
GOVERNMENT NOTICE

NATIONAL TREASURY

No. _____

_____ 2007

**LONG-TERM INSURANCE ACT, 1998: AMENDMENT OF THE REGULATIONS MADE
UNDER SECTION 72**

The Minister of Finance, acting in terms of section 72 read with section 54 of the Long-term Insurance Act, 1998 (Act No. 52 of 1998), has amended the regulations as set out in the Schedule.

**TREVOR A MANUEL, MP
MINISTER OF FINANCE**

SCHEDULE

1. Amendment of Part 3 of the Regulations under the Long-term Insurance Act, 1998 as published in GN R1492 of 1998 and amended by GN R197 of 2000, GN R164 of 2002, GN R1209 of 2003 and GN R186 of 2007:

1.1 Part 3 of the Regulations under the Long-term Insurance Act, 1998 as published in GN R186 of 2007 (hereinafter referred to as the Regulations) is hereby amended by the insertion of the following heading after the reference to section 49 under the heading of Part 3:

“PART 3A

POLICIES OTHER THAN POLICIES TO WHICH PART 3B APPLIES”

1.2 Regulation 3.1 of the Regulations is hereby amended by –

- (a) the substitution of the heading of regulation 3.1 and the sentence following the heading for the following:

“Application of this Part 3A, and definitions

3.1 This Part 3A applies to policies other than policies to which Part 3B applies, and unless the context indicates otherwise -“;

- (b) the insertion of the following definition after the definition of “investment policy”:

“immediate annuity” means an annuity that is paid under a policy, where the first payment period begins within 12 months after the policy has been entered into;

- (c) the insertion of the following definition after the definition of “representative”:

“retirement annuity fund” means a retirement annuity fund as defined in the Income Tax Act, 1962;” and

- (d) the insertion of the following definition after the definition of “term cover”:

“this Part” means this Part 3A;”.

1.3 Annexure 1 is hereby substituted for the following Annexure:

<i>Item</i>	<i>Kind of policy or benefit component</i>	<i>Maximum percentage</i>			<i>Notes</i>	
		<i>Single premium policy</i>	<i>Multiple premium policy</i>		<i>Up-front payment: reg 3.3(1)(b)(i) applicable</i>	<i>Secondary commission: reg 3.2(4)(b) applicable</i>
		<i>Basic percentage</i>	<i>Limit per proviso to reg 3.4(1)(b)</i>			
	<i>Column 2</i>	<i>Column 3</i> %	<i>Column 4</i> %	<i>Column 5</i> %	<i>Column 6</i>	<i>Column 7</i>

Item	Kind of policy or benefit component	Maximum percentage			Notes	
		Single premium policy	Multiple premium policy		Up-front payment: reg 3.3(1)(b)(i) applicable	Secondary commission: reg 3.2(4)(b) applicable
			Basic percentage	Limit per proviso to reg 3.4(1)(b)		
Column 2	Column 3 %	Column 4 %	Column 5 %	Column 6	Column 7	
1	Individual policy, not elsewhere specified					
1.1	not immediate annuity	3.0	3.25	85.0	yes*	Yes*
1.2	immediate annuity					
1.2.1	not compulsory	1.5	not applicable	not applicable	no	No
1.2.2	compulsory, not tied	1.5	not applicable	not applicable	no	No
1.2.3	compulsory, tied	nil	not applicable	not applicable	no	No
2	Fund member policy					
2.1	funding a retirement annuity fund					
2.1.1	upon entry, not a transfer	2.5	3.0	75.0	yes*	Yes*
2.1.2	upon entry, a transfer from a fund other than a retirement annuity fund to					
2.1.2.1	a fund chosen by the member	1.5	not applicable	not applicable	no	No
2.1.2.2	a fund not chosen by the member	nil	not applicable	not applicable	no	No
2.1.3	upon entry, a transfer from another retirement annuity fund	nil	not applicable	not applicable	no	No
2.2	not funding a retirement annuity fund					
2.2.1	upon entry, not a transfer	2.5	3.0	75.0	yes*	Yes*
2.2.2	upon entry, a transfer from another fund	1.5	not applicable	not applicable	no	No
3	Life policy providing term cover only, which is					
3.1	an individual policy	7.5	3.25	85.0	yes*	Yes*
3.2	incorporated in group scheme					
3.2.1	which is a credit scheme					
3.2.1.1	with administrative work	22.5	22.5		no	no

