

Statutory Instrument No. 124 of 1992

INSURANCE INDUSTRY ACT
(Cap 46:01)

INSURANCE INDUSTRY REGULATIONS, 1992
(Published on 1992)

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IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by section 131 of the Insurance Industry Act, the following Regulations are hereby made —

PART I — *Preliminary*

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|---------------------------------|---|
| Citation | 1. (1) These Regulations may be cited as the Insurance Industry Regulations, 1992. |
| Inter-pretation
(Cap. 42:01) | <p>2. In these Regulations unless the context otherwise requires —</p> <p>“accounts” in relation to an insurer or a broker, means the accounts and information prepared in accordance with the Companies Act;</p> <p>“gross premium” means the total policy premium receivable;</p> <p>“net liabilities” means gross claims payable to an insured less attributable gross reinsurance recoveries receivable;</p> <p>“net premium” means gross premium receivable less gross reinsurance premium payable;</p> <p>“payable” means both paid and payable;</p> <p>“preference shares” means shares which are given preference over ordinary shares;</p> <p>“receivable” means both received and receivable.</p> |

PART II — *Administration*

- | | |
|--------------------------------|--|
| Insurance
Advisory
Board | <p>3. There is hereby established an Insurance Advisory Board comprised of —</p> <p>(a) one member nominated by each insurer registered in Botswana;</p> <p>(b) three members selected by insurance brokers registered in Botswana; and</p> <p>(c) one or more persons nominated by the Minister as being a person or persons possessing experience in an area of commerce relevant to a particular task to be performed by the Registrar.</p> |
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PART III — *Capital Requirements of Insurers*

- | | |
|-----------------------------------|--|
| Insurers
paid-up
capital | <p>4. (1) The amount of paid-up capital to be maintained by an insurer transacting classes of general business or of long term business, shall be not less than two million Pula (P2,000,000).</p> <p>(2) An insurer transacting insurance business prior to the coming into operation of this Act who does not have the required paid-up capital on the 1st July 1990, shall be granted a grace period of three (3) years therefrom within which to comply with the requirements of subregulation (1):</p> <p>Provided that such an insurer shall not, until the provisions of subregulation (1) have been complied with, declare any dividend to its shareholders.</p> <p>(3) The term “paid-up capital” shall not, in its application to this regulation, include debentures, preference shares, non-voting shares and such paid-up capital subscribed, directly or indirectly in itself, by the insurer.</p> |
| Insurers
margin of
solvency | <p>5. (1) The margin of solvency prescribed for the purposes of section 10 of the Act shall be as follows —</p> <p>(a) the assets of an insurer transacting classes of general business shall exceed all the liabilities of the company by one million Pula (P1,000,000), or twenty percent (20%) of the net premium income of the insurer, whichever is the greater;</p> |

(b) the assets of an insurer transacting classes of long term business shall exceed the liabilities of the insurer, including any liability attributable to any life insurance fund established by the said insurer.

(2) For the purposes of this regulation the net premium income in any period in question of an insurer transacting classes of general business shall be the gross premium income of the said insurer less the gross premium paid by such insurer for reinsurance of the business to which the gross premium is attributable at the time in question.

(3) Where any Director or the management of any Botswana insurer transacting classes of general business believes that the solvency margin of their company may have fallen significantly, or in any case is less than twenty five percent (25%), as calculated under subregulation (1) (a), for whatever reason, they shall advise the Registrar and all Directors of the insurer shall be so informed in writing immediately.

6. (1) In calculating the value of its assets, whether owned directly in or through a subsidiary or associate, an insurer transacting general business shall —

Calculation
of assets and
liabilities
of general
insurer

(a) ascribe such monetary value to those assets as represents the net sale value of such assets after deducting all reasonable anticipated costs incurred in the sale or realization of such assets;

(b) where the asset is land in Botswana with structures and buildings thereon, have such asset valued by an independent property valuer resident in Botswana and approved by the Registrar;

(c) for the purpose of solvency calculation take into account only the total of the admissible assets as defined in Form No. 9 in the First Schedule hereto.

(2) In calculating the extent of its future liabilities under all classes of general business such insurer shall —

(a) incorporate a provision for liabilities net of anticipated reinsurance recoveries of policies already entered into but not yet time expired; such provision shall be made using the standard twenty fourths method of calculating such liabilities, or an internationally recognised formula or basis approved by the Registrar; in the calculation of this liability the gross premiums may be reduced only by the gross commissions paid to intermediaries;

(b) incorporate a provision for liabilities net of anticipated reinsurance recoveries of claims advised although all or some part of the payment has yet to be made; such provision shall be made on appraisal by experienced staff of all outstanding claim files in determining a realistic monetary sum of the insurer's anticipated potential liabilities and anticipated recoveries other than from the sale of salvaged goods already in the possession of the insurer which shall not be taken into account in calculating the liabilities of the insurer;

(c) incorporate a provision for liabilities net of anticipated reinsurance recoveries of policies under which liability has arisen in the insurer the extent of which has yet to be ascertained by the insurer; such provision shall be made using a formula or basis approved by the Registrar; but such provision shall not be less than 10% of total incurred claims in the previous financial year less actual and anticipated reinsurance recoveries in respect of such claims;

Calculation
of assets
and liabilities
of long term
insurer

- (d) where the liability of an insurer is denominated or arises in a foreign currency, incorporate a provision for possible adverse currency movements as the insurer shall deem appropriate;
- (e) incorporate a provision for anticipated administration costs of the insurer in the handling and settlement of claims included in paragraphs (b) and (c) above;
- (f) in the calculation of solvency take into account such other liabilities as are set out in Form No. 8 in the First Schedule hereto.

7. (1) In calculating the value of its assets, whether owned directly in or through a subsidiary or associate, an insurer transacting long term business shall —

- (a) include all assets and liabilities of statutory life insurance funds;
- (b) ascribe such monetary value to those assets as represents the net sale value of such assets after deducting all reasonable anticipated costs incurred in the sale or realization of such assets;
- (c) where the asset is land in Botswana with structures and buildings thereon, have such asset valued by an independent property valuer resident in Botswana and approved by the Registrar; such valuation shall be undertaken not less frequently than every three years;
- (d) where the assets are shares held in a subsidiary company whose assets are made up of land and/or buildings, or an interest in these, value such shares at the net sale value of such property as determined under paragraphs (b) and (c) above, less the liabilities of the company including any taxation liabilities pursuant upon the sale of such assets;
- (e) where the assets are shares held in a subsidiary company other than as described in paragraph (d) above, or of any other shares held by the insurer, value such shares at the open market sale price less all reasonable anticipated costs incurred in the sale of such shares;
- (f) for the purpose of solvency calculation take into account only the total of admissible assets as defined in Form No. 9 in the First Schedule hereto.

