



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

ACT

To provide for the establishment of the Road Accident Fund and to provide for matters connected therewith.

STAATSKOERANT

(English text issued by the President)
Assented to 24 October 1996

VAN DIE REPUBLIEK VAN SUID-AFRIKA

BEIT ENACTED by the Parliament of the Republic of South Africa, as follows:

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PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 1756.

1 November 1996

No. 1756.

1 November 1996

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

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

No. 56 of 1996: Road Accident Fund Act, 1996.

No. 56 van 1996: Padongelukfondswet, 1996.

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.

ACT

To provide for the establishment of the Road Accident Fund; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 24 October 1996.)

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

Definitions

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

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| (i) “agent” means an agent of the Fund appointed under section 8; | 5 |
| (ii) “Board” means the Board of the Fund referred to in section 10; | (xii) |
| (iii) “Chief Executive Officer” means the Chief Executive Officer of the Fund referred to in section 12; | (viii) |
| (iv) “convey”, in relation to the conveyance of a person in or on a motor vehicle, includes— | 10 |
| (a) entering or mounting the motor vehicle concerned for the purpose of being so conveyed; and | |
| (b) alighting from the motor vehicle concerned after having been so conveyed; (xv) | |
| (v) “driver” means the driver referred to in section 17(1); | (ii) |
| (vi) “fuel” means petrol and diesel; | (iii) |
| (vii) “Fund” means the Road Accident Fund established by section 2 (1); | (vi) |
| (viii) “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 a club or other persons designated by such members to or from or to and from specified places for a specified purpose; or | 20 |
| (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 or she is the owner or they are the owners, as the case may be, convey or cause to be conveyed the members of such lift club or other persons designated by such members to or from a specific place for a specific purpose; | (xiii) |
| (ix) “Minister” means the Minister of Transport; | (ix) |

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET**Om voorsiening te maak vir die instelling van die Padongelukfonds; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

(Engelse teks deur die President geteken.)
(Goedgekeur op 24 Oktober 1996.)

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

Woordomskrywing

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

- 5 (i) “agent” ’n agent van die Fonds kragtens artikel 8 aangestel; (i)
 (ii) “bestuurder” die bestuurder in artikel 17(1) bedoel; (v)
 (iii) “brandstof” petrol en diesel; (vi)
 (iv) “derde party” die derde party in artikel 17(1) bedoel; (xv)
 (v) “eienaar”, met betrekking tot—
- 10 (a) ’n motorvoertuig wat ’n motorhandelaar in die loop van sy of haar besigheid in sy of haar besit het en wat ingevolge ’n wet met betrekking tot die lisensiering 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;
- 15 (b) ’n motorvoertuig wat deur ’n motortransportlisensiehouer in die loop van sy of haar besigheid om nuwe motorvoertuie af te lewer, vir aflewering in ontvangs geneem is en wat nog nie deur hom of haar afgelewer is nie, daardie motortransportlisensiehouer;
- 20 (c) ’n motorvoertuig wat die onderwerp van ’n afbetalingsverkooptransaksie is, die koper in die betrokke afbetalingsverkooptransaksie;
- (d) ’n motorvoertuig wat gehuur word ingevolge ’n huurooreenkoms vir ’n termyn van minstens 12 maande, die betrokke huurder; (xii)
- 25 (vi) “Fonds” die Padongelukfonds by artikel 2(1) ingestel; (vii)
 (vii) “hierdie Wet” ook ’n regulasie kragtens artikel 26 uitgevaardig; (xvi)
 (viii) “Hoof- Uitvoerende Beampte” die Hoof- Uitvoerende Beampte van die Fonds in artikel 12 bedoel; (iii)
 (ix) “Minister” die Minister van Vervoer; (ix)
 (x) “motor” ’n motorvoertuig wat vir die vervoer van hoogstens 10 persone, met inbegrip van die bestuurder, ontwerp of aangepas is; (x)
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- (x) "motor car" means a motor vehicle designed or adapted for the conveyance of not more than 10 persons, including the driver; (x)
- (xi) "motor vehicle" means any vehicle designed or adapted for propulsion or haulage on a road by means of fuel, gas or electricity, including a trailer, a caravan, an agricultural or any other implement designed or adapted to be drawn by such motor vehicle; (xi) 5
- (xii) "owner", in relation to—
- (a) a motor vehicle which a motor dealer has in his or her possession during the course of his or her 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; 10
- (b) a motor vehicle which has been received for delivery by a motor transport licence holder in the course of his or her business of delivering new motor vehicles and which has not yet been delivered by him or her, means that motor transport licence holder; 15
- (c) a motor vehicle which is the subject of an instalment sale transaction, means the purchaser in the instalment sale transaction concerned;
- (d) a motor vehicle under an agreement of lease for a period of at least 12 months, means the lessee concerned; (v) 20
- (xiii) "prescribe" means prescribe by regulation under section 26; (xvi)
- (xiv) "reward", in relation to the conveyance of any person in or on a motor vehicle, does not include any reward rendering such conveyance illegal in terms of any law relating to the control of road transportation services; (xiv) 25
- (xv) "third party" means the third party referred to in section 17(1); (iv)
- (xvi) "this Act" includes any regulation made under section 26. (vii) 25

