

REGULATIONS

Regulations made in terms of the Building Societies Act of 1986 as amended Section 78(C)

General Regulations on Building Societies

Government Notice xxx of 2022

Came into force on date of publication: xxx 2022

Under section 78(c) of the Building Societies Act, 1986 (Act No. 2 of 1986) as amended, on recommendation of the Bank of Namibia, I have:

- (a) made the regulations set out in the Schedule; and
- (b) repealed the General Regulations published in GN 70/1965.

Ipumbu Shiimi
Minister of Finance

Windhoek
XXX 2022

SCHEDULE

ARRANGEMENT OF THE REGULATIONS

1. Definitions
2. Application of regulations
3. Application for registration of a building society
4. Granting or refusal of application for registration of a building society
5. Annual license
6. Membership in a Deposit Guarantee Scheme
7. Approval of auditors
8. Monthly returns
9. Annual accounts
10. Purchase of property by an officer of a building society
11. Manner in which and time within which appeals to the Minister are to be lodged

Definitions

1. In these regulations –

“Act” means the Building Societies Act, 1986 (Act. No. 2 of 1986);

“applicant” means an association of person who desire to establish a building society;

“Bank” means the Bank of Namibia referred to in section 4 of the Bank of Namibia Act, 2020 (Act No. 1 of 2020);

“Building society” means a building society as defined in the Building Societies Act, 1986 (Act No.2 of 1986) as amended;

“Minister” means the Minister responsible for finance;

“Namibia Revenue Agency” means a revenue agency referred to in section 2(1) of the Namibia Revenue Agency Act, 2017 (Act No. 2 of 2017); and

“Registrar” means the Registrar of building societies referred to in section 2(1) of the Act

Application of regulations

2. These regulations apply to all building societies registered or an association of persons desiring to establish a building society in terms of the section 4 of the Act.

Application for registration of a building society

3. (1) An association of persons who desire to establish a building society must lodge a written application for registration with the registrar as required in terms of section 4(1) of the Act.

(2) An application contemplated in sub-regulation (1) must –

(a) be made on the form BSF- 01 set out in the Annexure; and

(b) be accompanied by a non-refundable fee of N\$ 17 500.00.

Granting or refusal of application for registration of a building society

4. (1) After having considered an application for registration, the registrar, subject to the further provisions of the Act, may –

(a) refuse the application; or

(b) approve the application; or

(c) approve the application subject to such conditions as the registrar may impose, and must in writing inform the applicant of its decision.

(2) If the registrar, under paragraph (a) of sub-regulation 4(1) refuses an application made in terms of sub-regulation 3(1) or under paragraph (c) of sub-regulation 4(1) approves an application subject to conditions, the registrar shall in writing furnish the applicant

with reasons for the refusal of the application or for the imposition of the conditions, as the case may be.

Annual license

5. (1) A registered building society must pay an annual license fee of N\$25.00 to the Namibia Revenue Agency on or before 31 January of each year.

(2) Subject to sub-regulation (1), the registrar must furnish a building society with an annual license for that year.

Membership in a Deposit Guarantee Scheme

6. A building society registered in terms of section 4 of the Act must become and remain a member of a Deposit Guarantee Scheme established under section 22 of the Deposit Guarantee Act, 2018 (Act No. 16 of 2018).

Approval of auditors

7. (1) Every building society must apply for the registrar's approval of the appointment of an auditor, within fourteen days of the appointment of such auditor, as provided in section 61(17) of the Act.

(2) The application for the approval of the appointment contemplated in sub-regulation (1) must be made in a prescribed form and be accompanied by-

- a) a certified copy of the identity document;
- b) a Police Certificate of Conduct that is not older than six months;
- c) certified copies of the academic qualifications;
- d) a comprehensive and signed curriculum vitae; and
- e) a valid work permit of a nominated audit partner if such audit partner is not a Namibian citizen or permanent citizen.

(3) The registrar shall determine the criteria for assessing and approving an application for approval for the appointment of an auditor of a building society.

Monthly returns

8. Every building society must, within the period provided in section 32(1) of the Act, submit to the registrar –

- a) the capital position statement;
- b) the statement of financial position;

- c) the statement of comprehensive income;
- d) the statement of investment and interest held;
- e) liquidity position statement;
- f) properties in possession account;
- g) share subscription account; and
- h) credit risk position,

on a form to be determined by the registrar, duly signed by a director, the chief executive officer and the chief accountant of the building society.

Annual accounts

9. Every building society must, within the period provided in section 33(9) of the Act, submit to the registrar –

- a) the statement of financial position;
- b) the statement of comprehensive income;
- c) the mortgage and borrowers account;
- d) the properties in possession account: and
- e) the share subscription account,

on a form to be determined by the registrar, duly signed by two directors, the secretary and the auditors of the building society.

Purchase of property by an officer of a building society

10. (1) Any officer of a building society who requires the approval of the registrar to purchase property in accordance with section 70(2) of the Act shall in writing apply to the registrar for the granting of the required approval thirty (30) days prior the proposed transaction.

(2) The officer must lodge a written application accompanied by form BSF-10 as set out in the Annexure. The application must clearly set out the full particulars pertaining to the proposed transaction.