(2) In calculating the extent of its future liabilities under all classes of long term business such insurer shall —

- (a) utilize the valuation of the liabilities for each of the statutory life insurance funds, established under section 70 of the Act, as determined by the actuary at an investigation carried out in accordance with section 69 of the Act; and
- (b) adjust such liabilities as have been incurred since the last actuarial investigation only in accordance with such formula or basis as the actuary shall approve;
- (c) in the calculation of solvency, take into account such other liabilities as are set out in Form 8 in the First Schedule hereto.

PART IV — *Registration of Insurers*

Application
for registration
by an insurer

8. An application for registration by an insurer shall be in Form No. 1 in the First Schedule hereto and shall be accompanied by the documents referred to in the said form.

Certificate
of registration
of an insurer

9. A certificate of registration issued to an insurer shall be in Form No 2 in the First Schedule hereto.

PART V — *Insurer's Accounts and Returns*

10. (1) Under the provisions of section 27 (2) of the Act the accounts of an insurer shall be extended to include the following additional information —

**Insurer's
account**

- (a) the margin of solvency as shown on Form No. 8 in the First Schedule hereto as —
 - (i) the Pula amount by which the total admissible assets exceed the total net liabilities;
 - (ii) the Pula amount by which the total admissible assets exceed the sum of the total net liabilities and the margin of solvency as set out in regulation 5 (1);
 - (iii) the percentages that the Pula amounts in (i) and (ii) above bear to the total admissible assets;
- (b) the number of shares of the insurer held by each director and the number of shares bought and sold by each director during the accounting period in question;
- (c) a statement on the basis, if any, of the re-valuation and/or depreciation of land and buildings owned by it or by any subsidiary and associate companies; such statement shall state whether real property has been re-valued or is included in the accounts at purchase cost value, and if re-valued, the basis of such re-valuation and the date on which it was last revalued;
- (d) where the insurer owns in excess of twenty percent (20%) of the equity stock in any other company the company name, country of incorporation or registration, principal business activity and percentage stock holding of each such company shall be stated.

(2) The accounts of an insurer shall be extended to include a declaration that, where any transfer of assets has been made during the period in question between an insurer transacting classes of long term business and a statutory life insurance fund maintained by it as permitted under section 71 (4) of the Act, each such transfer had been examined by the auditor and that the transfer, in the opinion of the auditor was, or was not, executed at fair market value.

11. Annual returns to be furnished by every insurer to the Registrar in accordance with section 31 of the Act shall in the case of —

**Annual
return of
insurers**

- (a) a balance sheet and profit and loss account, be prepared by the company and audited by an auditor approved by the Registrar as required by section 27 of the Act and shall be in such form as is required by recognised international accounting standards as amended by the Act, these regulations and any other relevant law of Botswana;
- (b) an audited income and expenditure statement for each category, or group of categories, of insurance underwritten by an insurer transacting long term insurance business, be in Form No. 6, and of an insurer transacting general insurance business, be in Form No. 7 of the First Schedule hereto;
- (c) an audited statement of solvency, be in Form No. 8 of the First Schedule hereto; and
- (d) an audited statement of all admissible, and all inadmissible assets, be in Form No. 9 of the First Schedule hereto.

12. The code of practice set out in the Second Schedule hereto shall be a guide for insurers in the conduct of their business.

**Code of
practice
for insurer**

PART VI — *Qualification of Agents and Registration of Brokers*

Minimum
qualifications
for agents

13. (1) A person, not being a company, shall not enter into or maintain an insurance agency agreement with an insurer or a broker unless he —

- (a) is a resident of Botswana;
- (b) has attained the age of 21 years;
- (c) has not been convicted in any court in any country of an offence involving dishonesty or any other crime of a serious nature; and
- (d) has not been adjudged insolvent or bankrupt, unless he has subsequently been rehabilitated or discharged.

(Cap. 42:01)

(2) A person, being a limited liability company, shall not enter into or maintain an insurance agency agreement with an insurer or a broker unless he is a company incorporated in Botswana under the Companies Act and deemed by the Registrar to be resident in Botswana.

Application
for registration
of a broker

14. An application for registration by a broker shall be in Form No. 3 in the First Schedule hereto and shall be accompanied by the documents referred to in the said form.

Certificate
of registration
of a broker

15. A certificate of registration issued to a broker shall be in Form No. 4 in the First Schedule hereto.

PART VII — *Broker's Accounts and Returns*

Broker's
capital
requirements

16. (1) The Registrar may require a broker to deposit, either in money or in stipulated securities, security in a value not exceeding twenty five thousand Pula (P25,000) in a commercial bank of his choice, to be withdrawn only with the written authority of the Registrar.

(2) The minimum paid-up capital for a broker, if it is a limited liability company, shall be fifteen thousand Pula (P15,000).

Broker's
minimum
indemnity

17. The Registrar may require a broker to provide a minimum indemnity in a sum not less than two hundred and fifty thousand Pula (P250,000) or more than ten million Pula (P10,000,000) in a manner approved by the Registrar.

Remittance
of premiums
by broker

18. A broker shall remit to the insurer all premiums due to the insurer within sixty (60) days of the last day of the calendar month in which the cover under the policy incepted or the date on which the policy is renewable or in which an endorsement was made thereon.

Broker's
accounts

19. (1) In consequence of section 58(2) of the Act the accounts of a broker shall be extended to include the following additional information —

- (a) the number of commission-only agents employed by the broker;
- (b) the sums paid and incurred by the broker in respect of agents and staff in consequence of section 55 (1) of the Act;
- (c) the total of sums paid or incurred by the broker in respect of premiums due to a Botswana insurer for which no, or inadequate, recompense has been received from clients in consequence of section 57 (1) of the Act;
- (d) the number of occasions that the broker has submitted explanations to the Registrar, as required by section 64 (1) of the Act, in respect of practices discouraged by the brokers code of conduct;
- (e) the total premiums remitted, without deducting commission earned, in respect of insurances placed overseas (other than reinsurances placed on behalf of a Botswana insurer) under the provisions of section 105 of the Act.

