
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

NATIONAL TREASURY**NO. 1015****28 SEPTEMBER 2018****LONG-TERM INSURANCE ACT, 1998: AMENDMENT OF REGULATIONS MADE
UNDER SECTION 72**

I, Nhlanhla Musa Nene, Minister of Finance, under section 72(1) of the Long-term Insurance Act, 1998 (Act No. 52 of 1998), hereby amend the Regulations made under section 72 of the Long-term Insurance Act and published under Government Notice R.1492 in *Government Gazette* 19495 of 27 November 1998 (as amended from time to time) as set out in the schedule.


NHLANHLA MUSA NENE
MINISTER OF FINANCE

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 life 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 event” 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 Authority 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), 6(a)(i), 7, 8(a) and 8(b)(i)(aa) 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), 6(a)(i), 7, 8(a) and 8(b)(i)(aa) 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 for Regulation 3.4 in Part 3A 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), 6(a)(i), 7, 8(a) and 8(b)(i)(aa) 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) Despite anything in this Part, 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 Authority 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), 6(a)(i), 7, 8(a) and 8(b)(i)(aa) 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 15A.2 and 15A.3 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).”;

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

- (i) the substitution for the title “Table” of 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-class “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	3.25	85.0	yes*	yes*	yes*					
										1.5	not applicable	not applicable	no	No
3.0	3.0	nil	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													
4.	Fund Member	(a) funding a retirement annuity fund	(i) upon entry, not a transfer	Scale A	Scale A	not applicable	no	no	no					
			(ii) upon entry, a transfer from a fund other than a retirement annuity fund to	2.5	3.0	75.0	yes*	yes*						
			(iii) upon entry, a transfer from another retirement annuity fund	1.5	not applicable	not applicable	no	no						
		(b) not funding a retirement annuity fund	(aa) a fund chosen by the member	nil	not applicable	not applicable	no	no	no					
			(bb) a fund not chosen by the member	nil	not applicable	not applicable	no	no						
				nil	not applicable	not applicable	no	no						
5.	Risk	(a) Individual Death	(i) upon entry, not a transfer	2.5	3.0	75.0	yes*	yes*	yes*					
			(ii) upon entry, a transfer from another fund	1.5	not applicable	not applicable	no	no						
			(i) Term cover only	7.5	3.25	85.0	yes	yes						
			(bb) Employer policy	Scale A	Scale A	n/a	no	no	no					
			(aa) Other than an employer policy	3.0	3.25	85.0	yes*	yes*						
			(bb) Employer policy	Scale A	Scale A	n/a	no	no						

		(b) Group Death		Scale A	Scale A	n/a	no	no
		(c) Individual Disability and Individual Health	(i) Term cover only	7.5	3.25	nil	no	no
			(ii) Other than term cover only	Scale A 3.0	Scale A 3.25	n/a 85.0	no yes	no yes
			(aa) Other than employer policy	Scale A	Scale A	n/a	no	no
			(bb) Employer policy	Scale A	Scale A	n/a	no	no
		(d) Group Disability and Group Health		Scale A	Scale A	n/a	no	no
6.	Credit Life	(a) Other than credit provider policy	(i) Death event	7.5	3.25	85.0	yes	yes
			(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	3.25	nil	no	no
		(b) Credit provider policy		7.5	7.5	n/a	no	no
7.	Funeral			-	-	-	yes	yes
8.	Microinsurance	(a) Risk and Funeral		-	-	-	yes	yes
		(b) Credit Life	(i) Other than credit provider policy	7.5	3.25	85.0	yes	yes
			(aa) Death event	7.5	3.25	nil	no	no
			(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	3.25	nil	no	no
		(ii) Credit provider policy		7.5	7.5	n/a	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 15A.3 of the Policyholder Protection Rules, but not made paid-up.";

- (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."; and

- (r) the substitution in Regulation 3.21 in Part 3C for subregulation (5) of the following subregulation:

"(5) Any fee referred to under this regulation 3.21, payable to a non-mandated intermediary that is a binder holder, must be disclosed to a policyholder, which disclosure must be included in the disclosures contemplated under regulation 6.3 (1) (g)."

