

INSURANCE ACT, 1979
(12 of 1979)

INSURANCE REGULATIONS, 1979

(Published on 7th December, 1979)

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SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by section 86 of the Insurance Act, 1979, the following Regulations are hereby made —

- | | |
|---------------------------|---|
| Citation and commencement | 1. These Regulations may be cited as the Insurance Regulations, 1979, and shall come into operation on 1st April, 1980. |
| Paid-up capital | 2. (1) The amount prescribed in the case of both a local and an external insurer for the purposes of section 6 (1) in relation to a stock insurance company shall be a paid-up capital of not less than P100 000,00.
(2) The amount prescribed in the case of both a local and an external insurer for the purposes of section 6 (2) in relation to a mutual assurance company shall be a surplus of assets over liabilities of not less than P100 000,00. |
| Margin of solvency | 3. (1) The margin of solvency prescribed for the purposes of section 7 shall, in the case of both a local and an external insurer, be as follows —
(a) the liabilities under life policies shall not exceed the amount of the life insurance fund; and
(b) the assets under classes of insurance other than life insurance shall exceed the liabilities by P100 000,00 or one-tenth of the premium income, whichever is the greater. |

(2) For the purposes of this regulation the premium income of any person carrying on the business of insurance in any year shall be taken to be the net amount, after deduction of any premiums paid by that person for re-insurance, of the premiums received by such person in that year in respect of all insurance business other than life insurance.

4. (1) An application by an insurer for registration under Part IV shall be made in Form INS. 1 as specified in the Schedule to these Regulations, and shall be accompanied by the documents referred to in the said Form.

Form application and certificate for registration of insurers

(2) Upon the registration of an insurer under Part IV the Registrar shall issue to that insurer a Certificate of Registration in Form INS. 2 as specified in the Schedule to these Regulations.

(3) A registered insurer shall at all times while he carries on insurance business in Botswana display in the principal office of that insurer the Certificate of Registration issued to that insurer under subregulation (2).

5. The records required by section 20 to be kept by a local insurer shall be as follows –

Records to be kept by local insurer

- (a) a record of the number of policies in force for each class of business transacted;
- (b) a record of the gross premium income for each class of business transacted in such form as the Registrar may approve;
- (c) a record of the local facultative premiums ceded;
- (d) a record of treaty re-insurance premiums ceded, to whom they have been ceded and the commission received thereon; and
- (e) a record of premiums, which have been obtained by treaty re-insurance cession, from whom they have been ceded and the commission paid thereon.

6. The certificate required by section 21 (a) to be furnished by a registered insurer shall –

Certificate to be furnished to Registrar

- (a) in the case of life insurance business, be in Form INS. 3; and
- (b) in the case of any class of insurance business other than life insurance, be in Form INS. 4,

as specified in the Schedule to these Regulations.

7. (1) The revenue account required to be furnished by section 21 shall be an annual revenue in Form INS. 5 as specified in the Schedule to these Regulations.

Annual revenue account

(2) There shall for the purpose of subregulation (1) be a separate revenue account in respect of each of the following classes of insurance business, namely, –

- (a) life;
- (b) fire;
- (c) motor;
- (d) employers' liability; and
- (e) marine and aviation.

(3) There shall also be for the purposes of subregulation (1) one revenue account in respect of all classes of insurance business other than those referred to in subregulation (2).

8. Where the name of an auditor has been approved by the Registrar at the time of the registration of an insurer, that auditor shall be deemed to be approved by the Registrar for the purposes of section 23.

Approval of auditor by Registrar

Commencement of business of association of underwriters

9. Every association of underwriters shall, not less than one month before it commences business in Botswana, notify the Registrar in writing of its intention to commence business in Botswana, stating in such notice the approximate date on which it intends to commence the business.

Registration of insurance broker, etc.

10. (1) The application for registration required to be made by section 35 shall —

- (a) in the case of an insurance broker, be in Form INS. 6; and
- (b) in the case of an insurance agent or an agent for an insurance broker, be in Form INS. 7,

as specified in the Schedule to these Regulations.