(2) The accounts of a broker shall be extended to include the auditor's opinion on whether —

- (a) the relevant bank deposits and capital requirements as required under section 54 of the Act have been complied with by the broker;
- (b) the trust accounts maintained under section 57 of the Act are correctly operated;
- (c) the insurances required by section 55 of the Act are so maintained and in force.

20. Annual returns to be furnished by every broker to the Registrar in accordance with section 63 of the Act shall in the case of —

Annual
returns of
broker

- (a) a balance sheet and profit and loss account, be prepared by the company and audited by an auditor approved by the Registrar as required by section 58 of the Act and shall be in such form as is required by recognised international accounting standards as amended by the Act, these Regulations and any other relevant law of Botswana;
- (b) an audited insurance premium income and expenditure statement, be in Form No. 5 in the First Schedule hereto.

21. The code of conduct set out in the Third Schedule hereto shall be a guide for insurance brokers in the conduct of their business.

Broker's
code of
conduct

PART VIII — *Miscellaneous Provisions*

22. An abstract submitted by an actuary on completion of an investigation made under section 69 of the Act shall be in Form No. 10 in the First Schedule hereto.

Actuary's
abstract on
investigation

23. (1) An insurance agent may act for one insurer transacting general business and another insurer transacting long term business but not two or more insurers transacting the same class of insurance business.

Exemptions

(2) The Act shall not apply to the Motor Vehicle Insurance Fund established by the Motor Vehicle Insurance Fund Act.

(3) The Act shall not apply to any insurance fund created by the Government of Botswana as a Special Fund under the Finance and Audit Act or to the Government of Botswana in respect of the collection and payment of insurance premiums, governed by Part VIII of the Act.

(4) Section 122 of the Act shall not apply in respect of documents submitted to the Registrar under Section 63 of the Act other than the audited balance sheet and additional declarations submitted in terms of regulation 19 (2).

(5) The guarantee that the Registrar may accept in accordance with the proviso of section 57 (3) of the Act shall in respect of the premium receipts less commissions received by the broker for the previous financial year be —

- (a) for such sums as exceed five million Pula (P5,000,000) but do not exceed ten million Pula (10,000,000), twenty five percent (25%) of premium receipts less commissions received by the broker for the previous financial year;
- (b) for such sums as exceed ten million Pula (P10,000,000), ten percent (10%) of premium receipts less commissions received by the broker for the previous financial year.

24. Fees and registration fees of insurers and brokers shall be the sums set out in the Fourth Schedule hereto.

Fees

FIRST SCHEDULE

Form No. 1

APPLICATION FOR REGISTRATION AS AN INSURER BY THE

..... LIMITED

Address of Insurer —

.....

.....

.....

Date 19...

To —

The Registrar of Insurance,
Ministry of Finance and Development Planning,
Private Bag 008,
Gaborone.
Botswana.

Dear Sir,

INSURANCE INDUSTRY ACT
(Cap 46:01)

1. I/We apply for registration of the¹
..... under section 13 as an insurer resident in
Botswana.
2. The registered office of the Company will be at²
3. The head office of the Company will be at³
4. (1) The person managing the business of the Company will be⁴
.....
(2) of Address
.....
5. (1) The Principal Officer of the Company is⁵
.....
(2) of Address³

6. (1) The auditors of the Company are⁶
.....
(2) of Address⁷
7. (1) The actuary to the Company is⁸
(2) of Address⁷
8. (1) The amount of authorised share capital of the Company is
Pula
9. The amount of issued and paid-up share capital (excluding preference shares and non voting shares) of the Company is Pula⁹
10. The amount of issued and paid-up preference shares and non voting shares of the Company is Pula
11. The month and day of the financial year end is ¹⁰
12. The following information and documentation should be attached to this application. Failure to provide all the required information will result in the return of the application by the Registrar.

Statements showing —

- (a) The individual classes of insurance business under Schedules 1 and 2 of the Act which the insurer wishes to transact.¹¹
- (b) The monetary 'own account' and reinsurance treaty limits which the insurer can underwrite under each of the classes of insurance business listed in (a) above.¹²
- (c) Details of shareholdings in excess of 5% of the total paid up share capital of the insurer.
- (d) A statement of any links with a Botswana registered insurance broker as defined by section 8 of the Act.
- (e) The names and physical and postal addresses and all other business interests of each Director and of the Principal Officer.
- (f) The business and insurance experience, professional qualifications and age of each working controller, manager, director and partner.¹³
- (g) The proposed policies of the Company in respect of —
 - (i) underwriting;
 - (ii) risk selection;
 - (iii) premium rating;
 - (iv) investment of insurance funds;
 - (v) limitation of growth of gross and net premium income;
 - (vi) treaty and facultative reinsurance placements; and
 - (vii) control of management expenses.¹⁴

Copies of the following documents are attached to this application —

- (1) The articles of incorporation;
- (2) Brokers and agency and underwriting binder agreements;

- (3) Insurance agents identity card;
- (4) Management agreements;
- (5) Policy forms and standard endorsement wordings;
- (6) Treaty reinsurances ceded outward;
- (7) Treaty reinsurances underwritten inward;
- (8) Last Audited Accounts, as amended by the provisions of the Act and of these Regulations;
- (9) Form No. 8 (Statement of Solvency) and Form No. 9 (Statement of Admissible Assets) of the First Schedule to these Regulations.

In respect of an application to register as an insurer transacting long term insurance business the following additional documentation, information and declarations are forwarded herewith.¹⁵

- (A) Information required under section 65 (1) of the Act regarding policy and endorsement forms, table and statements of rates of premiums and benefits including of paid-up and surrender values, and a report from the actuary that the tables and statements are actuarially sound;
- (B) A list of the statutory life insurance funds proposed to be issued under section 70 of the Act;
- (C) A formal written request to the Registrar, if required, under section 65, subsections (3) (b) and (4) of the Act; and
- (D) Form No 10 (Actuary's Abstract) of the First Schedule to these Regulations.

