



REPUBLIC OF NAMIBIA

Ministry of Finance

Office of the Minister

Media Release

(For Immediate Release)

on the

Court Case - Reinsurance System in Namibia

Tuesday, December 04, 2018

“The Minister of Finance today announced that his Ministry has asked the Supreme Court to allow an expedited appeal hearing against an order made by High Court Judge Masuku. The application was lodged yesterday with the Supreme Court Registrar.

The High Court order was made on 20 September 2018. It relates to the setting up of a new reinsurance system in Namibia. In terms of the system, an outflow of reinsurance premiums from Namibia exceeding N\$ 1 billion per annum is limited with effect from 30 June, with reinsurance by insurance companies in Namibia to be effected with NamibRe. The new system will build domestic reinsurance capacity for the benefit of Namibians. It is similar to that which operates in a number of other African countries, and elsewhere in the world.

Six of Namibia’s insurers agreed to honour the new system while a court battle (expected to last two years) takes place. The court battle includes a revival of a constitutional challenge by a number of insurers to the Reinsurance Act, which was dismissed by a Full Bench of the High Court in 2000.

Other insurers, including Hollard and Old Mutual, refused to comply with the new system on 30 June. This was the last day of the notice period before it came into operation. This resulted in an application by the Ministry to require these companies to follow the example of the six complying. In his judgment Judge Masuku neither granted nor refused the Ministry’s application. Instead he granted an order which neither side had sought, and which had also not been canvassed with them. This was to suspend the operation of the Act of Parliament, effectively for at least two years.

The Minister states:

‘I believe very important issues are raised. These include whether, or if so, when, a court has the power simply to suspend an Act of Parliament. This in itself is a major issue.

Also the final effect of that order: in two years, there will have been an outflow of over \$2 billion from Namibia which the new system seeks to limit.

In the circumstances, the Supreme Court has been respectfully requested to grant a hearing early next year. Its ruling or directives are accordingly awaited. It would not be proper to make any further comment which anticipates the Supreme Court’s consideration of the matter’.

ENDS.