(2) The registration of an insurance agent or an agent for an insurance broker shall, unless renewed as provided by this regulation, expire twelve months after the date on which such agent was registered, or, in the case of a registration which has been renewed, twelve months after the renewal.

(3) Every registered insurance agent or an agent for an insurance broker may, within one month before the date after which his registration is due to expire under subregulation (2), apply to the Registrar for renewal of his registration.

(4) An application for renewal of registration under subregulation (3) shall be in Form INS. 8 as specified in the Schedule to these Regulations.

(5) A renewal of registration under the regulation shall take effect on the day immediately following the day after which the registration would expire under subregulation (2) if the registration is not renewed.

Qualifications required for an insurance broker

11. The following provisions of this regulation shall, for the purposes of section 35, have effect with respect to the qualifications for registration of insurance brokers —

- (a) an insurance broker shall be —
 - (i) a company registered under the Companies Act; or
 - (ii) a firm of partnership;
- (b) an insurance broker shall have —
 - (i) a principal officer who is not less than 21 years of age and who has had not less than five years' experience in the employment of a registered insurer or insurance broker, or in the employment of an insurer or an insurance broker who, in the opinion of the Registrar, is eligible for registration as an insurer under this Act;
 - (ii) deposited in trust with the Bank of Botswana a sum of P2 000,00; and
 - (iii) taken an indemnity insurance to cover any claims for damages for breach of professional duty.

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Certificate of registration for insurance brokers and agents

12. (1) Upon the registration of an insurance broker under section 35, the Registrar shall issue to that insurance broker a Certificate of Registration in Form INS. 9 as specified in the Schedule to these Regulations.

(2) A registered insurance broker shall at all times while he carries on insurance business in Botswana display in his principal office the Certificate of Registration issued to him under subregulation (1).

13. The qualifications of an insurance agent or an agent for insurance broker required by section 35 shall be as follows, he shall –
- (a) (i) be a resident of Botswana;
 - (ii) have attained the age of 21 years; and
 - (iii) be in possession of Standard VII Certificate or have attained an equivalent standard of education in the English language;
 - (b) be an accredited agent of one or more registered insurance brokers or insurers; and
 - (c) have three months' training in insurance business or have been appointed as an agent for an insurer or a broker prior to the commencement of this Act.
14. (1) Upon the registration of an insurance agent or an agent for insurance broker under section 35 the Registrar shall issue to that insurance agent or agent for insurance broker a licence in Form INS. 10 as specified in the Schedule to these Regulations.
- (2) A registered insurance agent or agent for insurance broker shall produce on demand to any policy holder of the insurer or broker whom he represents the licence issued to that agent under subregulation (1).
15. (1) An insurance broker or an insurer shall pay an annual fee of P200 in respect of the year commencing on the date of his registration, and in respect of every subsequent year during which he continues to be registered.
- (2) An insurance agent or an agent for insurance broker shall pay an annual fee of P20 in respect of the year commencing on the date of his registration, and in respect of every subsequent year during which he continues to be registered.
- (3) The annual fees prescribed respectively by subregulations (1) and (2) shall –
- (a) in relation to the first year in respect of which the fee is required to be paid, be paid immediately upon registration; and
 - (b) in relation to each subsequent year, be paid not less than fourteen days from the commencement of that year.
- (4) The fee prescribed for the purposes of section 76 (3) for the supply of a copy of the balance sheet to a policy holder of the insurer shall be P1.
- (5) The fees prescribed for the purposes of section 80 (1) shall be as follows –
- (a) the sum of P1 for the inspection of documents in the custody of the Registrar;
 - (b) the sum of 50t per copy for obtaining copies of documents in the custody of the Registrar.
16. (1) Every insurer shall notify the Registrar of any judgment obtained against him and shall provide the Registrar with evidence that such judgment has been satisfied.
- (2) Every insurer shall also notify the Registrar of any judgment obtained against any policy holder of that insurer in respect of which judgment the insurer has a liability under the policy.
17. A registered insurer shall not pay any commission to an insurance broker, an insurance agent or an agent for insurance broker who is not registered under the Act.

