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THE PRESIDENCY

No. 1254 4 October 2002

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

No. 34 of 2002: Export Credit and Foreign Investments Insurance Act, 2002.



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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)
(Assented to 1 October 2002.)*

ACT

To amend the Export Credit and Foreign Investments Insurance Act, 1957, so as to define certain expressions and to delete certain definitions; to set out more clearly the percentage of a loss which is covered by an indemnity under a contract of insurance; to repeal an obsolete provision; and to substitute certain obsolete and gender-insensitive words and expressions; and to provide for matters incidental thereto.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 78 of 1957, as amended by section 1 of Act 66 of 1961, section 1 of Act 75 of 1971, section 1 of Act 81 of 1981, section 1 of Act 27 of 1988, section 1 of Act 49 of 1996 and section 1 of Act 9 of 2001 5

1. Section 1 of the Export Credit and Foreign Investments Insurance Act, 1957 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the deletion of the definitions of “contract of insurance” and “Export Credit Agency”;

(b) by the insertion after the definition of “buyer” of the following definition: 10
“ ‘Corporation’ means the Export Credit Insurance Corporation of South Africa Limited or its lawful successor in title;”; and

(c) by the insertion after the definition of “person” of the following definition:
“ ‘policy of insurance’ means a policy of insurance—

(a) entered into between the Corporation, acting within the general 15
ambit of authority granted in terms of an agreement contemplated in section 2(1), and a person carrying on business in the Republic; and

(b) that provides for the insurance on behalf of the Government of a contract subject to risk as contemplated in section 2;”.

Amendment of section 2 of Act 78 of 1957, as substituted by section 2 of Act 81 of 1981, and amended by section 2 of Act 27 of 1988 and sections 2 and 10 of Act 9 of 2001 20

2. Section 2 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 25

“The Minister, in consultation with the Minister of Finance, shall enter into an agreement with the **[Export Credit Agency with the object of insuring on behalf of the Government on such terms and conditions as may, in consultation with the Minister of Finance, be prescribed in such agreement,]** Corporation with the object of insuring on behalf of the Government in terms of policies of insurance any contracts entered into by persons carrying on business in the Republic, being contracts subject to risk of monetary loss or monetary detriment attributable to circumstances beyond the control of the person suffering the loss or detriment and arising out of or in connection with—”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) Without detracting in any way from the Minister’s power to determine through the agreement contemplated in **[section 2]** subsection (1) the **[terms and conditions in terms of]** manner in which the **[Export Credit Agency]** Corporation shall conduct its business, the Minister may appoint members of the Board and the Chief Executive Officer of the **[Export Credit Agency]** Corporation.”.

Substitution of section 3 of Act 78 of 1957, as substituted by section 3 of Act 9 of 2001

3. The following section is hereby substituted for section 3 of the principal Act:

“Percentage cover

3. The maximum sum insured in terms of any policy of insurance in the case of any act, transaction or investment contemplated in section 2(1)(a) and (b) shall not exceed 90 per cent of the total value of the contract or the investment in question, as the case may be.”.

Substitution of section 4 of Act 78 of 1957, as substituted by section 4 of Act 9 of 2001

4. The following section is hereby substituted for section 4 of the principal Act:

“Premiums

4. The rate of premium for any **[contract]** policy of insurance shall be fixed by the **[Export Credit Agency]** Corporation, having regard to the various factors which have a bearing on the risks covered by the **[contract]** policy and to the cost of administering this Act.”.

Repeal of section 8 of Act 78 of 1957

5. Section 8 of the principal Act is hereby repealed.

Substitution of certain expressions and words in Act 78 of 1957

6. The principal Act is hereby amended by the substitution—

- (a) for the expression “contract of insurance”, wherever it occurs, of the expression “policy of insurance”;
- (b) for the expression “Export Credit Agency”, wherever it occurs, of the word “Corporation”; and
- (c) for the words “he”, “him”, “his” and “sub-section”, wherever they occur, of the words “he or she”, “him or her”, “his or her” and “subsection”, respectively.

Short title and commencement

7. This Act shall be called the Export Credit and Foreign Investments Insurance Amendment Act, 2002, and shall be deemed to have come into operation on 2 July 2001.