I/We enclose a Company cheque made payable to the Botswana Government for five thousand Pula (P5,000) being the registration fee. In the event of this application to register as an insurer being unsuccessful we understand that this fee will not be returned.¹⁶

Yours faithfully,

.....
(Authorised Signature)¹⁷

General Notes:

- (a) Where an answer or documentation requested above is not known or available it is essential that this be brought to the attention of, and explained to, the Registrar. Any application not fully completed will be returned to the applicant.
- (b) Prospective applicants need not establish a company in Botswana before entering into discussions with the Registrar on registration. The policy of the Botswana Government is to encourage the development of the domestic insurance industry and prospective applicants are invited to hold informal discussions with the Registrar prior to formal application.

Specific Notes:

- 1 The full registered name of the Company is to be given.
- 2 This must be the physical address of the registered office of a company registered in terms of the Companies Act (Cap 42:01).
- 3 This must be both the physical and postal addresses in Botswana.
- 4 This can be the manager, controller, chief executive or principal officer with the executive power to control the policy or day to day activities of the Company.
- 5 The principal officer is defined under the Act as "the person for the time being responsible for the daily management of the principal office in Botswana".

- 6 Where an auditor is not resident in Botswana a full explanation is required, and the experience and knowledge of the auditor in handling company accounts in Botswana should be included.
- 7 This must be both the physical and postal addresses and must state the country.
- 8 Where the actuary is not an independent consultant to the Company, a full explanation should be included.
- 9 Where the issued share capital of the insurer is not fully paid-up a full explanation is to be provided.
- 10 Where the current financial period in question is in respect of a period lesser or greater than one year the dates of the period should be stated.
- 11 Other than under section 95 of the Act it is not permitted for an insurer to transact insurance under both Schedule 1 (Classes of Long Term Business) and Schedule 2 (Classes of General Business).
- 12 Net retention limits together with treaty capacity indicate the local underwriting capacity before recourse to facultative placements. Net retention limits per risk when compared with unencumbered capital also indicates the underwriting policy of the insurer.
- 13 The Registrar is required to satisfy himself of the business and insurance knowledge of the management under the provisions of sections 16 and 17 of the Act.
- 14 The nature of legislation is to encourage conservative management policies so as to ensure that policyholders are not endangered by dangerous or unsound insurance practices. This question requires an applicant to provide such management policy guidelines as will assure the Registrar that Botswana policyholders interests are foremost in mind of the management.
- 15 Strike out any page that is not applicable or is not supplied.
- 16 The payment of the registration fee is in respect of the application to register as an insurer. In the event that such application is rejected (other than because of insufficient information or documentation) the fee will not be refunded to the applicant. Upon completion of registration the fee so paid will also include the first year's annual registration fee.
- 17 The application should be signed by the Principal Officer, but may be signed by a Director of the Company.

REPUBLIC OF BOTSWANA
INSURANCE INDUSTRY ACT
(Cap 46:01)

CERTIFICATE OF REGISTRATION AS AN INSURER —

I hereby certify that the

.....

.....
has been duly registered by me to transact in the Republic of Botswana the following classes
of insurance business:

.....

.....

.....

.....

.....

Dated this day of 19... in Gaborone

Period of validity from 19...

..... 19...

Signed

.....

Registrar of Insurance

APPLICATION FOR REGISTRATION AS AN INSURANCE BROKER

BY —

Address of Broker —

.....

.....

.....

Date 19...

To —

The Registrar of Insurance,
Ministry of Finance and Development Planning,
Private Bag 008,
Gaborone.
Botswana.

Dear Sir,

INSURANCE INDUSTRY ACT
(Cap 46:01)

1. I/We apply for registration of¹
.....
..... under section 46 as a broker resident in Botswana.
2. The registered office will be at²
.....
3. The head office will be at³
.....
4. (1) The person managing the business of the Company will be⁴
.....
(2) of Address
.....

5. (1) The Principal Officer of the Company is⁵
- (2) of Address³
6. (1) The auditors of the Company are⁶
-
- (2) of Address⁷
-
7. (1) Banks at which Trust Accounts will be held are⁸
-
- (2) of Address⁷
-
8. The brokers is a sole proprietorship/partnership/limited liability company (registered in Botswana).⁹
9. The paid-up share capital of the Company is Pula¹⁰
10. The deposits held by a commercial bank under the direction of the Registrar (by Regulation 16 (1)) are Pula¹¹
11. The month and day of the financial year end is ¹²

To this application the following information and documentation is attached. (Note: Failure to provide all the required information will result in the return of the application by the Registrar).

Statements showing —

- (a) All insurers with whom the broker holds agency agreements.¹³
- (b) All insurers with whom the broker holds underwriting 'binders' or claim settlement powers.
- (c) A statement of any links with a Botswana registered insurer as controlled by section 8 of the Act.
- (d) A list of all agents (paid principally by commission earnings) employed by the broker.
- (e) Statements from each controller, director, partner and manager declaring whether or not they have been:-
 - (i) adjudged insolvent or bankrupt in any country; or
 - (ii) made an assignment to or an arrangement or composition with creditors which has not been rescinded or set aside; or
 - (iii) been convicted by any court in any country of an offence involving dishonesty.¹⁴
- (f) The business and insurance experience, professional qualifications and age of each working controller, manager, director and partner.¹⁴

- (g) A list of all branch offices and the names, experience and professional qualifications of the senior officers in charge of each.

Copies of the following documents to be attached to this application —

- (1) The articles of incorporation (or partnership agreements).
- (2) Management agreements, or service contracts.
- (3) Insurance agents identity card.
- (4) The Last Audited Accounts (including those of all subsidiary companies).
- (5) Form No. 5 (Brokers Insurance Premium, Income & Expenditure Statement) of the First Schedule to these Regulations.
- (6) Professional Indemnity (Errors and Omission) and Fidelity Guarantee Insurance policies.¹⁵
- (7) Agency, binder and claim settlement agreements.

I/We enclose a cheque made payable to the Botswana Government for one thousand Pula (P1,000) being the registration fee. In the event of this application to register as an insurance broker being unsuccessful we understand that this fee will not be returned.¹⁶

Yours faithfully,

.....
(Authorised Signature)¹⁷

General Notes:

- (a) Where an answer or documentation requested above is not known or available it is essential that this be brought to the attention of, and explained to, the Registrar. Any application not fully completed will be returned to the applicant.
- (b) Prospective applicants need not establish a company in Botswana before entering into discussions with the Registrar on registration. The policy of the Botswana Government is to encourage the development of the domestic insurance industry and prospective applicants are invited to hold informal discussions with the Registrar prior to formal application.