Item	Kind of policy or benefit component	Maximum percentage			Notes	
		Single premium policy	Multiple premium policy		Up-front payment: reg 3.3(1)(b)(i) applicable	Secondary commission: reg 3.2(4)(b) applicable
			Basic percentage	Limit per proviso to reg 3.4(1)(b)		
Column 2	Column 3 %	Column 4 %	Column 5 %	Column 6	Column 7	
				not applicable		
3.2.1.2	without administrative work	7.5	7.5	not applicable	no	No
3.2.2	which is not a credit scheme	Scale A	Scale A	not applicable	no	No
4	Fund policy	Scale A	Scale A	not applicable	no	No
5	Health policy and disability policy					
5.1	individual, other than term cover only	3.0	3.25	85.0	yes	Yes
5.2	term cover only					
5.2.1	individual	7.5	3.25	nil	no	No
5.2.2	incorporated in a group scheme					
5.2.2.1	which is a credit scheme					
5.2.2.1.1	with administrative work	22.5	22.5	not applicable	no	No
5.2.2.1.2	without administrative work	7.5	7.5	not applicable	no	No
5.2.2.2	which is not a credit scheme	Scale A	Scale A	not applicable	no	No
6	Sinking fund policy	3.0	3.0	nil	no	No
7	Assistance policy	—	—	—	no	No
Notes to Annexure 1:						
<ul style="list-style-type: none"> 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 member policy or a fund policy falls under item 2 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 member policy or a fund policy attracts the commission referred to in item 1.2. 						

1.4 Part 3 of the Regulations is hereby amended by the insertion of the following Part after Part 3A:

“PART 3B

INVESTMENT POLICIES THAT STARTED ON OR AFTER 1 AUGUST 2008

Application of this Part 3B, and definitions

3.10 (1) This Part 3B applies to investment policies that started on or after 1 August 2008, but except only for purposes of regulation 3.15(4), does not apply to risk components of such investment policies.

(2) In this Part 3B, unless defined differently in this Part 3B or unless the context indicates otherwise, any word or expression to which a meaning has been assigned in Part 3A or 5B has the meaning assigned to it in that Part, and -

“component” means a part of a policy, if any, where that part provides a policy benefit for which an identifiable, separate premium is payable;

“discount term”, in relation to a multiple premium policy, means the period that begins on the premium commencement date and:

(a) in the case of a fund member policy, is a period of 25 years or, if it is shorter, the period for which the premium is to be paid specified in the policy, or determinable from its written provisions, as at the start of the policy; or

(b) in the case of a policy other than a fund member policy, is a period of 15 years or, if it is shorter, the period for which the premium is to be paid specified in the policy, or determinable from its written provisions, as at the start of the policy;

“fund member policy” has the meaning assigned to it in Part 5A;

“immediate annuity” means an annuity that is paid under a policy, where the first payment period begins within 12 months after the policy has started;

“insurer” means a long-term insurer;

“member” has the meaning assigned to it in Part 5A;

“payment date”, in relation to a premium, means the date on which that premium must be paid in terms of the policy;

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

“risk component” means a component that on its own constitutes an excluded policy;

“Table” means the table accompanying this Part; and

“this Part” means this Part 3B.