Establishment of Fund

2. (1) There is hereby established a juristic person to be known as the Road Accident Fund.

(2) (a) Subject to section 28(1), the Multilateral Motor Vehicle Accidents Fund established by the Agreement concluded between the Contracting Parties on 14 February 1989, shall cease to exist, and all money credited to that fund immediately before the commencement of this Act shall vest in the Fund, all assets, liabilities, rights and obligations, existing as well as accruing, of the first-mentioned fund shall devolve upon the Fund, and any reference in any law or document to the said Multilateral Motor Vehicle Accidents Fund shall, unless clearly inappropriate, be construed as a reference to the Fund. 30

(b) No moneys, duties or fees of office shall be payable by the Fund in respect of any noting or endorsement or any other written alteration which may be necessary in any contract, licence, register or other document by virtue of paragraph (a). 40

Object of Fund

3. The object of the Fund shall be the payment of compensation in accordance with this Act for loss or damage wrongfully caused by the driving of motor vehicles.

Powers and functions of Fund

4. (1) The powers and functions of the Fund shall include— 45
- (a) the stipulation of the terms and conditions upon which claims for the compensation contemplated in section 3, shall be administered;
- (b) the investigation and settling, subject to this Act, of claims arising from loss or damage caused by the driving of a motor vehicle whether or not the identity of the owner or the driver thereof, or the identity of both the owner and the driver thereof, has been established; 50
- (c) the management and utilisation of the money of the Fund for purposes connected with or resulting from the exercise of its powers or the performance of its duties; and 50

- (xi) "motorvoertuig" enige voertuig wat ontwerp of aangepas is om deur middel van brandstof, gas of elektrisiteit op 'n pad voortbeweeg of getrek te word, met inbegrip van 'n sleepwa, 'n woonwa, 'n landbouwerktuig of enige ander werktuig wat ontwerp of aangepas is om deur so 'n motorvoertuig getrek te word; (xi)
- 5 (xii) "Raad" die Raad van die Fonds in artikel 10 bedoel; (ii)
- (xiii) "saamryklub" enige klub waarvan—
- (a) elke lid 'n beurt kry om die lede van sodanige klub of ander persone wat deur sodanige lede aangewys is deur middel van 'n motor na of van of na en van bepaalde plekke vir 'n bepaalde doel te vervoer of te laat vervoer; of
- 10 (b) elke lid die eienaar van 'n motor is en waarvan een of sommige van die lede met 'n motor waarvan hy of sy die eienaar is of waarvan hulle die eienaars is, na gelang van die geval, die lede van sodanige saamryklub of ander persone wat deur sodanige lede aangewys is, na of van 'n bepaalde plek vir 'n bepaalde doel vervoer of laat vervoer; (viii)
- 15 (xiv) "vergoeding", met betrekking tot die vervoer van iemand in of op 'n motorvoertuig, nie ook enige vergoeding wat sodanige vervoer onwettig maak ingevolge 'n wet in verband met die beheer van padvervoerdienste nie;
- 20 (xiv)
- (xv) "vervoer", met betrekking tot die vervoer van 'n persoon in of op 'n motorvoertuig, ook om—
- (a) in of op die betrokke motorvoertuig te klim om aldus vervoer te word; en
- 25 (b) van die betrokke motorvoertuig af te klim nadat hy of sy aldus vervoer is; (iv) en
- (xvi) "voorskryf" by regulasie kragtens artikel 26 voorskryf. (xiii)