Specific Notes:

- 1 The full registered name of the Company is to be given (or the name under which a sole proprietorship or partnership will operate).
- 2 This must be the physical address of the registered office of a company registered in terms of the Companies Act (Cap 42:01).
- 3 This must be both the physical and postal addresses in Botswana.
- 4 This can be the manager, controller, chief executive or principal officer with the executive power to control the policy or day to day activities of the company.
- 5 The principal officer is defined under the Act as "the person for the time being responsible for the daily management of the principal office in Botswana".
- 6 Where an auditor is not resident in Botswana a full explanation is required, and the experience and knowledge of the auditor in handling company accounts in Botswana should be included.
- 7 This must be both the physical and postal addresses and must state the country.
- 8 This must be such that the physical and postal locations of the bank(s) are clearly shown.
- 9 Delete whichever is not applicable.
- 10 Where the paid-up share capital of a company does not have full voting rights a full explanation is to be provided.

- 11 Where no direction has been given by the Registrar insert "No direction received" to this question.
- 12 Where the current financial period in question is in respect of a period lesser or greater than one year the dates of the period should be stated.
- 13 A broker should be in possession of an agency agreement detailing the full terms and conditions of agency. Where there is no written agreement the applicant should provide a statement detailing his understanding of the terms under which business is carried out between the parties.
- 14 The Registrar is required to satisfy himself of the business and insurance knowledge of the management under the provisions of sections 51 and 52 of the Act.
- 15 The indemnity required in terms of section 55(2) of the Act is sufficiently wide to encompass facets of professional indemnity as well as fidelity insurance covers. Applicants should demonstrate that insurances held fully meet the liabilities of a broker specified in section 55 (1) of the Act.
- 16 The payment of the registration fee is in respect of the application to register as a broker. In the event that such application is rejected (other than because of insufficient information or documentation) the fee will not be refunded to the applicant. Upon completion of registration the fee so paid will also include the first year's annual registration fee.

The application should be signed by the Principal Officer, but may be signed by a Director of the Company.

REPUBLIC OF BOTSWANA

INSURANCE INDUSTRY ACT
(Cap 46:01)

CERTIFICATE OF REGISTRATION AS AN INSURANCE BROKER —

I hereby certify that the

.....
has been duly registered by me to carry out the business of an Insurance Broker in the Republic
of Botswana.

Dated this day of 19... in Gaborone

Period of validity from 19...

..... 19...

Signed

.....
Registrar of Insurance

REPUBLIC OF BOTSWANA
INSURANCE INDUSTRY ACT
(Cap 46:01)

STATISTICAL DATA

BROKERS INSURANCE PREMIUM, AND INCOME AND EXPENDITURE
STATEMENT

BROKER NAME

FINANCIAL YEAR END19...

INCOME

Description of insurance business income

EXPENDITURE

Description of expenditure

	Gross Pre- mium	Net Pre- mium	Commis- sion ²		Amount
GENERAL INSURANCE BUSINESS				ALL CLASSES OF INSURANCE BUSINESS	
(a) Botswana Insurers ⁴				(h) Commissions paid to agents and Brokers ⁵	
1. Botswana Eagle Insurance				1. Individuals resident in Botswana	
2. Botswana General Insurance				2. Resident Companies in Botswana	
3. IGI Botswana General Ins				3. Individuals resident outside Botswana	
4.				4. Companies resident outside Botswana	
5.					
6.					
Sub-total				Sub-total	
(b) External Insurers ¹				(i) Rebate of Commissions to client insureds ⁶	
State Name and Country				(j) Rebate of Commissions to others — Specify ⁷	
1.				1.	
2.				2.	
3.				3.	
4.				4.	
5.				5.	
				6.	
Sub-totals				Sub-totals	
				Total of all rebates	
LIFE AND PENSION BUSINESS					
(c) Botswana Insurers ⁴				(k) Bad Debts ⁸	
1. Botswana Life Insurance					
2. IGI Botswana Life Assurance					
3.					
4.					
5.					
Sub-totals				Grand Total of ((h) to(k))	

(d) External Insurers¹
State Name and Country

Sub-totals

(f) Fee income derived from insurance sources²

1.
2.
3.
4.
5.
6.

Sub-totals ((e) to (g))

Grand Totals ((a) to (g))

[illegible]

Principal Officer Date 19

Auditor Date 19

- (a) For the purposes of this form the word 'Act' shall mean the Insurance Industry Act, 1987.
- (b) All premiums and commission shown on this form apply to those insurances invoiced to clients within the financial year in question and should include all premiums received, due or for which the broker is responsible under the terms of the Act and Regulations.
- (c) The purpose of this form is to assist the Registrar in establishing the total insurance business in Botswana and its distribution within and outside the country, and to record the income and expenditure of brokers from purely insurance related sources.

1. Where insurances or reinsurances are placed on an international insurance market the name and nationality of the lead underwriter need only be shown.
2. Where a broker is rebating all commissions to a client and charging a fee for broking services the broker shall show the same Gross Income and Net Income and Commission as nil. Fees earned should be included in item (f).

3. Insurance in this context also includes the management of or other services provided in respect of the management or provision of services to Pension or Provident Funds.
4. 'Botswana Insurers' only refers to insurers registered under the Act to transact insurance business in Botswana. It shall not refer to pension or provident funds registered under the Pension and Provident Fund Act, 1987 (Cap 27:03).
5. Where the business of a broker is obtained through the offices of an insurance agent or another broker and the broker shares the commission earning with that agent or broker the amount of commission so paid should be inserted under the appropriate headings. Brokers should differentiate this commission sharing with another independent insurance agent or broker with that of rebating commission to the client or some other connected person or body which should be included under items (i) or (j).
6. This item should only include those rebates given to the client in respect of his own insurances.
7. Where commission rebates are given to persons or bodies other than the insured client each such rebate shall be stated. Brokers attention is drawn to section 107 of the Act.
8. Under section 57 of the Act a broker is liable to a Botswana Insurer for premiums collected or due on insurances placed on a clients behalf. Only those losses suffered under this provision should be included under this item.

REPUBLIC OF BOTSWANA

INSURANCE INDUSTRY ACT
(Cap 46:01)
STATISTICAL DATA

INSURERS LONG TERM BUSINESS INCOME AND EXPENDITURE STATEMENT

NAME OF INSURER

FINANCIAL YEAR END19.....

