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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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No. 10419

KANTOOR VAN DIE STAATSPRESIDENT

No. 1857. 10 September 1986

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 84 van 1986: Motorvoertuigongelukkewet, 1986.

STATE PRESIDENT'S OFFICE

No. 1857. 10 September 1986

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

No. 84 of 1986: Motor Vehicle Accidents Act, 1986.

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ALGEMENE VERDUIDELIKENDE NOTA:

▬▬▬▬ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Om voorsiening te maak vir die betaling van vergoeding vir sekere verlies of skade wat onregmatig deur die bestuur van sekere motorvoertuie veroorsaak word; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 29 Augustus 1986.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing.

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

(i) "benoemde agent" 'n agent wat kragtens artikel 6 (1) *(a)* aangestel is; (i)

(ii) "besigheid" nie ook 'n onwettige besigheid nie; (iii)

(iii) "Direkteur-generaal" die Direkteur-generaal: Vervoer; (v)

(iv) "eienaar", met betrekking tot—

(a) 'n motorvoertuig wat 'n motorhandelaar in die loop van sy besigheid in sy besit het en wat ingevolge 'n wet met betrekking tot die lisensiëring van motorvoertuie nie op 'n openbare pad bestuur of gebruik mag word nie behalwe uit hoofde van 'n motorhandelaarslisensie waarvan die betrokke motorhandelaar die houer is, daardie motorhandelaar;

(b) 'n motorvoertuig wat deur 'n motortransportlisensiehouer in die loop van sy besigheid om nuwe motorvoertuie af te lewer, vir aflewering in ontvangs geneem is en wat nog nie deur hom afgelewer is nie, daardie motortransportlisensiehouer;

(c) 'n motorvoertuig wat die onderwerp van 'n huurkoopooreenkoms is, die koper ingevolge die betrokke huurkoopooreenkoms;

(d) 'n motorvoertuig wat gehuur word ingevolge 'n huurooreenkoms vir 'n termyn van minstens 12 maande, die betrokke huurder; (xii)

(v) "Minister" die Minister van Vervoerwese; (viii)

(vi) "motor" 'n motorvoertuig wat vir die vervoer van hoogstens tien persone (met inbegrip van die bestuurder) ontwerp en aangepas is; (ix)

(vii) "motorvoertuig" 'n voertuig wat ontwerp of aangepas is om deur middel van brandstof of elektrisiteit op 'n pad voortbeweeg of getrek te word en ook 'n sleepwa, 'n woonwa, 'n landbouwerktuig of enige ander werktuig wat ontwerp of aangepas is om deur so 'n motorvoertuig getrek te word; (x)

(viii) "MVO-fonds" die Motorvoertuigongelukkefonds in artikel 3 vermeld; (xi)

(ix) "plaaslike owerheid" 'n instelling of liggaam beoog in artikel 84 (1) *(f)* van die Wet op Provinsiale Bestuur, 1961 (Wet No. 32 van 1961); (vii)

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GENERAL EXPLANATORY NOTE:

__________ Words underlined with solid line indicate insertions in existing enactments.

ACT

To provide for the payment of compensation for certain loss or damage unlawfully caused by the driving of certain motor vehicles; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 29 August 1986.)

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

Definitions.

1. In this Act, unless the context indicates otherwise—

(i) "appointed agent" means an agent appointed under section 6 (1) *(a)*; (i)

(ii) "Black authority" means—

(a) the government of any territory which by or under any law has been or is declared to be a self-governing territory within the Republic;

(b) the government of any area for which a legislative assembly has been or is established under the National States Constitution Act, 1971 (Act No. 21 of 1971); (xiii)

(iii) "business" does not include any unlawful business; (ii)

(iv) "convey", in relation to the conveyance of a person in a motor vehicle, includes—

(a) entering or mounting the motor vehicle in question for the purpose of being so conveyed; and

(b) alighting from the motor vehicle in question after having been so conveyed; (xv)

(v) "Director-General" means the Director-General: Transport; (iii)

(vi) "lift club" means any club of which—

(a) every member shall have a turn to convey or cause to be conveyed by means of a motor car the members of such club or other persons designated by such members to or from a specified place for a specified purpose; or

(b) every member is the owner of a motor car and of which one or some of its members shall by means of a motor car of which he is the owner or they are the owners, as the case may be, convey or cause to be conveyed the members of such club or other persons designated by such members to or from a specific place for a specific purpose; (xi)

(vii) "local authority" means any institution or body contemplated in section 84 (1) *(f)* of the Provincial Government Act, 1961 (Act No. 32 of 1961); (ix)

(viii) "Minister" means the Minister of Transport Affairs; (v)

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(x) "regulasie" 'n regulasie kragtens artikel 17 uitgevaardig; (xiv)

(xi) "saamryklub" 'n klub waarvan—

(a) elke lid 'n beurt kry om die lede van daardie klub of ander persone wat deur daardie lede aangewys is deur middel van 'n motor na of van 'n bepaalde plek vir 'n bepaalde doel te vervoer of te laat vervoer; of

(b) elke lid die eienaar van 'n motor is en waarvan een of sommige van die lede daarvan met 'n motor of motors waarvan hy of hulle die eienaar of eienaars is, na gelang van die geval, die lede van daardie klub of ander persone wat deur daardie lede aangewys is, na of van 'n bepaalde plek vir 'n bepaalde doel vervoer of laat vervoer; (vi)

(xii) "spesiale omstandighede" nie ook enige nalate, versuim of onkunde nie; (xvi)

(xiii) "Swart owerheid"—

(a) die regering van 'n gebied wat by of kragtens die een of ander wet tot 'n selfregerende gebied binne die Republiek verklaar is of word;

(b) die regering van 'n gebied waarvoor 'n wetgewende vergadering kragtens die Grondwet van die Nasionale State, 1971 (Wet No. 21 van 1971), ingestel is of word; (ii)

(xiv) "vergoeding", met betrekking tot die vervoer van iemand in of op 'n motorvoertuig, nie ook vergoeding wat ingevolge 'n bepaling van die Wet op Padvervoer, 1977 (Wet No. 74 van 1977), sodanige vervoer onwettig maak nie; (xv)

(xv) "vervoer", met betrekking tot die vervoer van 'n persoon in of op 'n motorvoertuig, ook om—

(a) op die betrokke motorvoertuig te klim om aldus vervoer te word; en

(b) van die betrokke motorvoertuig af te klim nadat hy aldus vervoer is; (iv)

(xvi) "voorskryf" by regulasie voorskryf. (xiii)

Uitkenningstekens.

2. (1) *(a)* Behoudens die bepalings van subartikel (2), mag niemand 'n motorvoertuig op enige plek bestuur nie tensy daar aan daardie motorvoertuig slegs een uitkenningsteken in die voorgeskrewe vorm op die voorgeskrewe wyse geheg is.

(b) Aansoek om 'n uitkenningsteken in paragraaf *(a)* bedoel, word op die voorgeskrewe vorm gedoen by die betrokke agent, wat die aansoeker van so 'n teken wat behoorlik voltooi is kosteloos moet voorsien.

(c) Die drukkoste van genoemde uitkenningstekens en die aansoekvorms daarom word bestry deur die MVO-fonds.

(2) Die bepalings van subartikel (1) is nie van toepassing nie met betrekking tot 'n motorvoertuig—

(a) waarvan 'n staat of regering of 'n provinsiale administrasie of die Administrasie van die gebied Suidwes-Afrika of die Nasionale Vervoerkommissie of 'n plaaslike owerheid of 'n Swart owerheid of die Suid-Afrikaanse Ontwikkelingstrust of die Staatspresident die eienaar is; of

(b) wat op 'n plek in 'n gebied buite die Republiek geregistreer is, maar behoudens die bepalings van paragraaf *(c)*; of

(c) wat geregistreer is op 'n plek in Botswana, Lesotho, Swaziland of in enige gebied wat voorheen deel van die Republiek uitgemaak het en later onafhanklik geword het en verseker is ingevolge enige wet met betrekking tot verpligte motorvoertuigversekering wat op so 'n

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(ix) "motor car" means a motor vehicle designed or adapted for the conveyance of not more than ten persons (including the driver); (vi)

(x) "motor vehicle" means any vehicle designed or adapted for propulsion or haulage on a road by means of fuel or electricity and includes a trailer, a caravan, an agricultural or any other implement designed or adapted to be drawn by such motor vehicle; (vii)

(xi) "MVA Fund" means the Motor Vehicle Accident Fund mentioned in section 3; (viii)

(xii) "owner", in relation to—

(a) a motor vehicle which a motor dealer has in his possession during the course of his business and which may in terms of any law relating to the licensing of motor vehicles not be driven or used on a public road except under the authority of a motor dealer's licence of which the motor dealer concerned is the holder, means that motor dealer;

(b) a motor vehicle which has been received for delivery by a motor transport licence holder in the course of his business of delivering new motor vehicles and which has not yet been delivered by him, means that motor transport licence holder;

(c) a motor vehicle which is the subject of a hire purchase agreement, means the purchaser under the hire purchase agreement concerned;

(d) a motor vehicle under an agreement of lease for a period of at least 12 months, means the lessee concerned; (iv)

(xiii) "prescribe" means prescribe by regulation; (xvi)

(xiv) "regulation" means a regulation made under section 17; (x)

(xv) "reward", with reference to the conveyance of any person in or upon a motor vehicle, does not include any reward rendering such conveyance illegal in terms of any provision of the Road Transportation Act, 1977 (Act No. 74 of 1977); (xiv)

(xvi) "special circumstances" does not include any neglect, omission or ignorance. (xii)

Tokens of identification.