General prescriptions

- 3.11 (1) Remuneration for rendering services as intermediary may be paid by or on behalf of an insurer, and received by an independent intermediary -
- (a) only in accordance with this Part;
 - (b) only after the policy has started; and
 - (c) only as commission in monetary form.
- (2) (a) Remuneration for rendering services as intermediary, whether in cash or in kind, may be paid by or on behalf of an insurer to its representatives only on a basis of equivalence of reward, and must be paid substantially in accordance with this Part.
- (b) The Registrar may by notice in the *Government Gazette* determine that an insurer is not complying with paragraph (a).
- (3) The total commission per policy may not exceed the maximum prescribed by this Part, irrespective whether more than one independent intermediary or representative renders services in respect of that policy.
- (4) If a policy has two or more components, each component must for the purposes of this Part, and where applicable, for the purposes of Part 3A, be dealt with as if it were a separate policy.
- (5) If a policy (that does not have two or more components) or a component provides more than one type of policy benefit, and one or more of these benefits is a benefit other than a risk benefit, the maximum commission in respect of that policy or component must be determined in accordance with this Part.
- (6) Any agreement, scheme or arrangement to offer, provide, accept, pay, or receive remuneration, otherwise than in accordance with this Part, is void.

Maximum commission

- 3.12 (1) The maximum commission that may be paid in respect of a multiple premium policy, is an amount equal to 5% of each premium.
- (2) (a) Subject to paragraph (b), the maximum commission that may be paid in respect of a single premium policy is an amount equal to 3% of the premium.
- (b) The maximum commission that may be paid in respect of a single premium policy -

- (i) of which the policy benefit is an immediate annuity, is an amount equal to 1.5% of the premium;
- (ii) that is a fund member policy which funds a retirement annuity fund, upon a transfer from a fund other than a retirement annuity fund, is an amount equal to 1.5% of the premium;
- (iii) that is a fund member policy which funds a retirement annuity fund, upon a transfer from a retirement annuity fund, is nil;
- (iv) that is a fund member policy, which does not fund a retirement annuity fund, upon a transfer from another fund, is an amount equal to 1.5% of the premium.

Time of payment of commission

- 3.13 (1) Commission in respect of a premium may be paid only on or after the payment date of that premium.
- (2) Despite subregulation (1), an insurer, at its discretion, may discount commission in respect of a multiple premium policy in terms of regulation 3.15, and pay the discounted commission at any time after the policy has started.
- (3) An insurer, at its discretion, may pay commission in two or more instalments, provided that the instalments, before any increase in terms of paragraph (b) does not exceed the maximum commission referred to in regulation 3.12.

Premium increases and additional premiums

- 3.14 If the premium is increased in accordance with the terms of the policy as at the start of the policy or as amended from time to time, or if an additional premium is paid, the discounted and undiscounted commission in respect of the increased portion of the premium or in respect of the additional premium must, except for the purpose of subregulation 3.15(4), be dealt with as if -
- (a) the increased portion of the premium, or the additional premium, were a premium payable or paid under a separate policy; and
 - (b) that separate policy starts on the first or only payment date of the increased portion of the premium or the additional premium.

Discounting of commission

- 3.15 (1) In the case of a multiple premium policy the insurer, at its discretion, may discount a portion of the commission in respect of every premium of which the payment date falls within the discount term.

- (2) The maximum portion of the commission that may be discounted in respect of each premium, is an amount equal to 2,5% of that premium, and the portion of commission that is discounted must be the same proportion of every premium.
- (3) The discounting must be done -
 - (a) once only and only at the start of the policy, and this may be done also at the payment of an additional premium and at the start of payment of an increased premium, as contemplated in regulation 3.14;
 - (b) from the payment date of each premium to the start of the policy, at an annual effective rate of not less than 6%.
- (4) Despite subregulation (2), but subject to regulation 3.12(1), if the commission discounted for the policy, or where the policy at its start has two or more components the aggregate commission discounted for all the components (including risk components), comes to less than four hundred Rand, the insurer, at its discretion, may discount a larger portion of the commission in respect of all the premiums, at a level higher than 2,5% of each premium, to allow for a discounted commission for the policy, or an aggregate discounted commission for all the components of the policy (including risk components), of not more than four hundred Rand.
- (5) The discounting in terms of subregulation (4) may be done once only and only at the start of the policy, but not at the payment of an additional premium or at the start of an increased premium, as contemplated in regulation 3.14.