PART A

INCOME		Cur- rent Year	Pre- vious Year	EXPENDITURE		Cur- rent Year	Pre- vious Year
1.	(a) Amount of Pension and Administration Fund(s) at the Beginning of the Year			8.	Total claims under policies paid and outstanding:		
	(b) Amount of Life Fund(s) at the beginning of the year				(a) on death		
					(b) on maturity		
					(c) other		
2.	Premiums receivable:			9.	Annuities		
	(a) Pension Fund Administration Business			10.	Surrenders (including bonuses in reduction or premiums or in cash):		
	(b) Retirement and deferred Annuity Fund Business				(a) Pension Fund Administration Business		
	(c) Immediate Annuities				(b) Other life business		
	(d) Long term disability insurance business carried out in terms of Schedule 1 of Part IV of the Act			11.	Expenses of management		
	(e) Other Life Business:			12.	Reinsurances (Gross) Paid and outstanding:		
	(i) Single Premiums				(a) within Botswana		
	(ii) Periodic Premiums				(b) outside Botswana		
3.	Investment Income			13.	Commission (Net)		
4.	Amounts Payable by Reinsurers			14.	Taxation Paid and Provided for		
	(a) on claims			15.	Other Expenditure paid and outstanding (to be specified):		
	(b) other						
5.	Commission (Net)						
6.	Other Income (to be specified):-						
							
							
							
							

7. Transfer from Profit and Loss Account

Total (1. to 7.)

16. Transfer to Profit and Loss Account

17. (a) Amount of Pension Administration Fund at the end of the Year
(b) Amount of Life Fund at the end of the Year

Total (8. to 17.)

PART B

Particulars of New Life Insurances and Retirement Annuities effected during the year excluding Pension Fund Administration Business

(a) Number of Policies	
(b) Annual Premiums (Gross)	P
(c) Annual Premiums (Net)	P
(d) Single Premiums (Net)	P

PART C

Particulars of Policies Terminated During the year by Surrender

(a) Number of Policies	
(b) Annual Premiums (Net)	P

Note that in Part C policies that acquired a surrender value which has subsequently been exhausted through the operation of non-forfeiture provisions should be included.

PART D

Particulars of Policies Terminated during the year by Lapse

(a) Number of Policies	
(b) Annual Premiums (Net)	P

Signed and Certified Correct:

Principal Officer Date 19....

The information herein is in accordance with the Financial Records of the company:

Auditor Date 19....

REPUBLIC OF BOTSWANA

INSURANCE INDUSTRY ACT
(Cap 46:01)

STATISTICAL DATA

GENERAL INSURERS INSURANCE CLASS INCOME AND EXPENDITURE
STATEMENT

NAME OF INSURER.....

FINANCIAL YEAR END..... 19....

Separate statements in respect of the undermentioned groupings of insurance together with a summary shall be submitted

Groupings

*Comprising classes detailed in
Schedule 2 attached to the Act*

- | | |
|---|-------------------------|
| 1. Fire | 8, 9 and Part of 16 |
| 2. Motor | 3 and 10 |
| 3. Personal Accident and Sickness | Part of 1 and 2 |
| 4. Workmens Compensation and
Employers Liability | Part of 1 and 2 |
| 5. Liability | 13 |
| 6. Credit and Suretyship | 14 and 15 |
| 7. Marine and Aviation | 5, 6, 11 and 12 |
| 8. Miscellaneous | 4, 7, 17 and Part of 16 |
| 9. Summary | All of the above |

LONG TERM AND GENERAL INSURERS STATEMENT OF SOLVENCY

NAME OF INSURER.....

FINANCIAL YEAR END 19....

<i>Current Year</i>	<i>Previous Year</i>

1. Total value of insurance admissible assets
(from Form 9)
2. Total net liabilities, comprising:-
 - (a) Nett liabilities under unexpired policies
 - (b) Claims intimated but not yet paid
 - (c) Provision for unintimated claims (IBNR)
 - (d) Provision for administration costs of unintimated and outstanding claims
 - (e) Balances due to other insurers and reinsurers
 - (f) Deposits held on behalf of reinsurers
 - (g) Bank overdrafts
 - (h) Provision for taxation
 - (i) Provision for dividends
 - (j) Other liabilities (specify):
.....
.....
.....
.....
.....

Sub-total
3.
 - (a) General insurance premium income (gross) in preceding financial year after deducting reinsurances
Pula
 - (b) General insurance premium income (gross) in current financial year after deducting reinsurances
Pula
4. Required solvency margin either:-
 - (a) For general insurance business, the greater of P1,000,000 or 20% of the higher of 3 (a) or 3 (b) above
 - (b) For long term insurance business, nil
5. No. 2. above Plus No. 4. above
6. Surplus (+) or shortfall (—) of assets No. 1. above less liabilities and solvency margin No. 5. above

Signed and certified correct

Principal Officer Date 19....

The information herein is in accordance with the Financial Records of the company.

Auditor Date 19

LONG TERM AND GENERAL INSURERS STATEMENT OF ADMISSIBLE ASSETS

FINANCIAL YEAR END..... 19.....

Admissible Assets

Business Long term/general (Delete as applicable)		Current Year	Previous Year
Admissible Assets			
1.	Land and buildings		
2.	Debts fully secured on land (except listed debentures and debts due from dependant, or connected companies): (a) Due from any company or persons (not being an individual) (b) Due from individuals (not being an employee or connected persons of the company) (c) Due from employees and connected persons of the company		
3.	Debts (except listed debentures, debts specified in 2. above and debts due from dependant or connected companies): (a) Due from any one company and any of its connected companies (b) Due from any one unincorporated body of persons (c) Due from the state or any public body (d) Tax recoveries due from taxation authorities (e) Due from individuals (not being an employee or connected persons of the company) (f) Due from employees and connected persons of the company		
4.	Fixed and variable interest securities and variable interest investments (except those in connected and dependant companies):- (a) Issued by, or guaranteed by the state or public authority (b) Listed equity shares and listed debentures (c) Unlisted equity shares and unlisted debentures (d) Holding in unit trust schemes		
5.	Share options and debenture options		
6.	Investments in connected and dependant companies: (a) Insurance companies:- (i) Value of any shares held (ii) Debts (other than amounts in 7. below)		