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"; and

- (d) the substitution in subregulation (1) in Regulation 4.2 in Part 4 for paragraph (b) of the following paragraph:

"(b) upon the full or partial surrender of a policy during an extended restriction period—

- (i) if the policy has previously been partially surrendered during the extended restriction period concerned, any further consideration; or

- (ii) if the policy has not been previously partially surrendered during the extended restriction period concerned, any consideration the value of which exceeds the restricted amount less the capital (excluding capitalised interest) of a loan already provided in respect of the policy during that extended restriction period: Provided that where the policy is fully surrendered and the full value of the consideration to be provided thereupon exceeds the amount thus determined by not more than R10 000 the full consideration may be provided;".

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 15A.1 to 15A.4 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

- (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
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

(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 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;"; and
- (g) 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;” and
 - (d) the insertion after paragraph (q) in subregulation (1) in Regulation 6.3 of the following paragraph:

“(qA) 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.

(2) A written authorisation referred to in subregulation (1) must, amongst other things -

- (a) specify the duration of the authorisation and the functions that may be performed under the authorisation;
- (b) specify the level and standard of services that must be rendered in terms of the authorisation;
- (c) specify the operational requirements that the independent intermediary must meet at all times to render services under the authorisation;
- (d) specify the purposes for which premiums of the insurer received or held by the independent intermediary may and may not be utilised for by the independent intermediary;

- (e) provide for appropriate requirements relating to the termination of the authorisation, including an adequate notice period, that take into account the interests of policyholders;
 - (f) provide for the type and frequency of reporting by the independent intermediary on the services rendered under the authorisation; and
 - (g) 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.
- (3) An insurer may not, for purposes of subregulation (2)(d), authorise an independent intermediary to utilise premiums for a purpose that could potentially lead to a significant increase in risk to the insurer.
- (4) An independent intermediary may not delegate an authorisation that has been granted to it in accordance with section 47A.
- (5) An insurer must, before it authorises an independent intermediary under section 47A, and at all times thereafter, be satisfied that –
- (a) the independent intermediary is fit and proper and 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.
- (6) An insurer must on an ongoing basis take reasonable steps to 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.
- (7) 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 the monitoring contemplated in subregulation (6) 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 account into which premiums are to be received.

- (2) A separate bank account referred to in subregulation (1) may only contain monies collected from policyholders and may not contain any monies or funds of the independent intermediary.
- (3) 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 1 business day after a premium is received.
- (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 in respect of the policies that are subject to the authorisation granted by the insurer;
 - (b) any consideration payable to that independent intermediary by the insurer for rendering services as intermediary in respect of the policies concerned.
- (6) If more than one independent intermediary is authorised by an insurer to receive or hold 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 (4).

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 in respect of the policies concerned; and
- (c) within a period of 15 days after the end of the month concerned.

Exemption

8.4(1) The Authority may, on reasonable grounds, on application from an insurer or on the Authority's own initiative, subject to such conditions as the Authority may determine, exempt an insurer or independent intermediary from any requirement of this Part if the Authority is satisfied that –

- (a) the granting of the exemption is necessary because practicalities impede the strict application of a specific provision of this Part or another Act of Parliament regulates an activity that is subject to this Part and that such regulation of the activity justifies the exemption from a specific requirement of this Part;
- (b) the granting of the exemption will not materially increase risk to the insurer;

- (c) the granting of the exemption will not be contrary to the public interest; and
- (d) the granting of the exemption will not compromise the fair treatment of or continuous and satisfactory service to policyholders.”.

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 regulations 9.3 and 9.4, take effect on 1 July 2018.

9.3 Despite regulation 9.2, the –

- (a) insertion of paragraph (q) in subregulation (1) in regulation 6.3 of Part 6 takes effect –
 - (i) on the date referred to in regulation 9.2 for binder agreements entered into on or after the effective date;
 - (ii) on 1 January 2019 for binder agreements entered into before the date referred to in regulation 9.2; and
- (b) insertion of regulations 8.1(2), (3), (4) (6) and (7), 8.2 and 8.3 in Part 8 takes effect 12 months after the date referred to in regulation 9.2.

9.4 Despite regulation 9.2 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 date;
- (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.

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