



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 281

2016

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 11 of 2016: Medical Aid Funds Amendment Act, 2016.

Act No. 11, 2016 MEDICAL AID FUNDS AMENDMENT ACT, 2016**EXPLANATORY NOTE:**

- _____ Words underlined with a solid line indicate insertions in existing provisions.
- [] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Medical Aid Funds Act, 1995, so as to replace the Minister of Health and Social Services with the Minister responsible for finance; to replace the Minister with the board of appeal as the authority to hear appeals against decisions of the Registrar; to provide for administrative penalties; and to provide for incidental matters.

(Signed by the President on 10 November 2016)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Amendment of section 1 of Act No. 23 of 1995

1. Section 1 of the Medical Aid Funds Act, 1995 (in this Act referred to as the “principal Act”) is amended -

- (a) by the insertion after the definition of “auditor” of the following definition:

““board of appeal” means the board of appeal established by section 19 of the Namibia Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001);” and

- (b) by the substitution for the definition of “Minister” of the following definition:

““Minister” means the Minister [of Health and Social Services] responsible for finance;”.

Substitution of section 7 of Act No. 23 of 1995

2. Section 7 of the principal Act is amended by the substitution for section 7 of the following section:

“Appeal against decisions of Registrar

7. A person aggrieved by a decision of the Registrar may appeal against the decision to the board of appeal in terms of section 24 of the Namibia Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001).”.

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Substitution of section 45 of Act No. 23 of 1995

3. The principal Act is amended by the substitution for section 45 of the following section:

“Offences and penalties

45. (1) Any person who -
- (a) contravenes any provision of this Act or fails to comply with any request or requirement made thereunder;
 - (b) makes or cause to be made any claim for the payment of any benefit allegedly due in terms of the rules of a registered fund, knowing such claim to be false;
 - (c) knowingly makes or causes to be made a false representation of any material fact to a registered fund, for use in determining any right to any benefit allegedly due in terms of the rules of the fund;
 - (d) having knowledge of any fact or the occurrence of any event affecting his or her right to receive any benefit in terms of the rules of a registered fund, fails to disclose such fact or event to the fund with the intent to obtain from the fund a benefit to which he or she is not entitled or a larger benefit than that to which he or she is entitled; or
 - (e) renders a statement, account or invoice to a member of a registered fund or any other person, knowing that such statement, account or invoice is false and may be used by such member or other person to claim from a registered fund any benefit or a benefit greater than the benefit to which he or she is entitled in terms of the rules of the fund,

shall, subject to the provisions of subsection (2), be guilty of an offence and liable on conviction to a fine not exceeding [NS10 000] N\$20 000 or to imprisonment for a period not exceeding [30 months] three years, or to both such fine and such imprisonment.

(2) No contravention or failure to comply with any request or requirement shall be punishable under subsection (1) if the act or omission constituting that contravention or failure to comply with any request or requirement is punishable as an offence under the provisions of any other law.

- (3) Without derogating from subsection (1), the Registrar may -
- (a) impose a prescribed administrative penalty on a person who contravenes or fails to comply with any prescribed provision of this Act; and
 - (b) charge interest at the rate as prescribed under section 2 of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975) on administrative penalties that are not paid after the due date.

Act No. 11, 2016**MEDICAL AID FUNDS AMENDMENT ACT, 2016**

(4) A penalty and interest thereon payable under this section is a debt due to the Registrar, and in the event that a person fails to pay such penalty and interest after demand, the Registrar may file with the clerk or registrar of a competent court a statement -

- (a) certified by the Registrar as correct, stating the amount of the penalty and any interest thereon; and
- (b) which after filing has all the effects of a civil judgment lawfully given in such court against the person concerned in favour of the Registrar for a liquid debt in the amount specified in the statement and may be enforced as such.

(5) An administrative penalty imposed and paid pursuant to this section does not constitute a previous conviction contemplated in section 271 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).”

Short title

4. This Act is called the Medical Aid Funds Amendment Act, 2016.
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