Qualifications required for an insurance agent or agent for insurance broker

Licence to be issued to an insurance agent or agent for insurance broker

Fees

Insurer to notify Registrar of any judgment obtained against him

Persons to whom no commission shall be paid

Rates of commissions payable by re-insurers

18. For the purposes of section 4 (g) the minimum rates of commissions payable in respect of each class of re-insurance business shall be as follows —

<i>Class of re-insurance</i>	<i>Rates of commission</i>
Fire Quota Share Treaty	40%
Fire First Surplus Treaty	37%
Fire Second Surplus Treaty	35%
All other Fire Surplus Treaties	25%
Marine Quota Share Treaty	30%
Marine Surplus Treaty	27%
Motor, Employers' Liability, Public Liability Quota Share Treaty	20%
Engineers and Contractors All Risks, Electronic Equipment Surplus Treaty	25%
Bonds Surplus Treaty	25%
Aviation Surplus Treaty	15%
All other Accident Surplus Treaties	30%

Prohibition of granting credit facilities

19. A registered insurer shall not allow credit on an annual policy exceeding a period of three months.

Approval required for transacting any new insurance business

20. No registered insurer shall, except with the prior approval in writing of the Registrar, commence to transact any class of insurance business which he was not transacting prior to the date of commencement of the Act.

Prescribed particulars to be submitted by insurance brokers

21. The form required to be prescribed under section 40 to reflect all insurance transactions handled by a registered insurance broker shall be in Form INS. 11 as specified in the Schedule to these Regulations.

Prescribed mode of advertising for loss or destruction of insurance policy

22. (1) The form of notification required to be prescribed under section 60 in the case of loss or destruction of an insurance policy shall be in Form INS. 12 as specified in the Schedule to these Regulations.

(2) The fee prescribed for the issue of a certified copy of a life policy under section 60 shall be P5.

SCHEDULE

FORM INS. 1
(r. 4 (1))

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979

APPLICATION FOR REGISTRATION BY INSURERS

1. Name of Company
2. Head Office
3. State if local or external
4. Situation of Principal Office in Botswana
5. Postal Address and Telephone No.
6. Name of Principal Officer
7. State if stock company or mutual company
8. (a) State amount of paid-up capital if stock company
- (b) State amount of surplus of assets over liabilities if a mutual company
9. In the case of an external insurer, state if registered under laws outside Botswana or other regulations in force where the Head Office is so situate
10. Date of the end of last financial year of insurer
11. Name and address of present auditor
12. Total number of employees: (a) local
- (b) foreign
13. Total number of brokers, agents and agents for brokers under the Act:
 - (a) Brokers
 - (b) Agents
 - (c) Agents for brokers

Declaration by the Applicant

We, hereby apply for registration under the Insurance Act, 1979, and declare the above particulars to be true and correct and agree to notify the Registrar of Insurance of any material alteration in the foregoing information as soon as practicable thereafter.

Date Signed

The following enclosures required are attached hereto accordingly, together with the registration fee.

Enclosures

1. List of all branch offices, addresses, telephone numbers and the names of senior officers in charge.
2. Certified copy of the applicant's articles or Certificate of Incorporation or other documents by which the insurer is constituted.
3. In the case of a mutual insurer, a certified copy of its current bye-laws or other rules of membership.

4. Copy of insurer's most recent financial statement, together with a list of various classes of business transacted or proposed to be transacted, including the gross premium income for each class of business written in Botswana for the period of such financial statement.
5. If an external insurer, a certificate stating that the insurer is legally constituted in accordance with the requirements of the laws of the country of incorporation.
6. Evidence of the deposit required by section 19 of the Act with Bank of Botswana.
7. List of all agents, brokers and agents for brokers to whom commission is payable or has been paid by the insurer, stating the amounts paid in the case of persons to whom a commission exceeding P20 has been paid during any part of the past five years.
8. If the applicant is solely represented by an agent in Botswana, a certified copy of the agreement under which the agent is appointed.
9. A copy of each policy of assurance or insurance which the company issues or proposes to issue.
10. A certificate of solvency as required by regulation 2 on Form INS. 3 or INS. 4, as the case may be, as prescribed by the Insurance Regulations, 1979.

