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GENERAL NOTICE

NOTICE 2533 OF 2003

DEPARTMENT OF TRANSPORT

PUBLICATION OF EXPLANATORY SUMMARY OF THE ROAD ACCIDENT FUND AMENDMENT BILL, 2003

The Minister of Transport intends introducing the Road Accident Fund Amendment Bill to Parliament in October 2003. The explanatory summary of the bill is published in accordance with Rule 241 (c) of the Rules of the National Assembly.

The Road Accident Fund Amendment Bill seek to make further provision for the liability of the Fund and its agents; to provide for the determination, in accordance with a prescribed tariff, of the liability of the Fund in respect of medical and related costs; to render deductible all collateral benefits resulting in double compensation in the case of a bodily injury or death; to limit the liability of the Fund in respect of the claims of non-residents of the Republic; to exclude the liability of the Fund in respect of a claim for emotional shock sustained as a result of witnessing, observing or being informed of the bodily injury or death of another person; to provide for the resolution of disputes through mediation and arbitration in accordance with a prescribed procedure; and to provide for matters connected therewith.

Copies of the Bill can be obtained from:

1. The Government Printer
Cape Town: Tel: 021 465 7531

Pretoria: (012) 334 4508

2. Ms Nozipho Maholwana

Ministry of Transport
120 Plein Street
Room 1335
Parliament
Cape Town

Telephone (012) 4657260

REPUBLIC OF SOUTH AFRICA

ROAD ACCIDENT FUND AMENDMENT BILL

*(As introduced in the National Assembly as a section 75-Bill; explanatory summary
of Bill published in Government Gazette No. 25540 of 3 October 2003) (The English text
is the official text of the Bill)*

(MINISTER OF TRANSPORT)

[B - 2003]

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GENERAL EXPLANATORY NOTE:

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

B I L L

To amend the Road Accident Fund Act, 1996, so as to make further provision for the liability of the Fund and its agents; to provide for the determination, in accordance with a prescribed tariff, of the liability of the Fund in respect of medical and related costs; to render deductible all collateral benefits resulting in double compensation in the case of a bodily injury or death; to limit the liability of the Fund in respect of the claims of non-residents of the Republic; to exclude the liability of the Fund in respect of a claim for emotional shock sustained as a result of witnessing, observing or being informed of the bodily injury or death of another person; to provide for the resolution of disputes through mediation and arbitration in accordance with a prescribed procedure; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 17 of Act 56 of 1996

1. Section 17 of the Road Accident Fund Act, 1996 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) Where a claim for compensation under subsection (1)—

- (a) includes a claim for the costs of the future accommodation of any person in a hospital or nursing home or treatment of or rendering of a service or supplying of goods to him or her, the Fund or an agent **[shall be entitled] must**, after furnishing the third party concerned with an undertaking to that effect or a competent court has directed the Fund or the agent to furnish such undertaking, **[to]** compensate the third party in respect of the said costs after the costs have been incurred and on proof thereof;
- (b) includes a claim for future loss of income or support, the Fund or an agent **[shall be entitled] must**, after furnishing the third party in question with an undertaking to that effect or a competent court has directed the Fund or the agent to furnish such undertaking, **[to]** pay the amount payable by it or the agent in respect of the said loss, by instalments in arrear **[as agreed upon.];**
- (c) includes a claim for future non-patrimonial loss, the Fund or an agent must, after furnishing the third party concerned with an undertaking to that effect or a competent court has directed the Fund or the agent to furnish such undertaking, pay in the prescribed manner, in instalments,

that portion of the amount payable by the Fund or the agent in respect of the said loss, that exceeds the prescribed amount."

Insertion of sections 17A and 17B in Act 56 of 1996

2. The principal Act is hereby amended by the insertion after section 17 of the following sections:

"Liability of Fund under certain circumstances

17A. The liability of the Fund or an agent to compensate a third party in respect of the costs of accommodation in a hospital or nursing home, treatment of a bodily injury, rendering of a medical service or supplying of medical goods is limited to the prescribed medical tariff.

Collateral benefits in case of bodily injury

17B. Where a third party is entitled to compensation in terms of section 17 for loss or damage suffered as a result of bodily injury or death, all benefits from whatever source, including insurance, pension or gratuitous benefits, payable to the third party as a result of that injury or death must be deducted from the compensation payable in terms of this Act, except benefits which the third party proves to be legally reimbursable to the payer after compensation had been paid in terms of this Act."

Amendment of section 18 of Act 56 of 1996

3. Section 18 of the principal Act is hereby amended by the addition of the following subsection:

"(5) (a) If a third party or the injured or deceased person concerned is a non-resident of the Republic, the liability of the Fund or an agent to compensate the third party concerned for any loss or damage contemplated in section 17 is limited to the amount determined by the Minister, on the recommendation of the Board, by notice in the Gazette or the amount determined in accordance with section 17B, whichever is the lesser amount.

(b) For the purposes of this subsection "non-resident of the Republic" means a person who is not permanently resident in the Republic at the time of the occurrence which caused the injury or death concerned."

Amendment of section 19 of Act 56 of 1996

4. Section 19 of the principal Act is hereby amended by the addition of the following paragraph:

"(g) suffered as a result of a emotional shock sustained by that person when that person witnessed or observed or was informed of the bodily injury or the death of another person as a result of the driving of a motor vehicle."

Amendment of section 24 of Act 56 of 1996

5. Section 24 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) No claim shall be enforceable by legal proceedings commenced by a summons served on the Fund or an agent[—

(a) before the expiry of a period of 120 days from the date on which the claim was sent or delivered by hand to the Fund or the agent as contemplated in subsection (1); and

(b) before all requirements contemplated in section 19(f) have been complied with:

Provided that if the Fund or the agent repudiates in writing liability for the claim before the expiry of the said period, the third party may at any time after such repudiation serve summons on the Fund or the agent, as the case may be] unless the third party has exhausted the prescribed procedure for the resolution of disputes through mediation and arbitration.”.

Transitional arrangements

6. (1) Sections 17A, 17B, 18(5) and 19(g) of the principal Act do not apply to any claim for compensation under section 17 of the principal Act, in respect of an occurrence that took place prior to the commencement date of this Act, and any such claim must be dealt with as if those sections of this Act had not been enacted.

(2) Sections 17(4)(a) and (b) as amended by this Act, section 17(4)(c) and section 24(6) as amended by this Act, apply to all claims for compensation under section 17 of the principal Act, that have not been finalised prior to the commencement date of this Act.

Commencement of regulations and notices

7. Any regulation made under section 26 of the principal Act and any notice published in the *Gazette* within a period of three months after the commencement date of this Act and as a result of this Act, may provide that such regulation or notice must be deemed to have come into operation on the commencement date of this Act.

Short title

8. This Act is called the Road Accident Fund Amendment Act, 2003.

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