Instelling van Fonds

2. (1) Daar word hierby 'n regs persoon ingestel wat die Padongelukfonds heet.
- 30 (2) (a) Behoudens artikel 28(1), hou die Multilaterale Motorvoertuigongelukfondse wat by die Ooreenkoms aangegaan op 14 Februarie 1989 deur die Kontrakterende Partye gestig is, op om te bestaan, en berus alle geld waarmee daardie fonds onmiddellik voor die inwerkingtreding van hierdie Wet gekrediteer is, by die Fonds, gaan alle bates, laste, regte en verpligtinge, bestaande sowel as tot stand komende, van eersgenoemde fonds op die Fonds oor, en word enige verwysing in enige wet of dokument na genoemde Multilaterale Motorvoertuigongelukfondse, tensy dit klaarblyklik onvanpas is, uitgelê as 'n verwysing na die Fonds.
- 35 (b) Geen gelde, belasting of leges word deur die Fonds betaal ten opsigte van enige aantekening of endossement of enige ander skriftelike wysiging in enige ooreenkoms, lisensie, register of ander dokument wat uit hoofde van paragraaf (a) nodig mag wees nie.
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Oogmerk van Fonds

3. Die oogmerk van die Fonds is die betaling van skadevergoeding ooreenkomstig hierdie Wet vir verlies of skade wat onregmatig veroorsaak word deur die bestuur van motorvoertuie.
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Bevoegdhede en werksaamhede van Fonds

4. (1) Die bevoegdhede en werksaamhede van die Fonds sluit in—
- (a) die bepaling van die bedinge en voorwaardes waarvolgens eise vir die skadevergoeding beoog in artikel 3 behartig word;
- 50 (b) die ondersoek en skikking, behoudens hierdie Wet, van eise wat ontstaan uit verlies of skade veroorsaak deur die bestuur van 'n motorvoertuig, hetsy die identiteit van die eienaar of die bestuurder daarvan, of die identiteit van sowel die eienaar as die bestuurder daarvan vasgestel is, al dan nie;
- (c) die bestuur en aanwending van die geld van die Fonds vir doeleindes wat in verband staan met of voortspruit uit die uitoefening van sy bevoegdhede of die verrigting van sy pligte; en
- 55

- (d) procuring reinsurance for any risk undertaken by the Fund under this Act.
- (2) In order to achieve its object, the Fund may—
- (a) purchase or otherwise acquire goods, equipment, land, buildings, shares, debentures, stock, securities and all other kinds of movable and immovable property; 5
 - (b) sell, lease, mortgage, encumber, dispose of, exchange, cultivate, develop, build upon, improve or in any other way deal with its property;
 - (c) invest any money not immediately required for the conduct of its business and realise, alter or reinvest such investments or otherwise deal with such money or investments; 10
 - (d) borrow money and secure the payment thereof in such manner as it may deem fit;
 - (e) 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; 15
 - (f) draw, draft, accept, endorse, discount, sign and issue promissory notes, bills and other negotiable or transferable instruments, excluding share certificates;
 - (g) take any other action or steps which are incidental or conducive to the exercise of its powers or the performance of its functions.
- (3) In the exercising of the powers conferred on it by this Act, the Fund may deal with any person, partnership, association; company, corporation or other juristic person wherever seated. 20

Financing of Fund

5. (1) The Fund shall procure the funds it requires to perform its functions—
- (a) by way of a fuel levy in respect of all fuel sold within the Republic; and 25
 - (b) by raising loans.
- (2) There shall be paid into the Fund monthly the amount of money by virtue of the provisions of section 1(2) (a)(ii) of the Central Energy Fund Act, 1977 (Act No. 38 of 1977), calculated for the latest month for which such amount can be calculated, and such payments shall be accompanied by statements reflecting the sale of fuel within the Republic. 30

Financial year of and budgeting for Fund

6. (1) The financial year of the Fund shall run from 1 May of any year to 30 April 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. 35
- (2) The Chief Executive Officer shall annually prepare a budget for the Fund for consideration by the Board, and the Board shall submit the budget to the Minister for approval. 40

Use of resources and facilities of Fund

7. The resources and facilities of the Fund shall be used exclusively to achieve, exercise and perform the object, powers and functions of the Fund, respectively.