FORM INS. 2
(r. 4 (2))

**REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979
CERTIFICATE OF REGISTRATION OF INSURER**

I hereby certify that

.....
have been duly registered as Insurers by me under the terms of the Insurance Act, 1979.

DATED this day of, 19.....

.....
Registrar of Insurance

FORM INS. 3
(r. 6 (a))

**REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979
CERTIFICATE OF SOLVENCY IN RESPECT OF LIFE POLICIES
APPLICABLE TO LOCAL AND EXTERNAL INSURERS**

I hereby certify that the liabilities in respect of life policies of the

.....
(insert name of Company)

for the financial year ending
do not exceed the amount of the life insurance fund as shown in the Balance Sheet.

DATED this day of, 19.....

.....
Actuary

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979
CERTIFICATE OF SOLVENCY IN RESPECT OF
CLASSES OF INSURANCE OTHER THAN LIFE INSURANCE
(Part I or Part II to be completed)

PART I
LOCAL INSURERS

We hereby certify that the total assets in respect of all classes of Insurance business other than Life Insurance business of the

.....
(insert name of Company)

for the financial year ending exceed the liabilities
by P100 000,00/onetenth* of the premium income, whichever is greater.

DATED this day of, 19.....

.....
Auditor

.....
(Directors (two or more))

—OR—
PART II
EXTERNAL INSURERS

We hereby certify that the total assets in respect of all classes of Insurance business other than Life Insurance business of the

.....
(insert name of Company)

for the financial year ending exceed the liabilities
by P100 000,00/onetenth* of the premium income, whichever is greater.

DATED this day of, 19.....

.....
Auditor

.....
(Directors (two or more))

*Delete what is inapplicable

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979

REVENUE ACCOUNT FOR
.....
for the year ending

	<i>Current Year</i>	<i>Last Year</i>	<i>Previous Year</i>
Fund at beginning of Year			
Premiums (less returns)			
Commission received			
Other income			
Loss transferred to			
Profit and Loss Account			

Date:

Certified correct.

FORM INS. 5
(r. 7 (1))

(CLASS) OF THE

.., 19.

	<i>Current Year</i>	<i>Last Year</i>	<i>Previous Year</i>
Claims paid (less salvages)			
Re-insurance Recoveries			
Estimated outstanding claims (less reserve at beginning of year)			
Commission paid.			
Re-insurance premiums.			
Management expenses.			
Other expenditure (to be specified separately).			
Profit transferred to Profit and Loss Account.			
Fund at end of the year (investment to be specified separately)			
	_____	_____	_____
	=====	=====	=====

Auditor

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979

APPLICATION FOR REGISTRATION OF INSURANCE BROKER

1. Name of Applicant
2. Postal address
3. Situation of Principal Office in Botswana
4. Status (Company, Partnership, etc.)
5. Name of Principal Officer
6. Age and insurance experience of Principal Officer
7. Principal registered insurer represented
8. Date on which business was commenced in Botswana

Declaration by Applicant

I/We,, hereby apply for registration under the Insurance Act, 1979, and declare the above particulars to be true and correct and agree to notify the Registrar of Insurance of any material alteration in the information supplied, and that in the terms of any enactment in force in Botswana or any other country I/We —

- (a) have not been adjudged insolvent or bankrupt;
- (b) have not made an assignment to or an arrangement or composition with creditors which has been rescinded or set aside; and
- (c) have not been convicted by a court in any country of an offence involving dishonesty, an appeal against the conviction not having been brought, or, having been brought, was withdrawn or dismissed.

Date..... Signed.....

Declaration by Principal Registered Insurer Represented

We,, hereby certify that to the best of our knowledge and belief the above particulars are true and correct and that the applicant in our opinion has the necessary qualifications or experience to act on our behalf.

Date..... Signed.....

Enclosures

1. List of all branch offices, together with situation, postal addresses, telephone numbers and names of senior officers in charge.
2. Certified copy of the applicant's articles or certificate of incorporation or other documents by which the broker is constituted.
3. Copy of the latest balance sheet and financial statement relating to the business transacted.
4. List of all agents to whom commission is payable or has been paid by the broker, stating the amount paid in the case of persons to whom a commission exceeding P20 has been paid during any part of the past five years.
5. Evidence of payment of the deposit required by the Insurance Regulations, 1979.

