i) Death event					
	(ii) Disability event, Health event or event of unemployment, or other insurable risk that is likely to impair a person's ability to earn an income or meet credit obligations	7.5	7.5	3.25	no	no
	(b) Credit provider policy	7.5	7.5	7.5	no	no
7.	Funeral	-	-	-	no	no
8.	(a) Risk and Funeral	-	-	-	no	no
	(b) Credit Life	7.5	7.5	3.25	yes	yes
	(i) Other than credit provider policy				no	no
	(ii) Credit provider policy	7.5	7.5	3.25		
	(aa) Death event					
	(bb) Disability event, Health event or event of unemployment, or other insurable risk that is likely to impair a person's ability to earn an income or meet credit obligations					
		7.5	7.5	7.5	no	no

Notes to Table 2 of Annexure 1:

- An asterisk (*) denotes “excluding a replacement policy”.
- A dash (–) denotes that there is no limit.
- “nil” denotes that no commission may be paid.
- A policy, other than one that provides an immediate annuity, that is a fund policy or a fund member policy falls under item 3 or 4, as the case may be irrespective whether it can fall also under another item. A policy that provides an immediate annuity that is a fund policy or a fund member policy attracts the commission referred to in item 1(b).

”,

- (p) the substitution in Regulation 3.17 in Part 3B for subregulation (6) of the following subregulation:

“(6) Subregulations (1) to (5) do not apply to the extent that, and for as long as, the policy is maintained in terms of Rule 5.11 of the Policyholder Protection Rules, but not made paid-up.”; and

- (q) the substitution in subregulation (2) in Regulation 3.19 in Part 3C for the definition “cell structure” of the following definition:

“‘**cell structure**’ has the meaning assigned to it in section 1 of the Insurance Act.”.

6. Part 4 of the Regulations is hereby amended by -

- (a) the substitution in Regulation 4.1 for the definition “fund member policy” of the following definition:

“‘**fund member policy**’ has the meaning assigned to it in Part 3A;”;

- (b) the substitution in Regulation 4.1 for the definition “policy benefit” of the following definition:

“‘**policy benefit**’ has the meaning assigned to it in the Act, but excludes a loan in respect of a policy or consideration upon the surrender of a policy;”;

- (c) the deletion in Regulation 4.1 of the definition “premium”.

7. Part 5 of the Regulations is hereby amended by -

- (a) the substitution in Regulation 5.1 in Part 5A for the definition “actuarial basis” of the following definition

“‘**actuarial basis**’, in relation to a policy, means the underlying actuarial rules, specifications and formulae in terms of which the policy operates, which:

- (a) in compliance with the Act, are approved by the statutory actuary of the insurer, in particular for the purposes of section 46 of the Act and Rules 15.9 to 15.12 of the Policyholder Protection Rules; and

- (b) if and while the Insurance Act, 1943 applied to the policy, in compliance with that Act, were approved by the valuator of the insurer, in particular for the purposes of sections 34 and 62(2) of that Act;”;

- (b) the substitution in Regulation 5.1 in Part 5A for the definition “excluded policy” of the following definition:

“**excluded policy**’ in respect of a –

- (a) registered insurer means:
- (i) a fund policy;
 - (ii) a reinsurance policy;
 - (iii) a policy that provides risk benefits only;
 - (iv) a whole-life policy that provides risk benefits and has an investment value or a materially equivalent value referred to in regulation 5.2(2)(b), and in respect of which policy, immediately before a causal event, the ratio of the aggregate of the sums insured of all basic risk benefits to the monthly basic premium (or the monthly equivalent where recurring premiums are not paid monthly) is greater than the threshold ratio in the table below:

Age next birthday of the life insured at the inception of the policy	Threshold ratio
Up to and including 30	480
31	468
32	456
33	444
34	432
35	420
36	408
37	396
38	384
39	372
40	360
41	348
42	336
43	324
44	312
45	300
46	288
47	276
48	264
49	252
50	240
51	228
52	216
53	204
54	192
55	180
56	168
57	156
58	144
59	132

60 and above	120
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- (v) and any other policy that provides primarily risk benefits;
- (b) licensed insurer means a policy as defined in section 1 of the Insurance Act:
- (i) written under one or more of the following classes of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act: Risk, Fund Risk, Credit Life, Funeral, Fund Investment and Reinsurance only;
- (ii) that is a whole-life policy written under both the –
- (aa) Risk, Credit Life or Funeral classes of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act; and
- (bb) Life Annuity, Individual Investment or Income Drawdown classes of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act; and

that has an investment value or a materially equivalent value referred to in regulation 5.2(2)(b), and in respect of which policy, immediately before a causal event, the ratio of the aggregate of the sums insured of all basic risk benefits to the monthly basic premium (or the monthly equivalent where recurring premiums are not paid monthly) is greater than the threshold ratio in the table below:

Age next birthday of the life insured at the inception of the policy	Threshold ratio
Up to and including 30	480
31	468
32	456
33	444
34	432
35	420
36	408
37	396
38	384
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48	264
49	252
50	240
51	228
52	216
53	204
54	192

55	180
56	168
57	156
58	144
59	132
60 and above	120

- (iii) and any other policy that provides primarily risk benefits;”;
- (c) the substitution in Regulation 5.1 in Part 5A for the definition “fund member policy” of the following definition:
- “**fund member policy**’ in respect of a –
- (a) registered insurer means a policy -
- (i) of which a fund is or was the policyholder; and
- (ii) which is or was entered into by the fund for the purpose of funding exclusively the fund’s liability to a particular member (or to the surviving spouse, children, dependants or nominees of the member) in terms of the rules of the fund;
- (b) licensed insurer means a policy written under the Life Annuity, Individual Investment or Income Drawdown classes of life insurance business as set out in Schedule 2 of Table 1 of the Insurance Act and –
- (i) of which a fund is or was the policyholder; and
- (ii) which is or was entered into by the fund for the purpose of funding exclusively the fund’s liability to a particular member (or to the surviving spouse, children, dependants or nominees of the member) in terms of the rules of the fund;”;
- (d) the substitution in Regulation 5.1 in Part 5A for the definition “rider-benefit” of the following definition:
- “**rider-benefit**’ in respect of a –
- (a) registered insurer, means a risk benefit for which the charge is a certain amount or a percentage of the premium or is otherwise fixed, which risk benefit excludes a basic risk benefit; and
- (b) licensed insurer, has the meaning assigned to it term in section 1 of the Insurance Act;”;
- (e) the substitution in Regulation 5.1 in Part 5A for the definition “values” of the following definition:
- “**values**’ means all values of a policy including, but not limited to, its investment value, its remaining value and other values contemplated in Rule 15.11 of the Policyholder Protection Rules , and its maturity value;”;

- (f) the substitution in Regulation 5.10 in Part 5B for the definition “excluded policy” of the following definition:

“**excluded policy**’ in respect of a –

- (a) registered insurer means a policy contemplated in paragraphs (a)(i), (ii), (iii) and (iv) of the definition “excluded policy” in Part 5A;
- (b) licensed insurer means a policy contemplated in paragraphs (b)(i) and (ii) of the definition “excluded policy” in Part 5A;”;
- (r) the substitution in subregulation (1) in Regulation 5.13 in Part 5B for paragraph (b) of the following paragraph:
- “(b) the summary to be provided to the policyholder or member in accordance with Rule 11.5 of the Policyholder Protection Rules contains the information referred to in subregulation (2); and”.

8. Part 6 of the Regulations is hereby amended by -

- (a) the substitution in Regulation 6.1 for the definition “funeral and assistance policies” of the following definition:

“**funeral and assistance policies**’ in respect of a –

- (a) registered insurer, means one or more -
- (i) life policies where the policy benefits relate only to services or costs associated with funerals; or
- (ii) assistance policies;
- (b) licensed insurer, means one or more policies underwritten –
- (i) under the Funeral class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act; or;
- (ii) by a microinsurer as defined in section 1 of the Insurance Act;”;
- (b) the substitution in Regulation 6.1 for the definition “governing body” of the following definition:
- “**governing body**’ has the meaning assigned to it in section 1 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);”;
- (c) the insertion in Regulation 6.1 after the definition “this Part” of the following definition:
- “**transformation in the insurance sector**’ has the meaning assigned to it in section 1 of the Insurance Act;”;
- (d) the insertion after paragraph (q) in subregulation (1) in Regulation 6.3 of the following paragraph:

“(qA) must provide for mechanisms and measures that will assist the insurer in meeting procurement, enterprise and supplier development targets relating to the transformation in the insurance sector;”.

9. **Part 8 of the Regulations is hereby amended by the substitution for that Part of the following Part:**

**“PART 8
AUTHORISATION OF AND REQUIREMENTS FOR COLLECTION OF
PREMIUMS BY INTERMEDIARIES
(SECTION 47A)**

Authorisation

8.1(1) Any authorisation referred to in section 47A provided by an insurer to an independent intermediary to receive, hold or in any other manner deal with a premium payable under a policy of that insurer must be in writing and must, amongst other things -