Appointment of agents for Fund

8. (1) The Board may appoint agents, who shall have power—
- (a) to investigate and to settle on behalf of the Fund the prescribed claims, contemplated in section 17(1), arising from the driving of a motor vehicle in a case where the identity of either the owner or the driver thereof has been established; or 45
 - (b) to commence, conduct, defend or abandon legal proceedings in connection with such claims. 50

- (d) die verkryging van herversekering vir enige risiko wat kragtens hierdie Wet deur die Fonds aangegaan word.
- (2) Ten einde sy oogmerk te bereik, kan die Fonds—
- (a) goedere, toerusting, grond, geboue, aandele, obligasies, effekte, sekuriteite en alle ander soorte roerende en onroerende eiendom aankoop of op 'n ander wyse verkry;
- (b) sy eiendom verkoop, verhuur, verhipotekeer, beswaar, van die hand sit, verruil, bewerk of ontwikkel of daarop bou, dit verbeter of op enige ander wyse daarmee handel;
- (c) enige geld wat nie onmiddellik vir die dryf van sy besigheid nodig is nie, belê en sodanige beleggings te gelde maak, verander of herbelê of andersins met sodanige geld of beleggings handel;
- (d) geld leen en die betaling daarvan na goëddunke sekureer;
- (e) skenkings doen vir navorsing in verband met enige aangeleentheid betreffende beserings in motorvoertuigongelukke opgedoen, op die voorwaardes wat hy raadsaam ag;
- (f) promesses, wissels en ander verhandelbare of oordraagbare instrumente, uitgesonderd aandelesertifikate, trek, opstel, aksepteer, endosseer, verdiskonteer, onderteken en uitreik;
- (g) enige ander handeling verrig of stappe doen wat bykomstig is by of bevorderlik is vir die uitoefening van sy bevoegdhede of die verrigting van sy werksaamhede.
- (3) By die uitoefening van die bevoegdhede by hierdie Wet aan hom verleen, kan die Fonds met enige persoon, vennootskap, vereniging, maatskappy, korporasie of ander regspersoon, waar ook al gesetel, sake doen.

Finansiering van Fonds

5. (1) Die Fonds verkry die fondse wat hy nodig het om sy werksaamhede te verrig—
- (a) by wyse van 'n brandstofheffing ten opsigte van alle brandstof wat binne die Republiek verkoop word; en
- (b) deur lenings op te neem.
- (2) Daar word maandeliks die bedrag geld in die Fonds gestort uit hoofde van artikel 1(2)(a)(ii) van die Wet op die Sentrale Energiefonds, 1977 (Wet No. 38 van 1977), bereken vir die laaste maand waarvoor sodanige bedrag bereken kan word, en sodanige stortings word vergesel van opgawes waarin die verkoop van brandstof binne die Republiek weergegee word.

Boekjaar van en begroting vir Fonds

6. (1) Die boekjaar van die Fonds loop van 1 Mei van enige jaar tot 30 April van die volgende jaar: Met dien verstande dat die eerste boekjaar van die Fonds geag word te begin het op die 1ste Mei wat die inwerkingtreding van hierdie Wet onmiddellik voorafgegaan het.
- (2) Die Hoof- Uitvoerende Beampte stel jaarliks 'n begroting vir die Fonds op vir oorweging deur die Raad, en die Raad lê die begroting aan die Minister voor vir goedkeuring.

Gebruik van hulpbronne en geriewe van Fonds

7. Die hulpbronne en geriewe van die Fonds word uitsluitlik gebruik om die oogmerk, bevoegdhede en werksaamhede van die Fonds onderskeidelik te bereik, uit te oefen en te verrig.