- (b) Non insurance companies:-
 (i) Value of any shares held
 (ii) Debts (other than amounts in 7. below)
7. Insurance debts including those due from connected and dependant companies:-
 (a) Premium income in respect of direct and facultative reinsurance contracts accepted but not yet paid to the company less any commission payable thereon
 (b) Amounts due from ceding insurers and intermediaries under reinsurance treaties accepted
 (c) Amounts due from reinsurers and intermediaries under reinsurance contracts ceded
 (d) Recoveries due by way of salvage
 (e) other sums due from insurers
8. Cash
9. Deposit and current accounts with banks and deposits with building societies:-
 (a) Deposits of less than 12 months
 (b) Deposits of more than 12 months
10. Shares in building societies
11. Loans secured by policies issued by the company
12. Computer equipment
13. Other office equipment, furniture, motor vehicle and other equipment
- TOTAL VALUE OF ADMISSIBLE ASSETS FOR THE PURPOSE OF SOLVENCY CALCULATION**
14. Value of assets which, but for the provisions of limiting assets for the purpose of the calculation of solvency would have been included in the above figures (to be specified):-

Signed and certified correct

Principal Officer..... Date..... 19....

The information herein is in accordance with the Financial Records of the company:-

Auditor Date 19 ____

REPUBLIC OF BOTSWANA

INSURANCE INDUSTRY ACT
(Cap 46:01)

ACTUARY'S ABSTRACT ON COMPLETION OF AN INVESTIGATION

NAME OF INSURER

FINANCIAL YEAR END.....19.....

VALUATION DATE OF INVESTIGATION.....19.....

1. I hereby certify that the liabilities and the assets in respect of each of the statutory life insurance funds have been investigated and assessed by me in accordance with the provisions of the Insurance Industry Act and Regulations and the actuarial practices of the professional institute of actuaries.
2. The previous actuarial investigation valuation date was:19 The investigation was carried out by of actuaries.
3. The period that this investigation covers is from the 19 to the 19
4. I hereby certify that the undermentioned figures represent the financial positions of the statutory life insurance funds on the last date of the period under investigation but prior to:
 - (a) the allocation of bonuses to policyholders;
 - (b) transfers to the insurer in respect of:
 - (i) management costs due to the insurer on behalf of the fund but not actually incurred by the insurer; and
 - (ii) the proposed allocation of the established surplus to the insurer.Actuarial liabilities include increases in reserves attaching to each fund.

5.

(A) Fund Name (or Number)	(B) Actuarial Liabilities (Pula)	(C) Admissible Assets (Pula)	(D) Surplus or Deficit (Pula)	(E) Transfer of Costs (Pula)	(F) Transfer of Surplus (Pula)	(G) Percentage of (F) to ((D) minus(E)) (%)
Totals						

6. I hereby certify that the liabilities of the statutory life insurance funds in para 5. above are exceeded by the assets attaching to that fund except in respect of the following funds where the liabilities exceed the assets:

.....

.....

.....

7. The following course of action has been recommended to the company to redress the insolvency of the funds specifically mentioned in para 6. above:

.....

.....

.....

(A separate sheet may be attached to elaborate further)

Signed and certified correct

Signature Dated 19

Name

Qualifications

Company

Address

Abstract

SECOND SCHEDULE

CODE OF PRACTICE FOR INSURERS

1. This Code of practice shall serve as a guide to insurance companies and other persons concerned with their conduct but the principals of sound underwriting practice may in particular circumstances dictate a course of action other than that specified in the Code.

In the opinion of the Registrar the objective of the Code is to assist in establishing a recognised standard of professional conduct required of all insurance companies who should in the interest of the public, nation and in the performance of their duties, bear in mind both this objective and the underlying spirit of the Code.

2. The following are, in the opinion of the Registrar the acts and omissions which if done by registered insurers constitutes breaches of the Code, namely any acts or omissions that breach the fundamental principles governing the practice of insurance underwriters set out in paragraph 3 below.
3. The principles mentioned in paragraph 2 above are as follows:-
 - A. Insurance companies shall at all times conduct their business with utmost good faith and integrity.
 - B. Insurance companies shall do everything to satisfy as quickly as possible the legitimate needs of claimants.
 - C. The security of company assets and in particular assets representing life insurance funds shall be of utmost importance and the principals of sound underwriting will dictate together with a broad based investment policy that insurers will have the requirements and interest of their clients before all other considerations. Subject to these requirements and interests, insurance companies shall have proper regard for the interests of the state and for others.
 - D. Statements made by or on behalf of insurance companies when advertising shall not be misleading or extravagant.

The following are some specific examples of the application of these principles:-

1. Insurers should reinsure their excess liabilities only with reinsurers of sound financial standing.
2. Insurers should underwrite for profit on their net retained income and should reinsure facultatively with foreign reinsurers only after the capacity available from the treaty reinsurances has been exceeded.
3. Insurers underwriting objectives should be to hold for net retained income as much of a risk as is prudently possible after taking into account the physical and moral factors of each risk underwritten.
4. When underwriting a risk from information supplied from two or more intermediaries the insurer should take into account for each submission only that information provided by that intermediary and other data obtained from the insurers own resources.
5. The underwriting of insurances where policies provide covers of more than one class of business should be such that an accurate and adequate premium for each class should be included within the premium overall and when calculating the benefit to insurers of claims excesses or deductibles due account should be taken only of the proportion such excess or deductible should bear to the individual classes of business underwritten.

6. In providing commissions to be payable to intermediaries insurers should have due regard for the services provided by and stature of each such intermediary in establishing the levels of such commissions.
7. In the settlement of claims insurers wishing to void liability on account of something having been done which should not have been or something having not been done which should have been should action such refusal to indemnify their client only if such action has, in the case of the claim in question prejudiced their position in anyway.
8. In respect of claims arising for injury and/or illness and/or medical expenses insurers who, having accepted liability for such occurrence should have due regard for cases of individual hardship and should in any case pay such items of the claim which are quantifiable not less than three (3) calendar months from the date of such occurrence or the date of the last payment.
9. In the general conduct of their business affairs insurers should have due regard for the legitimate interests and aspirations of the state and should conduct their business with the overall objectives of increasing their risk carrying capacities, reducing the necessity and dependency of placing reinsurances outside Botswana and providing all the classes of business necessary for the coverage of risks within Botswana.
10. Advertisements made by or on behalf of insurers should distinguish between contractual benefits, that is those that the contract of insurance is bound to provide, and non contractual benefits, that is the amount of benefit which it might provide assuming the insurers particular forecast is correct.
11. Any information acquired by an insurance company from an intermediary or insured should not be used or disclosed except in the normal course of negotiating, maintaining, or renewing a contract of insurance or reinsurance for the intermediary or insured unless the consent of the insured has been obtained or the information is required by a court or person of competent jurisdiction.
12. Insurance companies should provide a copy of this Code to each of their managerial and technical staff and should ensure that the terms of it are fully understood by them.