2. (1) *(a)* Subject to the provisions of subsection (2), no person shall drive a motor vehicle in any place unless one token of identification only in the prescribed form is attached to that vehicle in the prescribed manner.

(b) Application for a token of identification referred to in paragraph *(a)* shall be made on the prescribed form to the appointed agent concerned, who shall supply such token, duly completed, free of charge to the applicant.

(c) The cost of printing the said tokens of identification and the forms of application therefor shall be defrayed by the MVA Fund.

(2) The provisions of subsection (1) shall not apply in relation to a motor vehicle—

(a) of which any state or government or a provincial administration or the Administration of the territory of South West Africa or the National Transport Commission or a local authority or a Black authority or the South African Development Trust or the State President is the owner; or

(b) which is registered at a place in a territory outside the Republic, but subject to the provisions of paragraph *(c)*; or

(c) which is registered at a place in Botswana, Lesotho, Swaziland or in any territory which formerly formed part of the Republic and subsequently became independent and is insured in terms of any law relating to the compulsory insurance of motor vehicles in force at any

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plek geld en ten opsigte waarvan 'n voorgeskrewe onderneming verstrek is vir die betaling van skadevergoeding vir verlies of skade in artikel 8 (1) vermeld wat deur die bestuur van die versekerde motorvoertuig in die Republiek veroorsaak word of daaruit voortvloei; of

(d) wat ooreenkomstig 'n motorhandelaarslisensie of 'n motortransportlisensie, soos omskryf in enige wet met betrekking tot die lisensiëring van motorvoertuie, gebruik word;

(e) wat nie ingevolge so 'n wet gelisensieer hoef te word nie; of

(f) wat 'n sleepwa, 'n woonwa, 'n landbouwerktuig of enige ander werktuig is wat ontwerp of aangepas is om deur 'n motorvoertuig getrek te word; of

(g) waarna in artikel 5 (2) *(b)* verwys word.

(3) Iemand wat subartikel (1) *(a)* oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100.

Instelling van MVO-fonds.

3. (1) Daar word hierby 'n regspersoon met die naam die Motorvoertuigongelukkefonds ingestel.

(2) Die inkomste van die MVO-fonds, met inbegrip van inkomste uit beleggings, is vrygestel van inkomstebelasting.

(3) Vanaf die inwerkingtreding van hierdie Wet hou die Motorvoertuigassuransiefonds vermeld in artikel 5 van die Wet op Verpligte Motorvoertuigversekering, 1972 (Wet No. 56 van 1972), op om te bestaan, berus alle bedrae waarmee dié fonds onmiddellik voor dié inwerkingtreding gekrediteer is, by die MVO-fonds en gaan alle verpligtinge en regte, huidig sowel as toekomend, van genoemde Motorvoertuigassuransiefonds op die MVO-fonds oor.

Bestuurder, assistent-bestuurder en personeel van MVO-fonds.

4. (1) *(a)* Behoudens die bepalings van die wette op die Staatsdiens kan die Minister van tyd tot tyd—

(i) 'n persoon aanstel as bestuurder van die MVO-fonds, wat, onder die beheer van die Direkteur-generaal en onderworpe aan die algemene of spesiale opdragte wat die Direkteur-generaal van tyd tot tyd gee, die sake van die MVO-fonds bestuur en vir dié doel die bevoeghede van die MVO-fonds kan uitoefen en sy pligte moet verrig;

(ii) 'n persoon aanstel as assistent-bestuurder van die MVO-fonds, wat die werksaamhede van die bestuurder kan verrig wat aan die assistent-bestuurder toegewys word deur die Direkteur-generaal of deur die bestuurder met die instemming van die Direkteur-generaal.

(b) Wanneer die bestuurder om die een of ander rede afwesig is of nie in staat is om sy werksaamhede te verrig nie, tree die assistent-bestuurder in die plek van die bestuurder op, en wanneer sowel die bestuurder as die assistent-bestuurder afwesig is of nie in staat is om hul werksaamhede te verrig nie, kan die Direkteur-generaal 'n lid van sy personeel skriftelik aanwys om vir 'n vermelde tydperk van hoogstens 30 dae in die plek van die bestuurder op te tree.

(2) Behoudens die bepalings van die wette op die Staatsdiens kan die Direkteur-generaal die persone aanstel wat na sy oordeel nodig is om die bestuurder in staat te stel om die MVO-fonds te bestuur: Met dien verstande dat die Direkteur-generaal met die goedkeuring van die Minister en met die instemming van die Minister van Finansies, met iemand 'n ooreenkoms kan aangaan vir die lewering van 'n bepaalde diens.

(3) Die bedrae ten opsigte van uitgawes deur die Direkteur-generaal ingevolge hierdie artikel aangegaan wat van tyd tot tyd deur hom met die instemming van die Sekretaris van die Tesourie bepaal word, word op die aldus bepaalde tye uit die fondse van die MVO-fonds aan die Staat betaal, en word in die Staatsinkomstefonds gestort.

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such place and in respect of which a prescribed undertaking has been furnished to pay compensation for any such loss or damage as is mentioned in section 8 (1) which may be caused by or arises out of the driving of the insured motor vehicle in the Republic; or

(d) which is used in accordance with a motor dealer's licence or a motor transport licence, as defined in any law relating to the licensing of motor vehicles;

(e) which is not required to be licensed in terms of any such law;

(f) which is a trailer, a caravan, an agricultural or any other implement designed or adapted to be drawn by a motor vehicle; or

(g) referred to in section 5 (2) *(b)*.

(3) Any person who contravenes subsection (1) *(a)* shall be guilty of an offence and on conviction liable to a fine not exceeding R100.

Establishment of MVA Fund.

3. (1) There is hereby established a juristic person to be known as the Motor Vehicle Accident Fund.

(2) The income of the MVA Fund, including income from investments, shall be exempt from income tax.

(3) As from the commencement of this Act the Motor Vehicle Assurance Fund mentioned in section 5 of the Compulsory Motor Vehicle Insurance Act, 1972 (Act No. 56 of 1972), shall cease to exist, all amounts credited to that fund immediately before such commencement shall vest in the MVA Fund and all liabilities and rights, existing as well as accruing, of the said Motor Vehicle Assurance Fund shall devolve upon the MVA Fund.

Manager, assistant manager and staff of MVA Fund.

4. (1) *(a)* Subject to the laws governing the public service, the Minister may from time to time—

(i) appoint a person to be the manager of the MVA Fund, who, under the control of the Director-General and subject to such general or special directions as the Director-General may give from time to time, shall manage the affairs of the MVA Fund and, for that purpose, may exercise the powers and shall perform the duties of the MVA Fund;

(ii) appoint a person to be the assistant manager of the MVA Fund, who may perform such of the functions of the manager as may be assigned to the assistant manager by the Director-General or by the manager acting with the concurrence of the Director-General.

(b) When the manager is for any reason absent or unable to perform his functions, the assistant manager shall act in the place of the manager, and when both the manager and the assistant manager are absent or unable to perform their functions, the Director-General may in writing designate a member of his staff to act in the place of the manager for a specified period not exceeding 30 days.

(2) Subject to the laws governing the public service, the Director-General may appoint such persons as are in his opinion necessary to enable the manager to manage the MVA Fund: Provided that the Director-General may, with the approval of the Minister and with the concurrence of the Minister of Finance, enter into an agreement with any person for the rendering of any particular service.

(3) Such amounts in respect of expenses incurred by the Director-General under this section as may be determined by him from time to time with the concurrence of the Secretary to the Treasury, shall be paid out of the funds of the MVA Fund to the State at such times as may be so determined, and shall be paid into the State Revenue Fund.

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Geld in MVO-fonds.

5. (1) In die MVO-fonds word kwartaalsgewys gestort al die geld wat dié fonds uit hoofde van die bepalings van artikel 1 (2) *(a)* (ii) van die Wet op die Sentrale Energie-fonds, 1977 (Wet No. 38 van 1977), en artikel 25 (2) van die Wet op Nasionale Verkeersveiligheid, 1972 (Wet No. 9 van 1972), ontvang, bereken vir die laaste kwartaal waarvolgens sodanige som bereken kan word.

(2) Die geld in die MVO-fonds word, behoudens die bepalings van subartikel (3) van artikel 3, subartikel (3) van hierdie artikel en artikel 20, aangewend ter bestryding van die uitgawes wat die bestuurder van dié fonds by die uitoefening van sy bevoegdhede en die verrigting van sy pligte ingevolge hierdie Wet aangaan, behalwe in die geval van eise om skadevergoeding beoog in artikel 8 wat voortspruit uit die bestuur in die Republiek van motorvoertuie—

(a) wat in Bophuthatswana, Botswana, Ciskei, Lesotho, Swaziland, Transkei en enige ander gebied wat voorheen deel van die Republiek uitgemaak het en daarna onafhanklik geword het, geregistreer is en verseker is kragtens die bepalings van die een of ander wet met betrekking tot die verpligte versekering van motorvoertuie wat in daardie gebiede geld en ten opsigte waarvan voorgeskrewe voorsiening gemaak is vir die betaling van genoemde skadevergoeding; of

(b) wat die eiendom is van 'n eienaar wat die voorgeskrewe voorsiening gemaak het vir die betaling van vergoeding waarvoor in artikel 8 voorsiening gemaak is.

