

NATIONAL GAZETTE

NATIONAL DECREE, CONTAINING GENERAL PROVISIONS, of the 9th of May 1992 in execution of Article 77 of the Insurance Supervision Act (Nat. Gaz. 1990, No. 77).
(Supervision Costs Insurance Business Decree)

IN THE NAME OF THE QUEEN !

THE GOVERNOR of the Netherlands Antilles,

Having considered that:

it is desirable, in execution of Article 77 of the Insurance Supervision Act (Nat. Gaz. 1990, No. 77). to establish regulations concerning the assessment to be imposed annually by the Bank of the Netherlands Antilles upon every insurer;

After hearing the Privy Council, has decided:

Article 1

In this national decree, the following terms shall be understood as follows:

- a. the national ordinance: Insurance Supervision Act (Nat. Gaz. 1990, No. 77).
- b. premium-income: the premium-income during the year for which the costs are calculated, with the understanding that in case of a broken financial year the premium-income is calculated proportionately;
- c. salary amount: the total of the annual gross salaries;
- d. direct costs: the costs directly connected with the execution of the supervision tasks;
- e. indirect costs: the costs indirectly connected with the execution of the supervision tasks in the frame of the national ordinance.

Article 2

1. Annually before December 1, the Bank imposes an assessment on every insurer to cover the expenses, connected for the Bank to

the execution of the national ordinance in the foregoing calendar year. Exempted from the costs referred to in the previous sentence, are the expenses, connected for the Bank to the execution of the Special License Insurance Business Decree (Nat. Gaz. 1992, no. 50) and the Funeral Service Insurers Decree (Nat. Gaz. 1992, no. 53).

2. For the benefit of the assessment the fixing of the percentage, as referred to in Article 6, first Paragraph, in which is also included the determination of the data on which this is based, takes place according to the following stipulations for the joint indemnity insurers and for the joint life insurers separately.

Article 3

1. Every year the Bank fixes the amount of the costs as referred to in Article 2, first Paragraph.
2. The Bank conducts an administration in such a way that the costs for the life insurance business and the indemnity insurance business are recorded separately.
3. The direct costs are directly accounted for in the administration as referred to in the second Paragraph.
4. The indirect costs are also accounted for in the administration as referred to in the second Paragraph as a percentage of the total indirect costs of the Bank.
5. The percentage as referred to in the fourth Paragraph, is equal to the one hundred times quotient of:
 - a. the salary amount of the personnel of the Bank insofar as it is involved in the execution of the national ordinance, in which is not included the execution of the national decrees as referred to in Article 2, first Paragraph, last sentence; and
 - b. the salary amount of the whole personnel employed by the Bank.
6. In case also other tasks have been set to members of the personnel, as referred to the fifth Paragraph, sub a, it is determined by means of a time registration system what part of the salary amount of the personnel members involved should be included in the salary amount as referred to in the fifth Paragraph, sub a.

Article 4

1. Every year the Bank determines the total premium income of all insurers.
2. In determining the premium-income the Bank starts from the statements submitted by every insurer for the year in question pursuant to Article 26 of the national ordinance.

Article 5

- 1 In deviation from Article 4, second Paragraph:
 - a. the Bank may require a written report of the premium-income from an insurer;
 - b. the Bank officially assesses the relevant premium-income, if this is not apparent from the statements as referred to in Article 4, second Paragraph, or from the report as referred to in sub a;
 - c. the Bank starts from the exact data, in case the statements as referred to in Article 4, second Paragraph, or the report as referred to in sub a do not contain the exact data.
2. The report as referred to in the first Paragraph, sub a, is submitted by the insurer before the time stipulated by the Bank.

Article 6

1. The assessment consists of a fixed amount of three thousand guilders, increased with a percentage of the premium-income of the insurer. The assessment is rounded off upwards in whole guilders.
2. The percentage as referred to in the first Paragraph is equal to one hundred times the quotient of:
 - a. the cost amount determined pursuant to Article 3, reduced by an amount equal to the number of insurers times three thousand guilders; and
 - b: the total premium-income determined pursuant to Article 4.
3. The result obtained pursuant to the second Paragraph is rounded off upwards to two decimals.