(3) The application referred to in sub-regulation (1) must be submitted together with a certified copy of the respective Deed of Sale clearly setting out the location of the property and its respective title deed number.

(4) The application referred to in sub-regulation (1) must be duly signed by 2 (two) directors and the secretary of the building society.

(4) After considering an application made in terms of sub-regulation (1) the registrar may –

(a) refuse the application;

b) approve the application; or

(c) approve the application subject to such conditions as the registrar may impose,

and must in writing inform the applicant of its decision.

(5) If the registrar, under paragraph (a) of sub-regulation (4), refuses an application made in terms of sub-regulation (1), or under paragraph (c) of sub-regulation (4) approves an application subject to conditions, the registrar must in writing furnish the officer of the building society with reasons for the refusal of the application or for the imposition of the conditions, as the case may be.

Manner in which and time within which appeals to the Minister are to be lodged

11. (1) An appeal notice contemplated in section 2(1) of the Act must –

(a) be lodged with the Minister on form BFS-11 as set out in the Annexure;

(b) clearly set out the decision that is being appealed against and the grounds for the appeal;

(c) contain the supporting documents on which the appellant wishes to rely; and

(d) be lodged within fourteen (14) days of the decision being appealed.

(2) The Minister must within five (14) days of receipt of the notice of appeal acknowledge receipt of the notice.

(3) The appellant must furnish the registrar with a copy of the notice of appeal contemplated in sub-regulation (1).

(4) Upon receipt of the notice of appeal, notwithstanding sub-regulation (2), the registrar must within thirty (30) days prepare a written statement of the reasons for his decision and dispatch such statement to the appellant and the Minister.

(5) Subject to sub-regulation (4), the appellant must within twenty-one (21) days after receipt of the written statement of reasons of the registrar, declare in writing whether or not he intends to proceed with the appeal.

(6) If the appellant declares that he does not intend to proceed with the appeal, or if he fails to declare his intention within twenty-one (21) days, the appeal shall automatically lapse.

(7) If the appellant in terms of sub-regulation (5) declares his intention to proceed with the appeal, he shall, in addition to such declaration, lodge with the Minister a response to the statement contemplated in sub-regulation (4) and furnish the registrar with a copy of such response.

(8) An appeal that is to be lodged as contemplated in this regulation shall be heard at such time and place as the Minister may determine and must notify in writing the parties to the appeal at least thirty (30) days before the date of the commencement of the hearing.

(9) After the hearing, the Minister must within five (5) days prepare and dispatch a written statement of his decision of appeal to the appellant and the registrar clearly stipulating the reasons for the decision taken.

(10) A decision of the Minister on an appeal shall be subject to appeal to a competent court.

APPLICATION FOR REGISTRATION OF A BUILDING SOCIETY IN TERMS OF SECTION 3 OF THE ACT

We, the undersigned persons, who have resolved to establish a building society by subscribing our names to the rules, and the intended secretary of the society do hereby make application for the registration of a building society in terms of section 4 of the Act. Two copies of the rules of the society, duly signed and completed as required by section 4(2) of the Act, as well as the prescribed fee of N\$ 17 500.00, are enclosed herewith.

1. Location of the head office of the building society

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2. Particulars the founders

Full name

Signature

- i)
- ii)
- iii)
- iv)
- v)
- vi)
- vii)

3. Particulars of the secretary

Full name

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Signature

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.....
.....

.....
Date

APPLICATION FOR APPROVAL TO PURCHASE PROPERTY BY AN OFFICER OF A BUILDING SOCIETY

Section 70(2) of the Act
Regulations 12(2)

1. Information of the officer:

- a) Name of officer:
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- b) Name of building society:
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- c) Duties and responsibilities of officer:
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- d) Contact number of officer:
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2. Information of the property:

- a) Description of property owned/mortgaged to the building society:
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- b) Situation of property:
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- c) Title deed number of property:
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- d) Attach a certified copy of the title deed of property.

3. Reasons for sale of property by the building society:

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Full Name of Officer

Signature

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Full Name of Director

Signature

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Full Name of Director

Signature

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Full Name of Secretary

Signature

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Date

NOTICE OF APPEAL

**Section 2(1) of the Act
Regulations 13(1)(a)**

This form must be completed by a person who desires to appeal a decision made by the Registrar, as contemplated in section 2(1)(a) of the Act

1. General instructions:

- a) This form must be completed and submitted within fourteen (14) days after the decision being appealed is made.
- b) Write clearly in the space provided.
- c) You must complete the whole application and provide your signature in the appropriate space provided.

2. Information of the appellant:

- a) Name of principal officer of appellant (if juristic person):
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- b) Name of appellant (if natural person):
.....
- c) Email address:
.....
- d) Postal address:
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3. Information of the legal representatives:

- a) Name of representative:
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- b) Identity number of the representative:
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- c) Name of the law firm:
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- d) Attach a resolution of the board of directors or appointment letter by the appellant.

4. Details of the decision made being appealed

(Provide full details of the appeal in the space provided below and reference the applicable section of the Act. Attach any supporting document to this effect.)

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Signature of the appellant/principal officer of appellant:

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Date of signature:

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Signature of the representative:

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Date:

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