(3) Die bestuurder van die MVO-fonds laat die bedrag beoog in artikel 25 (1) van die Wet op Nasionale Verkeersveiligheid, 1972, een maal per maand uit die MVO-fonds oorbetaal aan die Nasionale Verkeersveiligheidsraad ingestel by artikel 2 van daardie Wet.

Bevoegdhede en pligte van MVO-fonds.

6. (1) Die MVO-fonds—

(a) (i) moet, onderworpe aan die goedkeuring van die Minister, soveel agente aanstel as wat vir aanstelling aansoek doen en aan die vereistes deur die adviserende komitee ingevolge artikel 7 (1) *(d)* bepaal, voldoen, op voorwaardes waaromtrent ooreengekom is, om namens hom eise soos bedoel in artikel 8 wat ontstaan uit die bestuur van 'n motorvoertuig, in die geval waar die identiteit van òf die eienaar òf bestuurder daarvan vasgestel is, behoudens die bepalings van die regulasies te ondersoek of te skik of om regsgedinge in verband met sulke eise in te stel, te voer, te bestry of te laat vaar; en

(ii) moet, na goedkeuring deur die Minister, genoemde agente se name en die eise ten opsigte waarvan dié agente aanspreeklik is, in die *Staatskoerant* laat afkondig;

(b) moet, behoudens die bepalings van die regulasies, eise soos bedoel in artikel 8 wat ontstaan uit die bestuur van 'n motorvoertuig in die geval waar die identiteit van nòg die eienaar nòg die bestuurder daarvan vasgestel kan word, ondersoek of skik of regsgedinge in verband met sulke eise instel, voer, bestry of laat vaar;

(c) kan, onderworpe aan die Minister se goedkeuring in elke geval, goedere, uitrusting, grond, geboue, aandele, obligasies, effekte, sekuriteite en alle ander soorte roerende of onroerende goed aankoop of op 'n ander wyse bekom;

(d) kan, onderworpe aan die Minister se goedkeuring in elke geval, sy goed verkoop, verhuur, verhipotekeer, beswaar, van die hand sit, verruil, bewerk, ontwikkel, daarop bou, dit verbeter of daarmee op 'n ander wyse handel;

(e) kan geld wat nie onmiddellik vir sy besigheid nodig is nie, op die wyse belê wat van tyd tot tyd deur die Minister bepaal word, en sodanige beleggings realiseer, verander of herbelê of met sodanige geld of beleggings

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Moneys in MVA Fund.

5. (1) There shall be paid into the MVA Fund quarterly all moneys received by that fund by virtue of the provisions of section 1 (2) *(a)* (ii) of the Central Energy Fund Act, 1977 (Act No. 38 of 1977), and section 25 (2) of the National Road Safety Act, 1972 (Act No. 9 of 1972), for the latest quarter for which such sum can be calculated.

(2) The moneys in the MVA Fund shall, subject to the provisions of subsection (3) of section 3, subsection (3) of this section and section 20, be utilized to defray the expenses incurred by the manager of that fund in the exercise of his powers and the performance of his duties in terms of this Act, except in the case of claims for compensation contemplated in section 8 arising out of the driving in the Republic of motor vehicles—

(a) registered in Bophuthatswana, Botswana, Ciskei, Lesotho, Swaziland, Transkei and any other territory which formerly formed part of the Republic and subsequently became independent, and insured under the provisions of any law relating to the compulsory insurance of motor vehicles in force in those territories and in respect of which prescribed provision has been made for payment of the said compensation; or

(b) which are the property of any owner who has made the prescribed provision for the payment of compensation provided for in section 8.

(3) The manager of the MVA Fund shall cause the amount contemplated in section 25 (1) of the National Road Safety Act, 1972, to be paid over once every month from the MVA Fund to the National Road Safety Council established by section 2 of that Act.

Powers and duties of MVA Fund.

6. (1) The MVA Fund—

(a) (i) shall, subject to the Minister's approval, appoint as many agents as may apply for appointment and comply with the requirements determined by the advisory committee in terms of section 7 (1) *(d)*, on conditions agreed upon, to investigate or settle, subject to the provisions of the regulations, on its behalf claims referred to in section 8 arising from the driving of a motor vehicle in the case where the identity of either the owner or driver thereof has been established or to commence, conduct, defend or abandon legal proceedings in connection with such claims; and

(ii) shall, after approval by the Minister, cause the names of the said agents and the claims in respect of which those agents shall be liable, to be published in the *Gazette*;

(b) shall, subject to the provisions of the regulations, investigate or settle claims referred to in section 8 arising from the driving of a motor vehicle in the case where the identity of neither the owner nor driver thereof can be established or to commence, conduct, defend or abandon legal proceedings in connection with such claims;

(c) may, subject to the Minister's approval in every case, purchase or otherwise acquire goods, equipment, land, buildings, shares, debentures, stock, securities and all other kinds of movable or immovable property;

(d) may, subject to the Minister's approval in every case, sell, lease, mortgage, encumber, dispose of, exchange, work, develop, build upon, improve or in any other way deal with its property;

(e) may invest any moneys not immediately required for the conduct of its business, in such manner as may from time to time be determined by the Minister, and realize, alter or reinvest such investments or otherwise deal with such moneys or investments in such manner

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andersins handel op die wyse wat van tyd tot tyd deur die Minister bepaal word;

(f) kan, onderworpe aan die Minister se goedkeuring in elke geval, geld leen en betaling daarvan na goeddunke beveilig;

(g) kan, onderworpe aan die Minister se goedkeuring, skenkings doen vir navorsing in verband met 'n aangeleentheid betreffende beserings in motorvoertuigongelukke opgedoen, op die voorwaardes wat die MVO-fonds raadsaam ag;

(h) kan promesses, wissels en ander verhandelbare of oordraagbare dokumente behalwe aandeelsertifikate trek, opstel, aksepteer, endosseer, verdiskonteer, onderteken en uitreik;

(i) moet sy fondse aanwend vir enige doel wat in verband staan met of voortspruit uit die uitoefening van sy bevoegdhede of die verrigting van sy pligte;

(j) moet die Staat vergoed vir dienste wat persone in diens van die Staat aan die MVO-fonds gelewer het;

(k) kan die ander dinge doen wat verbonde is aan of bevorderlik is vir die uitoefening van sy bevoegdhede of die verrigting van sy pligte; en

(l) kan teenoor 'n ander regering aanspreeklikheid aanvaar vir die betaling van vergoeding ingevolge enige wet met betrekking tot die verpligte versekering van motorvoertuie wat in daardie regering se gebied van krag is, wat veroorsaak is of voortvloei uit die bestuur in daardie gebied van 'n motorvoertuig wat in die Republiek geregistreer is.

(2) Die MVO-fonds moet—

(a) behoorlik boekhou van al sy geldelike transaksies en sy bates en laste;

(b) so spoedig doenlik na elke oudit ingevolge subartikel (3), geouditeerde balansstate en die verslag van die Ouditeur-generaal oor sodanige oudit tesame met 'n verslag oor die MVO-fonds se bedrywighede gedurende die jaar waarop die oudit betrekking het, aan die Minister voorlê.

(3) Die rekenings van die MVO-fonds word jaarliks deur die Ouditeur-generaal geouditeer.

(4) Die Minister moet afskrifte van die verslae wat ingevolge subartikel (2) aan hom voorgelê is, in die Parlement ter Tafel lê binne 30 dae na ontvangs daarvan indien die Parlement dan in sessie is of, indien die Parlement nie dan in sessie is nie, binne 30 dae na die aanvang van sy eersvolgende sessie.

Adviserende komitee.

7. (1) Die Minister stel 'n adviserende komitee in om hom te adviseer in verband met—

(a) die finansiële stand van die MVO-fonds;

(b) die finansiering van die MVO-fonds;

(c) die belegging van die geld van die MVO-fonds;

(d) die voorwaardes waarvolgens agente van die MVO-fonds aangestel moet word;

(e) dissiplinêre stappe wat teen benoemde agente gedoen moet word wat nie die bepalings van die Wet of die voorwaardes van enige ooreenkoms wat hulle met die MVO-fonds aangegaan het, nakom nie;

(f) enige bedrag wat as sekuriteit by die MVO-fonds gedeponeer moet word deur die eienaar van 'n motorvoertuig waarna in artikel 5 (2) *(b)* verwys word; en

(g) enige aangeleentheid wat die Minister van tyd tot tyd na die adviserende komitee verwys.