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979

APPLICATION FOR REGISTRATION OF INSURANCE AGENT
OR AGENT FOR INSURANCE BROKER

1. Name of Applicant
2. Postal address
3. State if part-time or full-time agent
4. If a part-time agent, state main occupation
5. Names of the registered insurers you represent
6. State:
 - (a) age of Applicant
 - (b) general educational standard and qualifications
 - (c) insurance experience and qualifications (if any)

Declaration by Applicant

I,, hereby apply for registration under the Insurance Act, 1979, and declare the above particulars to be true and correct and agree to notify the Registrar of Insurance of any material alteration in the information supplied, and that in terms of any enactment in force in Botswana or any other country I –

- (a) have not been adjudged insolvent or bankrupt;
- (b) have not made an assignment or an arrangement or composition with creditors which has been rescinded or set aside; and
- (c) have not been convicted by a court in any country of an offence involving dishonesty, an appeal against the conviction not having been brought, or, having been brought, was withdrawn or dismissed.

Date Signed

Declaration by Principal Registered Insurer or Broker represented

We,, hereby certify that to the best of our knowledge and belief the above particulars are true and correct and the applicant has –

- *(a) undergone a period of training in insurance for at least three months;
- *(b) has been an agent for a broker for at least three months before the commencement of the Insurance Act, 1979.

Date Signed

7. The first annual fee is enclosed, together with two copies of a recent photograph of the applicant.

* Delete where not applicable.

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979
APPLICATION FOR RENEWAL OF REGISTRATION OF
INSURANCE AGENT OR AGENT FOR INSURANCE BROKER

- 1. Name of Applicant
- 2. Address
- 3. Licence No.

Declaration by Applicant

I/We,, hereby apply for the renewal of Licence No. and declare that the particulars made under my/our application for registration have not altered and the declaration made by me/us is still applicable.

Date Signed

Declaration by Principal Registered Insurer represented

We,, hereby certify that to the best of our knowledge and belief the above particulars are true and correct.

Date Signed

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979
CERTIFICATE OF REGISTRATION OF BROKER

I hereby certify that have been duly registered by me, under the terms of the Insurance Act, 1979, as . . .

DATED in GABORONE this day of 19.....

.....
Registrar of Insurance

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979

Registrar of Insurance,
Ministry of Finance and Development Planning,
Private Bag 008,
GABORONE.

INSURANCE AGENT/AGENT FOR AN INSURANCE BROKER'S LICENCE

No.

Photograph

.....
Agent's Signature

I hereby certify that
has been duly registered by me, under the terms of the Insurance Act, 1979, as an
Insurance Agent/Agent for an Insurance Broker.*

DATED at GABORONE this.... day of 19

.....
Registrar of Insurance

Date of Issue Date of Expiry

Principal Insurer represented

This Licence shall be renewed annually provided that the holder has not contravened
any of the provisions of the Act or Regulations made thereunder.

RENEWAL — 2nd Year

Date of Renewal Date of Expiry

.....
Registrar of Insurance

RENEWAL — 3rd Year

Date of Renewal Date of Expiry

.....
Registrar of Insurance

RENEWAL — 4th Year

Date of Renewal Date of Expiry

.....
Registrar of Insurance

RENEWAL – 5th Year

Date of Renewal

Date of Expiry

.....
Registrar of Insurance

***Delete what is not applicable**

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979
BROKER'S BALANCE SHEET

Balance Sheet showing the financial position of a broker in Botswana at the close of the financial year ended19..