Redirecting of commission

- 3.16 (1) A policyholder (excluding a person to whom the policy has been ceded as security) or member may at any time during the life of a investment policy instruct the insurer in writing to stop paying further discounted and undiscounted commission to an independent intermediary or a representative, provided that as part of that instruction the policyholder or member also must instruct the insurer -
- (a) to pay the further commission to another independent intermediary, nominated by the policyholder or member in that instruction, who has a contract with the insurer for rendering services as intermediary in respect of policies of the insurer of the type of policy in question; or
 - (b) to pay the applicable portion of the further commission, in accordance with the principle of equivalence of reward referred to in regulation 3.11(2), to another representative of the insurer nominated by the policyholder or member in that instruction, who is approved by the insurer to render services as intermediary in respect of the policy in question; or
 - (c) to pay the applicable portion of the further commission, in accordance with the principle of equivalence of reward referred to in regulation 3.11(2), to another representative of the insurer to be appointed by the insurer to render

services as intermediary to the policyholder or member in respect of the policy in question.

- (2) The insurer must, at no additional cost to the policyholder, comply with an instruction contemplated in subregulation (1).

Adjustment and refund of commission

- 3.17 (1) If, within 5 years after the premium commencement date, the premium is stopped or decreased - for any reason other than where the policy ends on account of a disability event, a health event, or the death of a life insured - the insurer must reverse a proportion of any discounted commission.
 - (2) The proportion to be reversed in terms of subregulation (1) must be calculated by applying the applicable adjustment percentage in column 2 of the Table to the ratio that the premium decrease bears to the premium in respect of which the discounted commission first was calculated.
 - (3) If a premium or a part of it, of which the payment date falls within 5 years after the premium commencement date, is not paid to the insurer or is paid back by the insurer - for any reason other than where the premium is stopped or decreased, or where the policy ends on account of a disability event, a health event, or the death of a life insured - the insurer must reverse any discounted commission paid in respect of that premium or part of it.
 - (4) If a premium or a part of it, whether its payment date falls within or after 5 years after the premium commencement date, is not paid to the insurer or is paid back by the insurer, the insurer must reverse any undiscounted commission paid in respect of that premium or part of it.
 - (5) (a) If discounted or undiscounted commission paid to an independent intermediary or a representative is reversed in terms of subregulation (1), (3) or (4), the independent intermediary or representative must pay it back to the insurer.
 - (b) If commission has been paid back to the insurer in terms of paragraph (a), and the premium in question or part of it is paid to the insurer thereafter, the insurer may again pay that commission to the independent intermediary or representative.
 - (6) Subregulations (1) to (5) do not apply to the extent that, and for as long as, the policy is maintained in terms of section 52(2), but not made paid-up.

Replacement policies

- 3.18 (1) Commission may not be discounted in respect of a replacement policy.
 - (2) In the event of commission in respect of a replacement policy having been paid otherwise than in accordance with this Part, whether because the insurer at the

time of the payment was not aware that the policy in question was a replacement policy, or for any other reason, then any commission paid by the insurer in excess of the maximum that may be paid in accordance with this Part, or paid earlier than permitted in this Part, must, upon identification of the payment, be reversed and paid back to the insurer by the person to whom it was paid.