(2) Die lede van die adviserende komitee word deur die Minister aangestel, en die komitee bestaan uit—

(a) een beampte van die Departement van Vervoer, wat voorsitter van die komitee is;

(b) een beampte van die Departement van Finansies;

(c) een beampte van die Sentrale Statistiekdiens;

(d) een beampte van die Departement van Mineraal- en Energiesake;

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as may from time to time be determined by the Minister;

(*f*) may, subject to the Minister's approval in every case, borrow money and secure the payment thereof in such manner as it may deem fit;

(*g*) may, subject to the Minister's approval, make donations for research in connection with any matter relating to injuries sustained in motor vehicle accidents, on such conditions as it may deem advisable;

(*h*) may draw, draft, accept, endorse, discount, sign and issue promissory notes, bills and other negotiable or transferable instruments, with the exception of share certificates;

(*i*) shall utilize its funds for any purpose connected with or resulting from the exercise of its powers or the performance of its duties;

(*j*) shall reimburse the State for services rendered to the MVA Fund by persons in the service of the State;

(*k*) may do all such other things as are incidental or conducive to the exercise of its powers or the performance of its duties;

(*l*) may accept liability towards any other government for payment of compensation in terms of any law relating to the compulsory insurance of motor vehicles in force in such government's territory caused by or arising out of the driving in that territory of any motor vehicle registered in the Republic.

(2) The MVA Fund shall—

(*a*) keep proper records of all its financial transactions and its assets and liabilities;

(*b*) as soon as may be after each audit in terms of subsection (3), submit to the Minister audited balance sheets and the report of the Auditor-General in respect of such audit together with a report on the MVA Fund's activities during the year to which the audit relates.

(3) The accounts of the MVA Fund shall be audited annually by the Auditor-General.

(4) The Minister shall lay upon the Table copies of the reports submitted to him in terms of subsection (2) in Parliament within 30 days after receipt thereof if Parliament is then in session or, if Parliament is not then in session, within 30 days after the commencement of its next ensuing session.

Advisory committee.

7. (1) The Minister shall establish an advisory committee to advise him in regard to—

(*a*) the financial position of the MVA Fund;

(*b*) the financing of the MVA Fund;

(*c*) the investment of the moneys of the MVA Fund;

(*d*) the conditions under which agents of the MVA Fund should be appointed;

(*e*) disciplinary steps to be taken against appointed agents who do not comply with the provisions of the Act or the conditions of any agreement concluded with the MVA Fund;

(*f*) any amount which shall be required to be deposited as security with the MVA Fund by an owner of a motor vehicle referred to in section 5 (2) (*b*); and

(*g*) any matter from time to time referred to the advisory committee by the Minister.

(2) The members of the advisory committee shall be appointed by the Minister, and the committee shall consist of—

(*a*) one officer of the Department of Transport, who shall be chairman of the committee;

(*b*) one officer of the Department of Finance;

(*c*) one officer of the Central Statistical Services;

(*d*) one officer of the Department of Mineral and Energy Affairs;

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(e) een persoon om die Aktuariële Genootskap van Suid-Afrika te verteenwoordig;

(f) een persoon om die Automobiel-Assosiasie van Suid-Afrika te verteenwoordig;

(g) een persoon om die Vereniging van Prokureursordes van Suid-Afrika te verteenwoordig;

(h) een persoon om die Busoperateursvereniging van Suider-Afrika, die Vereniging vir Openbare Vervoerondernemers, die Nasionale Vereniging vir Private Vervoeroperateurs en die Passasiersvervoervereniging te verteenwoordig; en

(i) die bestuurder van die MVO-fonds.

(3) 'n Lid van die adviserende komitee word aangestel vir 'n tydperk van twee jaar en op die voorwaardes (met inbegrip van voorwaardes met betrekking tot die toelaes, as daar is, aan hom betaalbaar ten opsigte van dienste deur hom as sodanige lid gelewer) wat die Minister met die instemming van die Minister van Finansies bepaal.

(4) Die adviserende komitee kan eis dat statistieke, boeke, rekenings of ander stukke van die MVO-fonds aan hom voorgelê word ten einde dit te ondersoek of uittreksels daaruit of afskrifte daarvan te maak.

(5) Die adviserende komitee stel na die dertigste dag van April elke jaar 'n verslag op oor al die sake waarmee in die loop van die jaar gehandel is en lê dit aan die Minister voor, wat dit in die Parlement ter Tafel lê.

(6) Die bestuurder van die MVO-fonds moet al die persone verskaf wat nodig is om alle sekretariële en administratiewe werk wat voortspruit uit die verrigting van die werksaamhede van die adviserende komitee te onderneem.

Aanspreeklikheid van MVO-fonds en benoemde agent.

8. (1) Die MVO-fonds of sy benoemde agent, na gelang van die geval, is, behoudens die bepalings van hierdie Wet en op die voorgeskrewe voorwaardes, verplig om enigeen wie ook al (in hierdie Wet die derde party genoem) te vergoed vir verlies of skade wat hy gely het as gevolg van—

(a) enige liggaamlike besering van homself;

(b) die dood of liggaamlike besering van iemand anders,

wat in die een sowel as die ander geval veroorsaak is deur of voortvloei uit die bestuur van 'n motorvoertuig deur wie ook al op enige plek in die Republiek, indien die besering of dood te wyte is aan die nalatigheid of 'n ander onregmatige daad van die persoon wat die motorvoertuig bestuur het (in hierdie Wet die bestuurder genoem) of van die eienaar van die motorvoertuig of sy werknemer in die uitvoering van sy plig.

(2) Die bepalings van subartikel (1) is ook van toepassing ten opsigte van verlies of skade wat veroorsaak is of voortvloei uit die bestuur van 'n motorvoertuig in 'n gebied wat deel van die Republiek uitgemaak het en ingevolge 'n Parlementswet 'n onafhanklike staat geword het, indien daar 'n ooreenkoms tussen die Regering van die Republiek en die regering van die betrokke staat aangegaan is of word, waarvolgens die MVO-fonds of sy benoemde agent aanspreeklikheid aanvaar om die bepalings van subartikel (1) in daardie gebied toe te pas vir 'n tydperk soos ooreengekom.

(3) Geen rente is betaalbaar op die bedrag van skadevergoeding wat 'n hof uit hoofde van die bepalings van subartikel (1) aan 'n derde party toeken nie, tensy 14 dae verloop het vanaf die datum van die hof se tersaaklike bevel.

(4) By die uitreiking van 'n kostebevel by bedoelde toekenning, kan die hof enige skriftelike aanbod tot skikking van die betrokke eis teen hom deur die MVO-fonds of sy benoemde agent gedoen voor die tersaaklike dagvaarding aan hom beteken is, in aanmerking neem.

(5) Waar 'n eis om skadevergoeding kragtens subartikel (1)—

(a) 'n eis om die koste van die toekomstige huisvesting van iemand in 'n hospitaal of verpleeginrigting of behandeling van of lewering van 'n diens of verskaffing van goedere aan hom insluit, is die MVO-fonds of sy benoemde agent geregtig om, nadat hy 'n onderneming te

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(e) one person to represent the Actuarial Society of South Africa;

(f) one person to represent the Automobile Association of South Africa;

(g) one person to represent the Association of Law Societies of South Africa;

(h) one person to represent the Southern African Bus Operators Association, the Public Carriers Association, the National Association for Private Transport Operators and the Passenger Transport Association; and

(i) the manager of the MVA Fund.

(3) A member of the advisory committee shall be appointed for a period of two years and on such conditions (including conditions relating to the allowances, if any, payable to him in respect of services rendered by him as such a member) as the Minister may determine with the concurrence of the Minister of Finance.

(4) The advisory committee may demand the production to it of statistics, books, accounts or other documents of the MVA Fund for the purpose of examination or making extracts therefrom or copies thereof.

(5) The advisory committee shall after the thirtieth day of April in each year prepare a report on all matters dealt with during the preceding year and submit it to the Minister, who shall lay it upon the Table in Parliament.

(6) The manager of the MVA Fund shall provide all such persons as may be necessary to undertake all secretarial and administrative work arising out of the performance of the functions of the advisory committee.

Liability of MVA Fund and appointed agent.

8. (1) The MVA Fund or its appointed agent, as the case may be, shall, subject to the provisions of this Act and on the prescribed conditions, be obliged to compensate any person whomsoever (in this Act called the third party) for any loss or damage which the third party has suffered as a result of—

(a) any bodily injury to himself;

(b) the death of or any bodily injury to any person,

in either case caused by or arising out of the driving of a motor vehicle by any person whomsoever at any place in the Republic, if the injury or death is due to the negligence or other unlawful act of the person who drove the motor vehicle (in this Act called the driver) or of the owner of the motor vehicle or his servant in the execution of his duty.

(2) The provisions of subsection (1) also apply in respect of loss or damage resulting from or arising out of the driving of a motor vehicle in a territory which formed part of the Republic and became an independent state in terms of a law passed by Parliament, if an agreement has been or is entered into between the Government of the Republic and the government of the state concerned, in accordance with which the MVA Fund or its appointed agent acccepts liability to apply the provisions of subsection (1) in that territory for a period as agreed upon.

(3) No interest shall be payable on the amount of any compensation which a court awards to any third party by virtue of the provisions of subsection (1), unless 14 days have elapsed from the date of the court's relevant order.

(4) In issuing any order as to costs on making such award, the court may take into consideration any written offer in settlement of the claim concerned against it or him, made by the MVA Fund or its appointed agent before the relevant summons was served on it or him.