Article 7

1. Insofar as an insurer has taken over the rights and obligations from or pursuant to insurance contracts from an insurer, who in the course of the year for which the assessment should take place, has terminated the execution of the insurance business, the premium-income of the latter insurer from these contracts is considered to belong to that of the insurer taking over the business.
2. In case in the course of the year for which the assessment should take place an insurer has transferred or allowed to be transferred all rights and obligations from or pursuant to insurance contracts to another insurer, the first mentioned insurer shall not be assessed.

Article 8

1. The Bank informs the insurer of the assessment in writing, while stating the premium-income taken into account, of the percentage applied and of the way in which and the time before which the payment should be made.
2. The Bank can lower the amount of three thousand guilders, as referred to in Article 6, first Paragraph, in order to accommodate any injustices of predominant nature which should result from the assessment for the insurer.
3. During two years after the date of the statement of the assessment as referred to in the first Paragraph, the Bank can review it, in case the incorrectness of the assessment has become evident.

Article 9

The difference between the cost incurred in one year and the receipts resulting from the assessment are settled with the amount of the costs that form the basis of the new assessment. In determining the percentage, as referred to in Article 6, first Paragraph, the amount of the cost is adjusted accordingly.

Article 10

1. The Bank can impose a temporary assessment on the insurers. For every insurer the temporary assessment amounts to a maximum of 80% of the assessment, imposed in the previous year, but in any case three thousand guilders.
2. With regard to a temporary assessment, as referred to in the

EXPLANATORY NOTE, pertaining to the Supervision Costs Insurance Business National Decree. (no. 10339-f/JAZ)

Considering the importance of the insurance business in a well-structured and financially sound insurance sector, it is quite reasonable that this business should also contribute in the costs which this regulation entails. Article 77 of the Insurance Supervision Act (Nat. Gaz. 1990, No. 77). provides the necessary legal basis for this.

In establishing the regulation in hand the starting point was that the costs connected with the execution of the national ordinance in fairness should be divided among the insurance companies put under supervision. Thereby remain out of consideration the "captives" for which in Article 30 of the Special License Insurance Business Decree a separate retribution agreement has been made, and also the funeral service insurers to whom pursuant to Article 8 of the Funeral Service Insurers Decree the cost of the execution of that national decree shall be charged separately. For the determination of the costs, connected to the supervision, the Bank keeps a separate administration, both for the life insurance business and for the indemnity insurance business. With regard to the indirect costs a specialization takes place, based on the relation between the gross salaries of the personnel working for the benefit of the supervision of the insurance business and the total gross salaries of the Bank. Under indirect costs are understood among other things, the overhead costs "of the Bank", the costs of the automation department and the costs of the personnel department. By means of a time-registration system it is determined which part of the total supervision costs is related to the indemnity insurance business, or the life insurance business respectively.

The individual insurer contributes in the costs related to the supervision on his insurance with a fixed amount of f 3000,- and for the rest pro rata of his premium income. In determining his premium income pursuant to the definition of the concept of premium in Article 1, first Paragraph, sub c, of the national ordinance, the gross premium before deduction of the premium for reinsurance is taken as a starting point.

Furthermore the Bank is authorized to impose on the insurer a temporary assessment, which amounts to 80% of the assessment imposed in the previous year, but which at any rate amounts to f 3000,-. From Article 10, first Paragraph, it also follows that for an insurer who started to conduct the business in the previous year, the temporary assessment shall also amount to at least f 3000,-.

The Minister of Finance,

first Paragraph, Article 8, second Paragraph, is accordingly applicable.

Article 11

This national decree can be referred to as: Supervision Costs Insurance Business Decree.

Article 12

This national decree becomes effective as of the date following the date of publication of the National Gazette in which it has been included and is retroactive up to and including December 1, 1991.

Given at Curaçao, the 9th May 1992
J.M. SALEH

The Minister of Finance,
G. DE PAULA

Issued on the 11th of May 1992
The Minister of General Affairs,
M.PH. LIBERIA-PETERS