Table

Regulation 3.17(1)

Column 1 Premiums received with a value equivalent to monthly premiums for	Column 2 Adjustment percentage	Column 1 Premiums received with a value equivalent to monthly premiums for	Column 2 Adjustment percentage
0 months	100	31 months	48,33
1 months	100	32 months	46,67
2 months	100	33 months	45
3 months	100	34 months	43,33
4 months	100	35 months	41,67
5 months	100	36 months	40
6 months	100	37 months	38,33
7 months	88,33	38 months	36,67
8 months	86,67	39 months	35
9 months	85	40 months	33,33
10 months	83,33	41 months	31,67
11 months	81,67	42 months	30
12 months	80	43 months	28,33
13 months	78,33	44 months	26,67
14 months	76,67	45 months	25
15 months	75	46 months	23,33
16 months	73,33	47 months	21,67
17 months	71,67	48 months	20
18 months	70	49 months	18,33
19 months	68,33	50 months	16,67
20 months	66,67	51 months	15
21 months	65	52 months	13,33
22 months	63,33	53 months	11,67
23 months	61,67	54 months	10
24 months	60	55 months	8,33
25 months	58,33	56 months	6,67
26 months	56,67	57 months	5
27 months	55	58 months	3,33
28 months	53,33	59 months	1,67
29 months	51,67	60 months	0
30 months	50		

“

2. Amendment of Part 5 of the Regulations under the Long-term Insurance Act, 1998 as published in GN R1492 of 1998 and amended by GN R197 of 2000, GN R164 of 2002, GN R1209 of 2003 and GN R186 of 2007:

2.1 Part 5 of the Regulations under the Long-term Insurance Act, 1998 as published in GN R186 of 2007 (hereinafter referred to as the Regulations) is hereby amended by the insertion of the following heading after the reference to section 54 under the heading of Part 5:

"PART 5A

POLICIES OTHER THAN POLICIES TO WHICH PART 5B APPLIES

2.2 Regulation 5.1 of the Regulations is hereby amended by –

(a) the substitution of the heading of regulation 5.1 and the sentence following the heading for the following:

"Application of this Part 5A, and definitions

5.1 This Part 5A applies to policies other than policies to which Part 5B applies, and in this Part 5A, unless the context indicates otherwise - ";
and

(b) the substitution of the definition "this Part" for the following:

"this Part" means this Part 5A;".

2.3 Part 5 of the Regulations is hereby amended by the insertion of the following Part after Part 5A:

"PART 5B

INVESTMENT POLICIES THAT STARTED ON OR AFTER 1 AUGUST 2008

Application of this Part 5B, and definitions

5.10 This Part 5B applies to investment policies that started on or after 1 August 2008, and unless defined differently in this Part 5B or unless the context indicates otherwise, any word or expression to which a meaning has been assigned in Part 5A has the meaning assigned to it in that Part, and -

"causal event charge" means a charge, other than an administration charge contemplated in regulation 5.12(3), occasioned by and pertaining to a causal event;

"charge" means a charge stipulated in a policy, which charge is deductible in respect of that policy in accordance with its terms and its actuarial basis;

“charge percentage”, in relation to an investment policy, means 15% reduced on a straight-line basis to 0% over the charge term;

“charge term” means the term during which the insurer may deduct a causal event charge, which term starts on the premium commencement date and is equal to:

- (a) in the case of a single premium policy the shorter of –
 - (i) 5 years; or
 - (ii) the period until the date on which the policy will reach maturity;
- (b) in the case of a multiple premium policy –
 - (i) 10 years, if the premium term is 20 years or longer;
 - (ii) half of the premium term, if the premium term is 10 years or longer but shorter than 20 years;
 - (iii) 5 years, if the premium term is 5 years or longer but shorter than 10 years; or
 - (iv) the premium term, if the premium term is shorter than 5 years;

“excluded policy” means a policy contemplated in paragraphs (a), (b), (c) and (d) of the definition “excluded policy” in Part 5A;

“investment policy” means a single premium policy or a multiple premium policy, other than an excluded policy;

“payment date”, in relation to a premium, means the date on which that premium must be paid in terms of the policy;

“premium commencement date” means the payment date of the only or first premium;

“premium term”, in relation to a multiple premium policy, means the shorter of the following periods:

- (a) the period for which the premiums are to be paid in terms of the policy – which period, as at the start of the policy, is specified in the policy or is determinable from its written provisions; or
- (b) the period for which the premiums are to be paid before a policy benefit is to be provided – excluding where the policy benefit is to be provided on account of a disability event, a health event or the death of a life insured; or
- (c) the period for which the premiums are to be paid before a consideration must or may be paid upon the full or partial surrender of the policy – if the amount of the

consideration, as at the start of the policy, is specified in the policy or is determinable from its written provisions; or

- (d) the longest of the following periods:
 - (i) 10 years; or
 - (ii) in the case of a fund member policy– the number of full years from the start of the policy to the 66th birthday of the life insured; or
 - (iii) the number of full years from the start of the policy to the 75th birthday of the life insured;

“**start**”, in relation to a policy, means when the application for that policy is accepted by the insurer; and

"this Part" means this Part 5B.

Basis for determination of values and benefits of policies

- 5.11(1) The values and benefits of an investment policy, and charges in respect of the policy, are determined, over the full term of the policy, in accordance with its terms, which terms must be in accordance with its actuarial basis.
- (2) Notwithstanding anything to the contrary in the terms or actuarial basis of an investment policy, but subject to regulation 4.2, where a causal event has occurred in respect of that policy and that policy's terms or actuarial basis do not make provision for the calculation of an investment value as described in the definition of "investment value" in Part 5A, the values or benefits of that policy upon or immediately after the causal event must be, as certified by the insurer's statutory actuary, materially equivalent to such values or benefits as determined in accordance with regulation 5.12 for an investment policy of which the terms or actuarial basis do make provision for the calculation of an investment value as described in the definition "investment value".

Maximum charges that may be deducted

- 5.12(1) Where a causal event occurs in respect of an investment policy, the insurer may not on account of that causal event deduct causal event charges which in total exceed the maximum prescribed in subregulation (2).
- (2) The maximum deductible charges for purposes of subregulation (1) are:
 - (a) where the causal event is one contemplated in paragraph (a), (c), (f) or (g) of the definition "causal event", the charge percentage (15% or less) of the investment value immediately before the causal event;
 - (b) where the causal event is one contemplated in paragraph (b) of the definition "causal event", a percentage of the investment value immediately before the

causal event equal to the charge percentage (15% or less) multiplied by the amount by which the basic premium has been reduced divided by the basic premium before it was reduced;

- (c) where the causal event is one contemplated in paragraph (d) or (e) of the definition "causal event", the charge percentage (15% or less) of the amount by which the investment value immediately before the causal event has been reduced.
- (3) (a) The insurer may, in addition to casual event charges, deduct in respect of any causal event, either during or after the charge term, an administration charge of not more than R300.
- (b) Despite paragraph (a), the administration charge must, if necessary, be reduced proportionally so that the investment value immediately prior to the causal event, less the causal event charge and administration charge, is not smaller than 70% of the investment value immediately before the causal event.

Disclosure

5.13(1) An insurer must ensure that -

- (a) when an investment policy is applied for, the prospective policyholder or member is within 30 days from the date of application provided in writing with the information referred to in subregulation (2);
 - (b) the summary to be provided to the policyholder or member in accordance with section 48 of the Act contains the information referred to in subregulation (2); and
 - (c) the policyholder or member is at least annually provided with the information referred to in subregulation (2) in writing, by telefax or any appropriate electronic communication reducible to printed form;
- (2) The information for purposes of subregulation (1) is -
- (a) a summary of the content of the provisions of this Part and possible implications of the provisions for the policy;
 - (b) an explanation of what constitutes a causal event in respect of the policy in question;
 - (c) a statement, expressed as a percentage and, where a Rand value amount is determinable, also as a Rand value amount, of the maximum causal event charges that may be deducted; and
 - (d) the administration charge that may be deducted when a casual event occurs."