



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

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Selling price • Verkoopprijs  
(GST excluded/AVB uitgesluit)

Local **50c** Plaaslik  
Other countries 70c Buitelands  
Post free • Posvry

Vol. 287

CAPE TOWN, 30 MAY 1989

KAAPSTAD, 30 MEI 1989

No. 11896

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1048.

30 May 1989

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

No. 56 of 1989: Reinsurance of Material Damage and Losses Act, 1989.

No. 1048.

30 Mei 1989

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

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;
  - (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;
  - (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);
- “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—
- (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—
    - (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

**Act No. 56, 1989 REINSURANCE OF MATERIAL DAMAGE AND LOSSES ACT, 1989**

- (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