(5) 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, the MVA Fund or its appointed agent shall be entitled, after furnishing the third party con-

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dien effekte aan die betrokke derde party verstrek het of 'n bevoegde hof hom gelas het om sodanige ooreenkoms te verstrek, die derde party weens genoemde koste te vergoed nadat die koste aangegaan is en by bewys daarvan;

(b) 'n eis om toekomstige verlies aan inkomste of van onderhoud insluit, is die MVO-fonds of sy benoemde agent geregtig om, nadat hy 'n onderneming te dien effekte aan die betrokke derde party verstrek het of 'n bevoegde hof hom gelas het om sodanige ooreenkoms te verstrek, die bedrag deur hom ten opsigte van genoemde verlies betaalbaar, paaiementsgewys soos ooreengekom, te betaal.

(6) Waar 'n derde party op vergoeding ingevolge hierdie artikel geregtig is en koste aangegaan het ten opsigte van huisvesting van hom of iemand anders in 'n hospitaal of verpleeginrigting of die behandeling van of 'n diens gelewer of goedere verskaf aan hom of iemand anders, kan die persoon wat die huisvesting of behandeling voorsien het of die diens gelewer of die goedere verskaf het (in hierdie geval die verskaffer genoem) die bedrag direk van die MVO-fonds of die benoemde agent, na gelang van die geval, eis op 'n voorgeskrewe vorm, en so 'n eis is *mutatis mutandis* onderworpe aan die bepalings van toepassing op die betrokke derde party se eis.

(7) Die MVO-fonds of sy benoemde agent met die goedkeuring van die MVO-fonds kan 'n voorskot op die bedrag wat ingevolge subartikel (1) ten opsigte van mediese koste en verlies aan inkomste aan die eiser toegeken staan te word aan die eiser betaal.

Aanspreeklikheid beperk in sekere gevalle.

9. (1) Die aanspreeklikheid van die MVO-fonds of 'n benoemde agent, na gelang van die geval, in verband met een enkele voorval om 'n derde party te vergoed vir verlies of skade in artikel 8 bedoel wat die gevolg is van liggaamlike besering of die dood van iemand wat ten tyde van die gebeurtenis wat daardie besering of dood veroorsaak het in of op die betrokke motorvoertuig vervoer is, is, behalwe waar die betrokke persoon in of op die betrokke motorvoertuig vervoer is gedurende 'n tydperk waarin hy ingevolge die Verdedigingswet, 1957 (Wet No. 44 van 1957), militêre diens verrig het of militêre opleiding ondergaan het en terwyl hy in 'n uniform van die Suid-Afrikaanse Weermag geklee was, beperk—

(a) tot die som van R25 000 vir die liggaamlike besering of dood van een sodanige persoon wat ten tyde van die voorval wat daardie besering of dood veroorsaak het, vervoer is—

(i) teen vergoeding; of

(ii) in die loop van die besigheid van die eienaar van daardie motorvoertuig; of

(iii) in die geval van 'n werknemer van die bestuurder of eienaar van daardie motorvoertuig ten opsigte van wie subartikel (2) nie van toepassing is nie, in die loop van sy diens; of

(iv) vir die doeleindes van 'n saamryklub waar daardie motorvoertuig 'n motor is; of

(b) in die geval van 'n persoon wat in of op die betrokke motorvoertuig vervoer is onder ander omstandighede as die omstandighede bedoel in paragraaf *(a)*, tot die som van R25 000 ten opsigte van verlies aan inkomste of van onderhoud en die koste van huisvesting in 'n hospitaal of verpleeginrigting, behandeling, die lewering van 'n diens en die verskaffing van goedere wat voortspruit uit die liggaamlike besering of dood van een sodanige persoon, sonder betaling van vergoeding ten opsigte van enige ander verlies of skade,

dog buiten die koste van invordering van bedoelde skadevergoeding.

(2) Waar die in artikel 8 bedoelde verlies of skade gely word as gevolg van die liggaamlike besering of dood van 'n werk-

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cerned with an undertaking to that effect or a competent court has directed the MVA Fund or its appointed 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 MVA Fund or its appointed agent shall be entitled, after furnishing the third party in question with an undertaking to that effect or a competent court has directed the MVA Fund or its appointed agent to furnish such undertaking, to pay the amount payable by it or him in respect of the said loss, by instalments as agreed upon.

(6) Where a third party is entitled to compensation in terms of this section and has incurred costs in respect of accommodation of himself or any other person in a hospital or nursing home or the treatment of or any service rendered or goods supplied to himself or any other person, the person who provided the accommodation or treatment or rendered the service or supplied the goods (in this case called the supplier) may claim the amount direct from the MVA Fund or the appointed agent, as the case may be, on a prescribed form, and such a claim shall be subject, *mutatis mutandis*, to the provisions applicable to the claim of the third party concerned.

(7) The MVA Fund or its appointed agent with the approval of the MVA Fund may make an advance payment to the claimant out of the amount to be awarded in terms of subsection (1) to the claimant in respect of medical costs and loss of income.

Liability limited in certain cases.

9. (1) The liability of the MVA Fund or the appointed agent, as the case may be, in connection with any one occurrence to compensate a third party for any loss or damage contemplated in section 8 which is the result of any bodily injury to or the death of any person who, at the time of the occurrence which caused that injury or death, was being conveyed in or on the motor vehicle concerned, shall be limited, except where the person concerned was conveyed in or on the motor vehicle concerned during a period in which he rendered military service or underwent military training in terms of the Defence Act, 1957 (Act No. 44 of 1957), and while dressed in a uniform of the South African Defence Force—

(a) to the sum of R25 000 in respect of any bodily injury to or death of any one such person who at the time of the occurrence which caused that injury or death was being conveyed in the motor vehicle in question—

(i) for reward; or

(ii) in the course of the business of the owner of that motor vehicle; or

(iii) in the case of an employee of the driver or owner of that motor vehicle, in respect of whom subsection (2) does not apply, in the course of his employment; or

(iv) for the purposes of a lift club where that motor vehicle is a motor car; or

(b) in the case of a person who was being conveyed in the motor vehicle concerned under circumstances other than the circumstances referred to in paragraph *(a)*, to the sum of R25 000 in respect of loss of income or of support and the costs of accommodation in a hospital or nursing home, treatment, the rendering of a service and the supplying of goods resulting from bodily injury to or the death of one such person, excluding the payment of compensation in respect of any other loss or damage,

but exclusive of the cost of recovering the said compensation.

(2) Where the loss or damage contemplated in section 8 is suffered as a result of bodily injury to or the death of an employee

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nemer van die bestuurder of eienaar van die betrokke motorvoertuig en die derde party op skadeloosstelling ingevolge die Ongevallewet, 1941 (Wet No. 30 van 1941), ten opsigte van bedoelde besering of dood geregtig is—

(a) is die aanspreeklikheid van die MVO-fonds of 'n benoemde agent, na gelang van die geval, ten opsigte van die liggaamlike besering of dood van een sodanige werknemer beperk in totaal tot die som wat die verskil uitmaak tussen die bedrag wat daardie derde party van die benoemde agent sou kon eis as dit nie vir die bepalings van hierdie paragraaf was nie of die bedrag van R25 000 (watter ook al die minste is) en enige mindere bedrag waarop daardie derde party by wyse van skadeloosstelling ingevolge genoemde Wet geregtig is; en

(b) is 'n benoemde agent nie ingevolge genoemde Wet vir die bedrag van die skadeloosstelling waarop so 'n derde party kragtens die bepalings daarvan geregtig is, aanspreeklik nie,

sonder dat enige aanspreeklikheid van die benoemde agent om koste in 'n regsgeding teen hom toegeken, te betaal, egter deur die bepalings van hierdie subartikel geraak word.

Aanspreeklikheid uitgesluit in sekere gevalle.

10. 'n Benoemde agent is nie verplig om iemand ingevolge artikel 8 vir verlies of skade te vergoed nie—

(a) waarvoor nòg die bestuurder nòg die eienaar van die betrokke motorvoertuig aanspreeklik sou gewees het indien artikel 12 nie aangeneem was nie; of

(b) wat gely is as gevolg van die liggaamlike besering of dood van iemand wat ten tyde van die voorval wat daardie besering of dood veroorsaak het—

(i) teen vergoeding vervoer is in of op 'n motorvoertuig wat 'n motorfiets is; of

(ii) 'n persoon bedoel in artikel 9 (1) *(b)* is en 'n lid is van die huishouding, of regtens verantwoordelik is vir die onderhoud, van die bestuurder van die betrokke motorvoertuig, en in of op die betrokke motorvoertuig vervoer is; of

(c) wat gely is as gevolg van die liggaamlike besering of die dood van 'n lid van die Suid-Afrikaanse Polisie, die Suid-Afrikaanse Weermag of die Suid-Afrikaanse Spoorwegpolisiemag wat veroorsaak is deur of voortspruit uit die bestuur van 'n motorvoertuig waarin die lid in die loop van sy diens vervoer is en wat die eiendom van die Suid-Afrikaanse Polisie, die Suid-Afrikaanse Weermag of die Suid-Afrikaanse Vervoerdienste is; of

(d) indien die betrokke eis om skadevergoeding nie deur die eiser, of ten behoewe van die eiser deur—

(i) iemand wat geregtig is om as prokureur in die Republiek te praktiseer; of

(ii) iemand wat in diens is, of wat 'n verteenwoordiger is, van 'n staat of regering of 'n provinsiale administrasie of die Administrasie van die gebied Suidwes-Afrika of 'n plaaslike owerheid,

ingestel en voortgesit is nie.