Name of broker:

	<i>In Botswana</i>	<i>Outside Botswana</i>	<i>Total</i>		<i>In Botswana</i>	<i>Outside Botswana</i>	<i>Total</i>
	P	P	P		P	P	P
Shareholder's capital paid up.				Government Treasury Bills.			
Balance of Profit and Loss Account				Other Government Stocks, etc.			
Other sums owing (to be specified)				Other investments (to be specified)			
				House and landed property.			
				Motor vehicles.			
				Office furniture and equipment.			
				Repairs to and maintenance of buildings.			
				Money on deposit (at less than 12 months' notice of withdrawal at time of deposit).			
				Money at call or at short notice.			
				Cash on hand in transit or in Current Account.			
				Other assets (to be specified)			
Total				Total			

NOTE - Specify countries in respect of each entry made in the "Outside Botswana" column

Date:

Principal

Auditor

INSURANCE ACT, 1979

BROKER'S REVENUE ACCOUNT: BUSINESS PLACED AT LLOYDS/PLACED ELSEWHERE

Revenue Account in respect of insurance business carried on by a broker in Botswana
in the financial year ended 19.....

Name of broker.....

	In Botswana	Outside Botswana	Total		In Botswana	Outside Botswana	Total
	P	P	P		P	P	P
PREMIUMS				PREMIUMS			
Insurance (a) received P.	-	-	-	Insurance (a) remitted to insurers P.	-	-	-
(b) due P.	-	-	-	(b) due to insurers P.	-	-	-
Total A P.	-	-	-	Total			
Less Commission (a) received P.	-	-	-	Reinsurance (a) remitted to insurers P.	-	-	-
(b) due P.	-	-	-	(b) due to reinsurers P.	-	-	-
Total B P.				Total			
Net total A less B P.	-	-	-	Commissions, discounts, etc. paid on (a) insurance (b) reinsurance			
Reinsurance (a) received P.	-	-	-	Expenses of Management			
(b) due P.	-	-	-	Other expenses (specify account if any item is in excess of P200 or if in total the amount exceeds P2 000)			
Total C P.	-	-	-	Transferred to Profit and Loss Account			
Less Commission (a) received P.	-	-	-				
(b) due P.	-	-	-				
Total D P.	-	-	-				
Net total C and D P.							
Other income (account to be specified)							
Transferred from Profit and Loss Account							
Total				Total			

NOTE 1 - Specify countries in respect of each entry made in the "Outside Botswana" column.

2 - Separate Revenue Accounts on this Form shall be rendered in respect of Fire; Motor; Personal Accident; Burglary; Housebreaking; Theft and Robbery; Marine, Aviation and Transit; Miscellaneous insurance business.

Date.....

Principal Officer

Auditor

REPUBLIC OF BOTSWANA
INSURANCE ACT, 1979
SUMMARY OF BROKER'S REVENUE ACCOUNTS
(NON-LIFE INSURANCE)

Summary of Revenue Accounts in respect of all classes of non-life business carried on by a broker in Botswana in the financial year ended 19 . . .
Name of broker

	In Botswana	Outside Botswana	Total		In Botswana	Outside Botswana	Total
PREMIUMS	P	P	P	PREMIUMS	P	P	P
Insurance: Total received and due P				Total remitted and due to insurer			
Less Total Commission received and due P				Total remitted and due to reinsurers			
Net total							
Reinsurance: Total received/due P				TOTAL EXPENSES OF MANAGEMENT			
Less-Total Commission received/due P				Salaries: Botswana/staff			
Net total				(No. employed at date of return . . .)			
Total other income (amounts to be specified)				Expatriate Staff			
				(No. employed at date of return . . .)			
				Rents			
				Rates			
				Income tax			
				Director's fees			
				Repairs to and maintenance of buildings			
				Other expenses (specify account if any item is in excess of P200 or if in total the amount exceeds P2 000) . . .			
Total				Total			

NOTE - In each instance the figure of "total" should be the aggregate of the corresponding figures shown on the individual revenue accounts.

Date

Principal Officer

Principal Officer

Auditor

Auditor

NOTICE OF LOSS OR DESTRUCTION OF INSURANCE POLICY

NOTICE IS HEREBY GIVEN that Policy No. on the life of and property of has been reported to be lost or destroyed and any person in possession of the policy, or claiming to have any interest in such policy, should communicate immediately by registered post with the Insurer. Failing any such communication, a certified copy of the policy (which shall be the sole evidence of the contract made by the policy) will be issued to the owner.

Signed
(Name of Insurer)

MADE this 30th day of November, 1979.

Q.K.J. MASIRE,
*Acting President and
Minister of Finance and Development Planning.*