

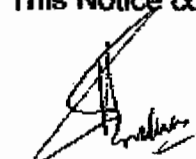
No. 1214

17 December 2010

NATIONAL TREASURY**VARIATION OF POLICYHOLDER PROTECTION RULES
(LONG-TERM INSURANCE), 2004****Section 62, Long-term Insurance Act, 1998**

The Minister of Finance hereby, under section 62(5) of the Long-term Insurance Act, 1998 (Act No. 52 of 1998), promulgates the variation of the Policyholder Protection Rules (Long-term Insurance), 2004, proposed by the Registrar of Long-term Insurance after consultation with the Advisory Committee on Long-term Insurance, as set out in the Schedule.

This Notice comes into operation on 1 January 2011.



Pravin J Gordhan
Minister of Finance

SCHEDULE**VARIATION OF POLICYHOLDER PROTECTION RULES
(LONG-TERM INSURANCE), 2004****Section 62, Long-term Insurance Act, 1998****Interpretation**

1. In this Schedule "the Rules" means the Policyholder Protection Rules (Long-term Insurance), 2004, as published by GN No. R. 1129 in Gazette No. 26854 of 30 September 2004.

Variation of Rule 16

2. The following Rule is hereby substituted for Rule 16 of the Rules:

Decisions relating to claims and time limitation provisions for the institution of legal claims

- 16.1 (a) An insurer must accept, reject or dispute a claim or the quantum of a claim for a benefit under a policy within a reasonable period after receipt of a claim.
- (b) An insurer must within 10 days of taking any decision referred to in paragraph (a), in writing, notify the policyholder of its decision.
- (c) If the insurer rejects or disputes the quantum of a claim, the notice referred to in paragraph (b) must inform the policyholder -
- (i) of the reasons for the decision;
 - (ii) that the policyholder may within a period of not less than 90 days after the date of receipt of the notice make representations to the relevant insurer in respect of the decision;
 - (iii) of the right to lodge a complaint under the Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004) and the relevant provisions of the Act relating to the lodging of such a complaint, in plain understandable language;
 - (iv) in the event that the relevant policy contains a time limitation provision for the institution of legal action, of that provision and the implications of that provision for the policyholder in an easily understood manner; and
 - (v) in the event that the relevant policy does not contain a time limitation provision for the institution of legal action, of the prescription period that will apply in terms of the Prescription Act, 1969 (Act No. 68 of 1969) and the implications of that provision for the policyholder in an easily understood manner.
- (d) If a claim is rejected or a quantum is disputed as contemplated in paragraph (a) on behalf of an insurer by a person other than the insurer, such other person must provide the notice contemplated in paragraph (b) and include in that notice, in addition to the information referred to in paragraph (c), the name and contact details of the insurer and a statement that any recourse or enquiries must be directed directly to that insurer.
- (e) If the policyholder makes representations to the relevant insurer in accordance with paragraph (c)(ii) the insurer must within 45 days of receipt of the representation, in writing, notify the policyholder of its decision to accept, reject or dispute the claim or the quantum of a claim for a benefit under a policy.

- (f) If the insurer, despite the representations of the policyholder, confirms the decision to reject or dispute the claim or dispute the quantum of a claim, the notice referred to in paragraph (e) must—
 - (i) inform the policyholder of the reasons for the decision;
 - (ii) include the facts that informed the decision; and
 - (iii) include the information referred to in paragraph (c)(iii) to (v).
- 16.2 (a) Any time limitation provision for the institution of legal action that may be provided for in a policy entered into before 1 January 2011 may not include the period referred to in Rule 16.1(c)(ii) in the calculation of the time limitation period.
- (b) Any time limitation provision for the institution of legal action that may be provided for in a policy entered into on or after 1 January 2011 –
 - (i) may not include the period referred to in Rule 16.1(c)(ii) in the calculation of the time limitation period; and
 - (ii) must provide for a period of not less than 6 months after the expiry of period referred to in Rule 16.1(c)(ii) for the institution of legal action.
- (c) Despite the expiry of the period allowed for the institution of legal action in a time limitation clause provided for in a policy entered into before or after 1 January 2011, a policyholder may request the court to condone non-compliance with the clause if the court is satisfied, among other things, that good cause exists for the failure to institute legal proceedings and that the clause is unfair to the policyholder.
- (d) For the purposes of section 12(1) of the Prescription Act, 1969 (Act No. 68 of 1969) a debt is due after the expiry of the period referred to in Rule 16.1(c)(ii)."

Short title

3. This Notice is called The Policyholder Protection Rules (Long-term Insurance) Variation Notice, 2010.