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THE PRESIDENCY

No. 3

5 January 2006

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 19 of 2005: Road Accident Fund Amendment Act, 2005



AIDS HELPLINE: 0800-123-22 Prevention is the cure

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.

(English text signed by the President.)
(Assented to 23 December 2005.)

ACT

To amend the Road Accident Fund Act, 1996, so as to extend the powers of the Fund regarding the conclusion of agreements; to alter the financial year of the Fund; to make new provisions regarding the Board of the Fund; to further regulate the Fund's obligation to compensate a third party for non-pecuniary loss, for certain hospital or medical expenses, and for loss of income or support; to repeal certain provisions limiting the liability of the Fund to R25 000 in respect of claims; to abolish certain common law claims; to make further provision for the prescription of certain claims; to substitute the provision authorising the Minister to make regulations; and to provide for matters connected therewith.

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

Amendment of section 4 of Act 56 of 1996, as amended by section 1 of Act 15 of 2001

1. Section 4 of the principal Act is hereby amended —

(a) by the addition to subsection (2) of the following paragraph:

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“(i) conclude any agreement with any person for the performance of any particular act or particular work or the rendering of particular services contemplated in this Act.”; and

(b) by the addition of the following subsection:

“(4) (a) The Fund may conclude an agreement with any other organ of State regarding any matter provided for in this Act in order to improve or ensure—

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- (i) the effective management of the Fund;
- (ii) the efficiency of the Fund;
- (iii) co-ordination of functions;
- (iv) co-operative governance contemplated in Chapter 3 of the Constitution.

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(b) The Minister shall, by notice in the Gazette, publish a summary of the terms of any agreement concluded under paragraph (a).”.

Amendment of section 6 of Act 56 of 1996

2. Section 6 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The financial year of the Fund shall run from 1 ~~[May]~~ **April** of any year to ~~[30 April]~~ **31 March** of the following year: **Provided that the first financial year of the Fund shall be deemed to have commenced on the 1st of May immediately preceding the commencement of this Act.**”.

Amendment of section 10 of Act 56 of 1996, as amended by section 1 of Act 43 of 2002

3. Section 10 of the principal Act is hereby amended — 10

(a) by the substitution for the heading of the following heading:

“Board of Fund[, and executive committee]”;

(b) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:

“(a) the Director-General: Transport or any other senior officer in the Department of Transport, designated by him or her **[for a particular purpose]**; and 15

(b) at least 8, but not more than 12, members appointed by the Minister, **[taking into account the recommendations referred to in subsection (9), if applicable,]** who may not be in the full-time employment of any government, and who shall each command extensive experience in one or more of the fields of insurance, finance, medical service provision, law, accounting and actuarial science, or in matters relating to disabled persons, road users, commuters’ or consumers’ interests.”; 20

(c) by the substitution in subsection (2) for paragraph (c) of the following paragraph: 25

“(c) hold office for a period of three years as from the date of appointment of such member and may, subject to nomination contemplated in subsection (9), be reappointed for further terms of office not exceeding three years at a time, provided that such a member may not serve for more than three consecutive terms of office.”;

(d) by the substitution for subsection (4) of the following subsection: 30

“(4) [Each] Only a member of the Board referred to in section (1)(b) shall, subject to subsection (2)(a), have **[one]** a vote on any matter before the Board.”; 35

(e) by the substitution for subsections (6) and (7) of the following subsections, respectively:

“(6) The [Board shall ~~as~~ soon as possible] Minister shall —

(a)] appoint two of **[its]** members of the Board as Chairperson and Vice-Chairperson, respectively[; 40

(b) **establish an executive committee of the Board, which shall consist of three members of the Board, the Chairperson and Vice-Chairperson of the Board and the Chief Executive Officer].**

(7) The Chairperson, or in his or her absence, the Vice-Chairperson, shall at all times preside at meetings of the Board **[and the executive committee].**”; 45

(f) by the deletion of subsection (8);

(g) by the substitution for subsection (9) of the following subsection:

“(9) Whenever it is necessary to appoint a member referred to in subsection (1)(b) to the Board, but subject to subsection (10)[— 50

(a)], the Minister shall —

[(i)] (a) by notice in the **Gazette** and the national news media, **[call for the nomination of]** invite persons or bodies who have an interest in the operations of the Fund to nominate persons who 55

[(ii)] (b) so publish a list of nominees received in response to such [call; and

- (iii) establish a selection committee, constituted as follows:
 - (aa) The Director-General: Transport;
 - (bb) one member of the Portfolio Committee on Transport (National Assembly), designated by that Committee;
 - (cc) one member of the select committee on transport (Senate), designated by that Committee; and
 - (dd) two persons who have extensive experience in third party compensation, appointed by the Minister; and
- (b) the selection committee shall hold interviews in public with such of the nominees who are available, and make recommendations to the Minister] invitation, which list shall include the names of the relevant nominators.”; and
- (h) by the insertion after subsection (9) of the following subsection:

“(9A) The Minister shall cause the name of a member appointed under subsection (1)(b), or reappointed under subsection (2)(c), together with such member’s area of expertise, to be published in the *Gazette*.”.

Amendment of section 11 of Act 56 of 1996

4. Section 11 of the principal Act is hereby amended by the deletion in subsection (1)(a) of subparagraph (iv).

Amendment of section 12 of Act 56 of 1996

5. Section 12 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) The Minister shall upon the recommendation of the Board, appoint the Chief Executive Officer of the Fund on such terms and conditions of employment [as he or she may determine: Provided that the Chief Executive Officer of the Multilateral Motor Vehicle Accident Fund holding that office immediately prior to the commencement of this Act, shall be deemed to have been appointed as such in respect of the fund in terms of this subsection] as the Board may determine.”; and
- (b) by the substitution in subsection (1) for paragraph (6) of the following paragraph:

“(b) The Chief Executive Officer shall[—

 - (i) be a person who [commands a knowledge of the management of motor vehicle accidents insurance or motor vehicle accidents compensation matters; and
 - (ii) hold office at the Minister’s pleasure] is suitably qualified and experienced to manage the day to day affairs of the Fund.”.

Substitution of section 17 of Act 56 of 1996

6. The following section is hereby substituted for section 17 of the principal Act:

“Liability of Fund and agents

17. (1) The Fund or an agent shall —

- (a) subject to this Act, in the case of a claim for compensation under this section arising from the driving of a motor vehicle where the identity of the owner or the driver thereof has been established;
 - (b) subject to any regulation made under section 26, in the case of a claim for compensation under this section arising from the driving of a motor vehicle where the identity of neither the owner nor the driver thereof has been established,
- be obliged to compensate any person (the third party) for any loss or damage which the third party has suffered as a result of any bodily injury to himself or herself or the death of or any bodily injury to any other person, caused by or arising from the driving of a motor vehicle by any person at