- (a) specify the duration of the authorisation and the functions that may be performed under the authorisation;
 - (b) specify the commission payable by the insurer to the independent intermediary for services rendered under the authorisation;
 - (c) specify the level and standard of services that must be rendered in terms of the authorisation;
 - (d) specify the operational requirements that the independent intermediary must meet at all times to render services under the authorisation;
 - (e) provide for the type and frequency of reporting by the independent intermediary on the services rendered under the authorisation; and
 - (f) provide for the manner in and the means by which an insurer will monitor the independent intermediary's performance under and compliance with the authorisation.
- (2) An independent intermediary may not delegate an authorisation that has been granted to it in accordance with section 47A.
- (3) An insurer may not authorise, as contemplated in section 47A, more than one independent intermediary to receive, hold or in any other manner deal with a premium in relation to the same policy.
- (4) An insurer must, before it authorises an independent intermediary under section 47A, and at all times thereafter, be satisfied that –
- (a) the independent intermediary has the necessary operational ability to satisfactorily perform the functions or activities contemplated in the authorisation;
 - (b) such authorisation will not materially increase risk to the insurer; and

- (c) such authorisation will not compromise the fair treatment of or continuous and satisfactory service to policyholders.

(5) An insurer must on an ongoing basis monitor whether an independent intermediary authorised under section 47A receives, holds or in any other manner deals with premiums in accordance with the authorisation and in accordance with this Part.

(6) An insurer must have appropriate contingency plans in place to address any shortcomings in the independent intermediary's performance of the authorised functions that it may identify through an assessment contemplated in subregulation (5) or otherwise become aware of.

Requirements relating to receiving premiums

8.2(1) An independent intermediary who receives premiums must account for such premiums properly and promptly and open and maintain one or more separate bank accounts designated for receiving and remitting premiums only.

- (2) All premiums received by an independent intermediary –
- (a) through electronic means must be received into a bank account referred to in subregulation (1); or
 - (b) in cash must be deposited into a bank account referred to in subregulation (1) within 2 business days after a premium is received.
- (3) A premium received or deposited into a bank account in accordance with subregulation (2) may only be transferred to the insurer for whom the premium is intended and may not be utilised or transferred for any purpose other than remitting the premium to the insurer concerned.
- (4) An independent intermediary must within a period of 15 days after the end of every month, pay to the insurer concerned the total amount of the premiums received during that month.
- (5) Despite subregulation (4), an independent intermediary may, subject to the insurer's authorisation, prior to paying the total amount of the premiums received to the insurer reduce that amount by the value of –
- (a) any refund of premiums due and payable by the insurer to any policyholder or prospective policyholder represented by such independent intermediary; and
 - (b) any consideration payable to that independent intermediary by the insurer for rendering services as intermediary in respect of the policies concerned.

Returns

8.3(1) An independent intermediary who has been authorised under section 47A must in respect of every month in respect of which the authority is in force, furnish the insurer concerned with returns –

- (a) in the form required by that insurer;

- (b) containing information relating to at least the premiums received, the commission payable to that intermediary and the amounts paid to the insurer; and
- (c) within a period of 15 days after the end of the month concerned.”.

10. Part 9 is hereby inserted after Part 8 of the Regulations:

**“PART 9
TITLE AND COMMENCEMENT**

9.1 These regulations are called the Regulations under the Long-term Insurance Act, 1998.

9.2 The amendments to the Regulations, subject to subregulation 8.3, take effect on 2 July 2018.

9.3 Despite regulation 8.2 the following amendments made to the Regulations through Government Notice 1437 as published in Government Gazette 41334 on 15 December 2017 take effect as follows –

- (a) repeal of the definition of “administrative work” in regulation 3.1 in Part 3A takes effect 12 months after the effective date;
- (b) insertion in Part 3A of regulation 3.9A takes effect 6 months after the effective;
- (c) the amendment of item 5.2.2.1 and repeal of items 5.2.2.1.1 and 5.2.2.1.2 in the Table in Annexure 1 in Part 3A takes effect 12 months after the effective date;
- (d) insertion of subregulations (2) and (3) in regulation 3.21 in Part 3C takes effect –
 - (i) on the effective date for binder agreements entered into on or after the effective date;
 - (ii) for binder agreements entered into after 1 January 2017 but before the effective date, the earliest of –
 - (aa) 6 months after the effective date; or
 - (bb) the date on which any amendment to binder fees payable under such binder agreement is made;
 - (iii) for binder agreements entered into before 1 January 2017, the earliest of –
 - (aa) 12 months after the effective date; or
 - (bb) the date on which any amendment to binder fees payable under such binder agreement is made;

- (e) insertion of subregulation (2) in regulation 6.2A in Part 6 takes effect 24 months after the effective date; and
- (f) amendment to paragraph (p) in subregulation (1) in regulation 6.3 in Part 6 takes effect 24 months after the effective date.

9.4 For purposes of regulation 9.3 “effective date” means 1 January 2018.”.

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