THIRD SCHEDULE

CODE OF CONDUCT FOR INSURANCE BROKERS

1. This Code of Conduct shall serve as a guide to insurance brokers and other persons concerned with their conduct but the mention or lack of mention in it of a particular act or omission shall not be taken as conclusive of any question of professional conduct. In the opinion of the Registrar the objective of the Code is to assist in establishing a recognised standard of professional conduct required of all insurance brokers who should, in the interest of the public, nation and in the performance of their duties, bear in mind both this objective and the underlying spirit of this Code. Matters which might relate to acts or omissions amounting to negligence will be dealt with, if necessary, in the Courts but the Registrar of Insurance acknowledges that gross negligence or repeated cases of negligence may amount to unprofessional conduct.
2. The following are, in the opinion of the Registrar, the acts and omissions which, if done by registered insurance brokers constitutes unprofessional conduct, namely any acts or omissions that breach the fundamental principles governing the professional conduct of insurance brokers set out in paragraph 3 below.

3. The principles mentioned in paragraph 2 above are as follows:-
 - A. Insurance brokers shall at all times conduct their business with utmost good faith and integrity.
 - B. Insurance brokers shall do everything possible to satisfy the insurance requirements of their clients and other considerations. Subject to these requirements and interests, insurance brokers shall have proper regard for others.
 - C. Statements made by or on behalf of insurance brokers when advertising shall not be misleading or extravagant.

The following are some specific examples of the application of these principles:

1. In the conduct of their business insurance brokers shall provide advice objectively and independently.
2. Insurance brokers shall ensure that all work carried out in connection with their insurance broking business shall be under the control and day to day supervision of a person who qualifies under the registration requirements of brokers to be in his own right a registered insurance broker and they shall do everything possible to ensure that their employees are made aware of this Code.
3. Insurance brokers should on request from the client explain the differences in, and the relative costs of, the principal types of insurance which in the opinion of the insurance broker might suit a client's needs.
4. Insurance brokers shall ensure the use of a sufficient number of insurers to satisfy the insurance requirements of their clients and should make a fair representation of all the technical and material facts to the insurer which would influence the opinion of the insurer concerning the risks to be underwritten.
5. An insurance broker shall provide an insurer with that information necessary to adjust the final premium of a policy where the provisional premium charged has been based upon estimated data, as soon as practicable, after the end of the insurance period in question.
6. Insurance brokers shall, upon request, disclose to any client who is, or is contemplating becoming, the holder of a policy of insurance the amount of commission paid by the insurer under any relevant policy of insurance.
7. Although the choice of an insurer can only be a matter of judgment, insurance brokers should use their skill objectively in the best interests of their client.
8. Insurance brokers shall not withhold from the policyholder any written evidence or documentation relating to the contract of insurance without adequate and justifiable reasons being disclosed in writing and without delay to the policyholder. If an insurance broker withholds a document from a policyholder by way of a lien for monies due from that policyholder he shall provide the reason in the manner required above.
9. Insurance brokers shall inform a client of the name of all insurers with whom a contract of insurance is placed. This information shall be given at the inception of the contract and any changes thereafter shall be advised at the earliest opportunity to the client.
10. Before any work involving an administrative or other charge is undertaken or an agreement to carry out business is concluded, insurance brokers shall disclose and identify any amount they propose to charge to the client or policyholder which will be in addition to the premium payable to the insurer.
11. Insurance brokers when requested shall disclose to a client any payment which they receive as a result of securing on behalf of that client any service in addition to the commissions received by them from the insurer issuing the policy of insurance.
12. Insurance brokers should have proper regard for the wishes of a policyholder or client who wishes to terminate any agreement with them to carry out business.

13. Any information acquired by an insurance broker from his client shall not be used or disclosed except in the normal course of negotiating, maintaining, or renewing a contract of insurance or reinsurance for that client unless the consent of the client has been obtained or the information is required by a court of competent jurisdiction.
14. In the completion of the proposal form, claim form, or other material document, insurance brokers should make it clear that all the answers or statements are the client's own responsibility. The client should always be asked to check the details and told that the inclusion of incorrect information may result in a claim being repudiated.
15. Advertisements made by or on behalf of insurance brokers should distinguish between contractual benefits, that is those that the contract of insurance is bound to provide, and non contractual benefits, that is the amount of benefit which it might provide assuming the insurers particular forecast is correct. Where such advertisements include a forecast of non-contractual benefits, insurance brokers should restrict the forecast to that permitted under section 102 of the Act.
16. Advertisements made by or on behalf of insurance brokers should not be restricted to the policies of one insurer except where the reasons for such restriction are fully explained in the advertisement, the insurer named therein, and the prior approval of the insurer obtained.
17. When advertising their services directly or indirectly either in person or in writing insurance brokers should disclose their identity, occupation and purpose before seeking information or before giving advice.
18. Insurance brokers shall provide a copy of this Code to each of their managerial and technical staff and should ensure that the terms of it are fully understood by them and should display in any office where they are carrying on business and to which the public have access a notice to the effect that a copy of the Code of Conduct is available upon request.
19. If a member of the public wishes to make a complaint of unprofessional conduct such complaint shall be addressed to the Registrar of Insurance, Ministry of Finance and Development Planning, Private Bag 008, Gaborone.

FOURTH SCHEDULE

1. An insurer shall pay a registration fee of five thousand Pula (P5,000) and an annual fee thereafter of two thousand five hundred Pula (P2,500).
2. An insurance broker shall pay a registration fee of one thousand Pula (P1,000) and an annual fee thereafter of five hundred Pula (P500).
3. The Registrar shall permit any person to inspect documents submitted under sections 31 or 63 of the Act to do so without charge; but shall require a fee of two Pula (P2.00) per uncertified copy, or five Pula (P5.00) per certified copy.

MADE this 3rd day of July, 1992.

F.G. MOGAE,
*Minister of Finance and Development
Planning.*