Vermoedens aangaande bestuur van motorvoertuig.

11. (1) By die toepassing van hierdie Wet word 'n motorvoertuig wat voortbeweeg word deur middel van meganiese, mense- of dierekrag of deur middel van swaartekrag of momentum, geag bestuur te word deur die persoon onder wie se beheer die voertuig is.

(2) By die toepassing van hierdie Wet word iemand wat 'n motorvoertuig op die een of ander plek geplaas of gelaat het, geag daardie motorvoertuig te bestuur terwyl dit as gevolg van swaartekrag van daardie plek wegbeweeg of terwyl dit staan op daardie plek of op 'n plek waarheen dit vanaf eersbedoelde plek as gevolg van swaartekrag beweeg het.

(3) Wanneer 'n motorvoertuig op die een of ander plek geplaas of gelaat is, word daar by die toepassing van hierdie Wet

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of the driver or owner of the motor vehicle concerned and the third party is entitled to compensation under the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), in respect of such injury or death—

(a) the liability of the MVA Fund or the appointed agent, as the case may be, in respect of the bodily injury to or the death of any one such employee shall be limited in total to the sum representing the difference between the amount which that third party could, but for the provisions of this paragraph, have claimed from the appointed agent or the amount of R25 000 (whichever is the lesser) and any lesser amount to which that third party is entitled by way of compensation under the said Act; and

(b) the appointed agent shall not be liable under the said Act for the amount of the compensation to which any such third party is entitled thereunder,

without, however, any liability of the appointed agent to pay costs awarded against him in any legal proceedings being affected by anything in this subsection contained.

Liability excluded in certain cases.

10. An appointed agent shall not be obliged to compensate any person in terms of section 8 for any loss or damage—

(a) for which neither the driver nor the owner of the motor vehicle concerned would have been liable if section 12 had not been enacted; or

(b) suffered as a result of bodily injury to or the death of any person who, at the time of the occurrence which caused that injury or death—

(i) was being conveyed for reward on a motor vehicle which is a motor cycle; or

(ii) is a person referred to in section 9 (1) *(b)* and a member of the household, or responsible in law for the maintenance, of the driver of the motor vehicle concerned, and was being conveyed in or upon the motor vehicle concerned; or

(c) suffered as a result of bodily injury to or the death of a member of the South African Police, the South African Defence Force or the South African Railways Police Force, caused by or arising from the driving of a motor vehicle in which the member was conveyed in the course of his employment and owned by the South African Police, the South African Defence Force or the South African Transport Services; or

(d) if the claim concerned has not been instituted and prosecuted by the claimant, or on behalf of the claimant by—

(i) any person entitled to practise as an attorney within the Republic; or

(ii) any person who is in the service, or who is a representative, of a state or government or a provincial administration or the Administration of the territory of South West Africa or any local authority.

Presumptions regarding driving of motor vehicle.

11. (1) For the purposes of this Act a motor vehicle which is being propelled by any mechanical, animal or human power or by gravity or momentum shall be deemed to be driven by the person in control of the vehicle.

(2) For the purposes of this Act a person who has placed or left a motor vehicle at any place shall be deemed to be driving that motor vehicle while it moves from that place as a result of gravity, or while it is stationary at that place or at a place to which it moved from the first-mentioned place as a result of gravity.

(3) Whenever any motor vehicle has been placed or left at any place, it shall, for the purposes of this Act, be presumed, until

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vermoed, totdat die teendeel bewys word, dat bedoelde motorvoertuig deur die eienaar daarvan op bedoelde plek geplaas of gelaat is.

Eis om skadevergoeding kan slegs teen MVO-fonds of benoemde agent ingestel word.

12. Wanneer 'n derde party kragtens artikel 8 geregtig is om van die MVO-fonds of sy benoemde agent skadevergoeding te eis vir verlies of skade wat die gevolg is van iemand se liggaamlike besering of dood wat veroorsaak is deur of voortvloei uit die bestuur van 'n motorvoertuig deur die eienaar daarvan of deur iemand anders met toestemming van die eienaar, is daardie derde party nie geregtig om van die eienaar of van die persoon wat die voertuig aldus bestuur het of, indien daardie persoon die voertuig as werknemer in die uitvoering van sy pligte bestuur het, van sy werkgewer skadevergoeding vir daardie verlies of skade te eis nie tensy die MVO-fonds of sy benoemde agent nie in staat is om die skadevergoeding te betaal nie.

Verstrekking van inligting aan MVO-fonds of benoemde agent en derde party.

13. (1) Wanneer as gevolg van die bestuur van 'n motorvoertuig iemand anders as die bestuurder van daardie motorvoertuig gedood of beseer is, moet die eienaar en die bestuurder, indien hy nie die eienaar is nie, van die motorvoertuig (indien redelikerwys moontlik, binne 14 dae na die voorval) aan 'n benoemde agent of die MVO-fonds, na gelang van die geval, op die voorgeskrewe vorm besonderhede van die voorval, asook die voorgeskrewe verklarings, verstrek.

(2) Iemand wat versuim om aan 'n bepaling van subartikel (1) te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R200, tensy hy nie in staat is om aan die betrokke bepaling te voldoen nie en sy onvermoë nie aan sy eie daad of versuim te wyte is nie.

(3) Die benoemde agent moet binne 14 dae nadat die derde party aan die bepalings van artikel 15 (2) *(b)* voldoen het 'n afskrif van die inligting en verklarings wat bedoelde eienaar of bestuurder ingevolge subartikel (1) van hierdie artikel verstrek het, asook alle verklarings wat van getuies van die voorval verkry is, aan die derde party of sy agent verstrek.

(4) Iemand wat vals inligting verstrek in verband met 'n uitkenningsteken wat ingevolge artikel 2 (1) uitgereik is en ten tyde van 'n voorval waaruit 'n eis ingevolge artikel 8 voortspruit, aan 'n motorvoertuig waarop dit betrekking het, en wat by die voorval betrokke is, geheg was, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R250.

Verjaring van eis.

14. (1) *(a)* Ondanks die bepalings van enige ander wet met betrekking tot verjaring, maar behoudens die bepalings van paragraaf *(b)* van hierdie subartikel, verjaar die reg om kragtens artikel 8 van 'n benoemde agent skadevergoeding te eis ten opsigte van eise in artikel 6 (1) *(a)* (i) bedoel, na die verloop van 'n tydperk van twee jaar vanaf die datum waarop die eis ontstaan het: Met dien verstande dat verjaring opgeskort word gedurende die tydperke vermeld in subartikel (2) van hierdie artikel en artikel 15 (2).

(b) Verjaring van 'n eis om skadevergoeding kragtens artikels 6 (1) *(a)* en 8 loop nie teen—

(i) 'n minderjarige nie;

(ii) iemand wat as 'n pasiënt ingevolge die bepalings van die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973), aangehou word nie; of

(iii) 'n persoon onder kuratele nie.

(2) Indien 'n benoemde agent nie binne 60 dae van die ontvangs van 'n eis soos uiteengesit in artikel 15 (1) beswaar teen die geldigheid daarvan maak nie word verjaring, ondanks die bepalings van subartikel (1), gestuit tot na die verstryking van 'n tydperk van 90 dae vanaf die datum waarop die agent deur middel van 'n kennisgewing wat per geregistreerde pos of per hand aan die eiser of sy verteenwoordiger afgelewer is—

(a) aanspreeklikheid ontken; of

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the contrary is proved, that such vehicle was placed or left at such place by the owner of such vehicle.

Claim for compensation lies against MVA Fund or appointed agent only.

12. When a third party is entitled under section 8 to claim from the MVA Fund or its appointed agent any compensation in respect of any loss or damage resulting from any bodily injury to or the death of any person caused by or arising out of the driving of a motor vehicle by the owner thereof or by any other person with the consent of the owner, that third party shall not be entitled to claim compensation in respect of that loss or damage from the owner or from the person who so drove the vehicle, or if that person drove the vehicle as a servant in the execution of his duty, from his employer, unless the MVA Fund or its appointed agent is unable to pay the compensation.

Submission of information to MVA Fund or appointed agent and third party.

13. (1) When, as the result of the driving of a motor vehicle, any person other than the driver of that motor vehicle has been killed or injured, the owner and the driver, if he is not the owner, of the motor vehicle shall (if reasonably possible, within 14 days after the occurrence) furnish an appointed agent or the MVA Fund, as the case may be, on the prescribed form with particulars of the occurrence and also the prescribed statements.

(2) Any person who fails to comply with any provision of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R200, unless he is unable to comply with the provision concerned and his inability is not due to his own action or default.

(3) The appointed agent shall within 14 days after the third party has complied with the provisions of section 15 (2) *(b)*, furnish the third party or his agent with a copy of the information and statements which the said owner or driver furnished in terms of subsection (1) of this section, as well as all statements which were obtained from witnesses to the occurrence.

(4) Any person who furnishes false information in connection with a token of identification issued in terms of section 2 (1) and attached, at the time of an occurrence out of which a claim in terms of section 8 arises, to a motor vehicle to which it relates and which is involved in that occurrence, shall be guilty of an offence and liable on conviction to a fine not exceeding R250.

Prescription of claim.

14. (1) *(a)* Notwithstanding the provisions of any other law relating to prescription, but subject to the provisions of paragraph *(b)* of this subsection, the right to claim compensation under section 8 from an appointed agent in respect of claims referred to in section 6 (1) *(a)* (i) shall become prescribed upon the expiration of a period of two years from the date upon which the claim arose: Provided that prescription shall be suspended during the periods referred to in subsection (2) of this section and section 15 (2).

(b) Prescription of a claim for compensation under sections 6 (1) *(a)* and 8 shall not run against—

(i) a minor;

(ii) any person detained as a patient in terms of the provisons of the Mental Health Act, 1973 (Act No. 18 of 1973); or

(iii) a person under curatorship.

(2) If an appointed agent does not within 60 days after receipt of a claim as set out in section 15 (1) object to the validity thereof, prescription shall, notwithstanding the provisions of subsection (1), be interrupted until after the expiration of a period of 90 days from the date on which the appointed agent delivers to the claimant or his representative per registered post or by hand a notice to—

(a) repudiate liability; or

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(b) 'n aanbod ter skikking van die eis aan die eiser of sy verteenwoordiger doen.

(3) Indien 'n derde party se eis om skadevergoeding ingevolge subartikel (1) van hierdie artikel verjaar het en 'n hof wat met betrekking tot daardie eis bevoeg is, op aansoek deur die betrokke derde party oortuig is—

(a) waar die eis verjaar het voordat die derde party aan die bepalings van artikel 15 (1) voldoen het, dat daar op grond van spesiale omstandighede nie redelikerwys van hom of, indien hy iemand anders opdrag gegee het om namens hom aan daardie bepalings te voldoen, van so iemand verwag kon word om voor die datum waarop die eis verjaar het, aan genoemde bepalings te voldoen nie; of

(b) waar die eis verjaar het nadat hy aan genoemde bepalings voldoen het, dat daar op grond van spesiale omstandighede nie redelikerwys van hom of, indien hy iemand anders opdrag gegee het om namens hom in dié verband op te tree, van so iemand verwag kon word om prosesstukke waardeur die loop van die verjaring gestuit kon word, voor daardie datum aan die benoemde agent te beteken nie; en

(c) dat die benoemde agent nie bereid is om van sy reg om hom op die verjaring te beroep, afstand te doen nie,

kan die hof aan die derde party verlof verleen om voor 'n datum deur die hof bepaal aan genoemde bepalings te voldoen en prosesstukke in 'n geding om die eis af te dwing, ooreenkomstig die bepalings van artikel 15 (2) aan die benoemde agent te beteken, of, na gelang van die geval, om sodanige prosesstukke voor 'n aldus bepaalde datum aan die benoemde agent te beteken.

(4) Die hof staan nie 'n aansoek in subartikel (3) bedoel toe nie tensy—

(a) die aansoek binne 'n tydperk van 90 dae na die datum waarop die eis ingevolge subartikel (1) verjaar het, gedoen word; en

(b) die derde party ten genoeë van die hof sekerheid gestel het vir die koste van die benoemde agent in verband met die aansoek.

(5) 'n Pleit van verjaring ingevolge subartikel (1) word nie in 'n geding gehandhaaf waarin die tersaaklike prosesstukke uit hoofde van verlof kragtens subartikel (3) verleen, aan die benoemde agent beteken is nie.

(6) Ondanks die bepalings van artikel 8 van die Ongevallewet, 1941 (Wet No. 30 van 1941), word 'n reg kragtens subartikel (1) (b) van daardie artikel om 'n bedrag te verhaal wat ingevolge daardie Wet in ander omstandighede as dié in artikel 9 (2) van hierdie Wet genoem aan 'n derde party betaal moet word, by die toepassing van subartikel (1) (met uitsluiting van die voorbehoudsbepaling) en subartikel (3) van hierdie artikel geag 'n reg te wees om skadevergoeding kragtens artikel 8 van hierdie Wet te eis wat op dieselfde dag ontstaan as die eis van bedoelde derde party kragtens laasgenoemde artikel: Met dien verstande dat indien die verhaal van so 'n bedrag ingevolge hierdie subartikel belet is, skadevergoeding wat daarna ingevolge hierdie Wet aan die derde party toegeken word, met die betrokke bedrag verminder moet word.

Prosedure.

15. (1) 'n Eis om skadevergoeding kragtens artikel 8 moet—

(a) op die voorgeskrewe wyse uiteengesit word op 'n voorgeskrewe vorm wat ook voorsiening moet maak vir 'n mediese verslag of verslae, deur die voorgeskrewe persoon of persone ingevul, in verband met die oorsaak van die dood of die aard en behandeling van die liggaamlike besering ten opsigte waarvan die eis ingestel word en vir die voorgeskrewe stawende bewyse en besonderhede;

(b) per geregistreerde pos gestuur of per hand afgelewer word, by sy geregistreerde kantoor of plaaslik takkantoor, aan die benoemde agent wat die uitkenningsteken wat aan die betrokke motorvoertuig geheg was, uitge-

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(*b*) convey an offer of settlement of the claim to the claimant or his representative.

(3) If a third party's claim for compensation has become prescribed under subsection (1) of this section and a court having jurisdiction in respect of such claim is satisfied, upon application by the third party concerned—

(*a*) where the claim became prescribed before compliance by the third party with the provisions of section 15 (1), that by reason of special circumstances he or, if he instructed any other person to comply with those provisions on his behalf, such person could not reasonably have been expected to comply with the said provisions before the date on which the claim became prescribed; or

(*b*) where the claim became prescribed after compliance by him with the said provisions, that by reason of special circumstances he or, if he instructed any other person to act on his behalf in this connection, such person could not reasonably have been expected to serve any process by which the running of prescription could have been interrupted, on the appointed agent before that date; and

(*c*) that the appointed agent is not prepared to waive its right to invoke the prescription,

the court may grant leave to the third party to comply with the said provisions and serve process in any action for enforcement of the claim on the appointed agent in accordance with the provisions of section 15 (2) before a date determined by the court, or, as the case may be, to serve such process on the appointed agent before a date so determined.

(4) The court shall not grant an application referred to in subsection (3) unless—

(*a*) the application is made within a period of 90 days after the date on which the claim became prescribed in terms of subsection (1); and

(*b*) the third party has given security to the satisfaction of the court for the costs of the appointed agent in connection with the application.

(5) A plea of prescription in terms of subsection (1) shall not be upheld in any action in which the relevant process was served on the appointed agent by virtue of leave granted under subsection (3).

(6) Notwithstanding the provisions of section 8 of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), any right under subsection (1) (*b*) of that section to recover an amount which under that Act is required to be paid to a third party in circumstances other than those mentioned in section 9 (2) of this Act, shall for the purposes of subsection (1) (excluding the proviso) and subsection (3) of this section be deemed to be a right to claim compensation under section 8 of this Act arising on the same date as the claim of such third party under the last-mentioned section: Provided that if the recovery of any such amount has been debarred under this subsection, any compensation thereafter awarded to the third party under this Act shall be reduced by the amount concerned.

Procedure.

15. (1) A claim for compensation under section 8 shall—

(*a*) be set out in the prescribed manner on a prescribed form which shall include provision for a medical report or reports, completed by the prescribed person or persons, in regard to the cause of the death or the nature and treatment of the bodily injury in connection with which the claim is instituted and for the prescribed supporting proof and particulars;

(*b*) be sent by registered post or delivered by hand, at his registered office or local branch office, to the appointed agent who issued the token of identification attached to the vehicle concerned or the appointed agent who in

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reik het of wat ingevolge die regulasies sodanige eis moet hanteer, en wat in die geval van aflewering per hand, die ontvangs van die eis en die datum van die ontvangs ten tyde van die aflewering skriftelik moet erken.

(2) So 'n eis kan nie afgedwing word nie deur middel van 'n regsgeding wat ingestel is deur 'n dagvaarding wat aan die benoemde agent beteken is—

(a) voor die verstryking van 'n tydperk van 90 dae van die datum waarop die eis ooreenkomstig subartikel (1) aan die benoemde agent gestuur of per hand afgelewer is, na gelang van die geval; en

(b) voordat aan die voorgeskrewe vereistes van die benoemde agent voldoen is:

Met dien verstande dat indien die benoemde agent voor die verstryking van genoemde tydperk aanspreeklikheid vir die eis skriftelik ontken, die eiser te eniger tyd na bedoelde ontkenning 'n dagvaarding aan die benoemde agent kan beteken.

(3) 'n Aksie om so 'n eis af te dwing, kan ingestel word in enige hof wat andersins bevoeg is en in wie se regsgebied die voorval wat die besering of dood veroorsaak het, plaasgevind het.

Benoemde agent se verhaalreg.

16. Wanneer 'n benoemde agent ingevolge artikel 8 skadevergoeding betaal het, kan hy onder die voorgeskrewe omstandighede sonder dat hy 'n formele sessie van die aksiereg verkry het, op die eienaar van die betrokke motorvoertuig, of op enigeen wie se nalatigheid of ander onregmatige daad die verlies of skade veroorsaak het, soveel van die bedrag verhaal wat hy as skadevergoeding betaal het, as wat die betrokke derde party, as dit nie vir die bepalings van artikel 12 was nie, op die eienaar of die persoon wie se nalatigheid of ander onregmatige daad die verlies of skade veroorsaak het, na gelang van die geval, sou kon verhaal het as die benoemde agent geen sodanige skadevergoeding betaal het nie.

Regulasies.

17. (1) Die Minister kan regulasies uitvaardig aangaande—

(a) aangeleenthede ten opsigte waarvan statistieke deur benoemde agente gehou moet word, die wyse waarop sodanige statistieke saamgestel moet word en die verstrekking van inligting in verband daarmee;

(b) enige aangeleentheid wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word;

(c) in die algemeen, enige aangeleentheid wat hy nodig of dienstig ag om voor te skryf ten einde die oogmerke van hierdie Wet te bereik of te bevorder.

(2) 'n Regulasie kragtens subartikel (1) uitgevaardig, kan vir 'n oortreding van die bepalings daarvan of 'n versuim om aan die bepalings daarvan te voldoen, strawwe voorskryf wat nie 'n boete van R500 of gevangenisstraf vir 'n tydperk van drie maande oorskry nie.

Toepassing van Wet in Suidwes-Afrika.

18. Hierdie Wet en 'n wysiging daarvan is ook van toepassing in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel.

Herroeping en wysiging van wette.

19. Behoudens die bepalings van artikel 20 word die wette in die Bylae vermeld, hierby herroep of gewysig in die mate in die derde kolom van die Bylae aangedui.

Voorbehoude.

20. Behoudens die bepalings van artikel 3 (3)—

(a) is die bepalings van hierdie Wet nie met betrekking tot 'n eis om skadevergoeding wat voor die inwerkingtreding van hierdie Wet kragtens 'n wet by artikel 19 herroep, ontstaan het, van toepassing nie, en word daar met so 'n eis gehandel asof hierdie Wet nie aangeneem was nie; en

(b) bly die aanspreeklikheid vir alle ooreenkomste en ondernemings aangegaan deur—

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terms of the regulations must handle the claim, and who shall, in the case of delivery by hand, at the time of the delivery acknowledge receipt thereof and the date of such receipt in writing.

(2) No such claim shall be enforceable by legal proceedings commenced by a summons served on the appointed agent—

(a) before the expiration of a period of 90 days as from the date on which the claim was sent or delivered by hand, as the case may be, to the appointed agent as provided for in subsection (1); and

(b) before all the prescribed requirements of the appointed agent have been complied with:

Provided that if the appointed agent repudiates in writing liability for the claim before the expiration of the said period, the claimant may at any time after such repudiation serve summons on the appointed agent.

(3) An action to enforce such a claim may be brought in any court of otherwise competent jurisdiction within whose area of jurisdiction the occurrence which caused the injury or death took place.

Appointed agent's right of recourse.

16. When an appointed agent has paid any compensation under section 8 he may, under the prescribed circumstances, without having obtained a formal cession of the right of action, recover from the owner of the motor vehicle concerned or from any person whose negligence or other unlawful act caused the loss or damage concerned, so much of the amount paid by way of compensation as the third party concerned could, but for the provisions of section 12, have recovered from the owner or from the person whose negligence or other unlawful act caused the loss or damage, as the case may be, if the appointed agent had not paid any such compensation.

Regulations.

17. (1) The Minister may make regulations as to—

(a) matters in respect of which statistics are to be kept by appointed agents, the manner in which such statistics shall be compiled and the furnishing of information in connection therewith;

(b) any matter which in terms of this Act is required or permitted to be prescribed by regulation;

(c) in general, any matter which he may consider necessary or expedient to prescribe in order to attain or promote the objects of this Act.

(2) A regulation made under subsection (1) may prescribe penalties not exceeding a fine of R500 or not exceeding imprisonment for a period of three months, for any contravention of or failure to comply with its provisions.

Application of Act in South West Africa.

18. This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.

Repeal and amendment of laws.

19. Subject to the provisions of section 20, the laws mentioned in the Schedule are hereby repealed or amended to the extent indicated in the third column of the Schedule.

Savings.

20. Subject to the provisions of section 3 (3)—

(a) the provisions of this Act shall not apply with reference to a claim for compensation which arose prior to the commencement of this Act under a law repealed by section 19, and any such claim shall be dealt with as if this Act had not been passed; and

(b) the liability for all agreements and undertakings concluded by—

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(i) die Motorvoertuigassuransiefonds ingevolge 'n wet by artikel 19 herroep; of

(ii) bevoegde versekeraars ingevolge artikel 21 (1C) van die Wet op Verpligte Motorvoetuigversekering, 1972 (Wet No. 56 van 1972),

waar toepaslik van krag asof hierdie Wet nie aangeneem was nie.

Kort titel en inwerkingtreding.

21. Hierdie Wet heet die Motorvoertuigongelukkewet, 1986, en word geag op 1 Mei 1986 in werking te getree het.

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(i) the Motor Vehicle Assurance Fund in terms of a law repealed by section 19; or

(ii) authorized insurers in terms of section 21 (1C) of the Compulsory Motor Vehicle Insurance Act, 1972 (Act No. 56 of 1972),

shall, where applicable, remain in force as if this Act had not been passed.

Short title and commencement.

21. This Act shall be called the Motor Vehicle Accidents Act, 1986, and shall be deemed to have come into operation on 1 May 1986.

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Bylae

No. en jaar van wet	Titel	In hoeverre herroep of gewysig
Wet No. 56 van 1972 ...	Wet op Verpligte Motorvoertuigversekering, 1972	Die herroeping in geheel
Wet No. 22 van 1974 ...	Wysigingswet op Verpligte Motorvoertuigversekering, 1974	Die herroeping in geheel
Wet No. 94 van 1974 ...	Tweede Algemene Regswysigingswet, 1974	Die herroeping van artikel 50
Wet No. 87 van 1976 ...	Wysigingswet op Verpligte Motorvoertuigversekering, 1976	Die herroeping in geheel
Wet No. 69 van 1978 ...	Wysigingswet op Verpligte Motorvoertuigversekering, 1978	Die herroeping in geheel
Wet No. 23 van 1980 ...	Wysigingswet op Verpligte Motorvoertuigversekering, 1980	Die herroeping in geheel
Wet No. 2 van 1982	Wysigingswet op Verpligte Motorvoertuigversekering, 1982	Die herroeping in geheel
Wet No. 4 van 1983	Wysigingswet op Verpligte Motorvoertuigversekering, 1983	Die herroeping in geheel
Wet No. 9 van 1972	Wet op Nasionale Verkeersveiligheid, 1972 ...	*(a)* Die wysiging van artikel 1 deur die omskrywing van "heffing" te skrap; en *(b)* die vervanging van artikel 25 deur die volgende artikel: "Betaling aan Raad. **25.** (1) Die bestuurder van die Motorvoertuigongelukkefonds ingestel by artikel 3 van die Motorvoertuigongelukkewet, 1986, laat een maal per maand die bedrag aan die Raad oorbetaal wat van tyd tot tyd deur die Minister bepaal word na oorlegpleging met die Raad en die Minister van Mineraal- en Energiesake. (2) Die bedrag ingevolge subartikel (1) bepaal, word verkry by wyse van 'n heffing op brandstof en is bykomend by die fondse wat genoemde Motorvoertuigongelukkefonds vir sy doeleindes nodig het.".

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Schedule

No. and year of law	Title	Extent of repeal or amendment
Act No. 56 of 1972	Compulsory Motor Vehicle Insurance Act, 1972	The repeal of the whole
Act No. 22 of 1974	Compulsory Motor Vehicle Insurance Amendment Act, 1974	The repeal of the whole
Act No. 94 of 1974	Second General Law Amendment Act, 1974	The repeal of section 50
Act No. 87 of 1976	Compulsory Motor Vehicle Insurance Amendment Act, 1976	The repeal of the whole
Act No. 69 of 1978	Compulsory Motor Vehicle Insurance Amendment Act, 1978	The repeal of the whole
Act No. 23 of 1980	Compulsory Motor Vehicle Insurance Amendment Act, 1980	The repeal of the whole
Act No. 2 of 1982	Compulsory Motor Vehicle Insurance Amendment Act, 1982	The repeal of the whole
Act No. 4 of 1983	Compulsory Motor Vehicle Insurance Amendment Act, 1983	The repeal of the whole
Act No. 9 of 1972	National Road Safety Act, 1972	*(a)* The amendment of section 1 by the deletion of the definition of "levy"; and *(b)* the substitution for section 25 of the following section: "Payment to Council. **25.** (1) The manager of the Motor Vehicle Accident Fund established by section 3 of the Motor Vehicle Accidents Act, 1986, shall cause such amount as may be determined from time to time by the Minister after consultation with the Council and the Minister of Mineral and Energy Affairs, to be paid once monthly to the Council. (2) The amount determined in terms of subsection (1) shall be obtained by means of a levy on fuel and shall be additional to the funds required by the said Motor Vehicle Accident Fund for its own purposes.".

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