Aanstelling van agente vir Fonds

8. (1) Die Raad kan agente aanstel, wat bevoeg is om—
- (a) namens die Fonds die voorgeskrewe eise beoog in artikel 17(1) wat ontstaan uit die bestuur van 'n motorvoertuig in 'n geval waar die identiteit van óf die eienaar óf die bestuurder daarvan vasgestel is, te ondersoek en te skik; of
- (b) regsgedinge in verband met sodanige eise in te stel, te voer, te bestry of te laat vaar.

(2) The Fund shall guarantee or insure the obligations of agents arising from the application of this Act.

(3) The Fund shall cause the names of agents and the claims in respect of which they are liable to be published in the *Gazette*.

Co-operation with other institutions

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9. (1) The Minister may, upon the recommendation of the Board, co-operate and enter into agreements with any public or private institution in respect of the reciprocal recognition of compulsory motor vehicle insurance or compulsory motor vehicle accidents compensation.

(2) An agreement with any public or private institution contemplated in subsection (1) shall be signed by the Minister on behalf of the Fund.

Board of Fund, and executive committee

10. (1) There shall be a Board of the Fund, constituted as follows:

(a) The Director-General: Transport; and
 (b) at least 11, but not more than 12, members appointed by the Minister, taking into account the recommendations referred to in subsection (9), 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.

(2) Subject to this section, a member of the Board shall—
 (a) declare any interest relating to the functions, duties and obligations of the Fund or its agents in terms of this Act, and such a member shall not vote in respect of any decision of the Board in so far as he or she has such an interest therein;

(b) at all times act in the best interest of the Fund;
 (c) hold office for a period of three years as from the date of appointment of such member.

(3) The Minister may remove a member of the Board referred to in subsection (1)(b) from office if there is sufficient reason to do so.

(4) Each member of the Board shall, subject to subsection (2)(a), have one vote on any matter before the Board.

(5) The Chief Executive Officer may attend the meetings of the Board, but has no vote.

(6) The Board shall as soon as possible—
 (a) appoint two of its members as Chairperson and Vice-Chairperson, respectively;

(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 the meetings of the Board and the executive committee.

(8) The executive committee shall—
 (a) exercise and perform the powers and functions of the Fund set out in section 4, subject to the directions of the Board;

(b) exercise and perform such powers and functions of the Board as may be delegated or assigned to it by the Board; and

(c) for the purposes of performing its functions, meet at least once a month.

(9) Whenever it is necessary to appoint a member referred to in subsection (1)(b) to the Board—

(a) the Minister shall—
 (i) by notice in the *Gazette* and the national news media, call for the nomination of persons who comply with the criteria mentioned in subsection (1)(b);

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

(iii) establish a selection committee, constituted as follows:

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(2) Die Fonds waarborg of verseker die verpligtinge van agente wat uit die toepassing van hierdie Wet ontstaan.

(3) Die Fonds laat die name van agente en die eise ten opsigte waarvan hulle aanspreeklik is in die *Staatskoerant* publiseer.

5 Samewerking met ander instellings

9. (1) Die Minister kan, op aanbeveling van die Raad, saamwerk en ooreenkomste aangaan met enige openbare of private instelling ten opsigte van die wedersydse erkenning van verpligte motorvoertuigversekering of verpligte motorvoertuigongelukskadevergoeding.

10 (2) 'n Ooreenkoms met 'n openbare of private instelling in subartikel (1) beoog, word deur die Minister namens die Fonds onderteken.

Raad van Fonds, en uitvoerende komitee

10. (1) Daar is 'n Raad van die Fonds, soos volg saamgestel:

(a) Die Direkteur-generaal: Vervoer; en

15 (b) minstens 11, maar hoogstens 12, lede deur die Minister aangestel, met inagneming van die aanbevelings in subartikel (9) bedoel, wat nie in die heeltydse diens van enige regering mag wees nie, en wat elk oor uitgebreide ondervinding op een of meer van die gebiede van versekering, finansies, mediese diensverskaffing, die reg, rekeningkunde en aktuariële wetenskap, of

20 oor aangeleenthede betreffende gestremde persone, padgebruikers of verbruikersbelange beskik.

(2) Behoudens hierdie artikel moet 'n lid van die Raad—

(a) enige belang met betrekking tot die werksaamhede, pligte en verpligtinge van die Fonds of sy agente ingevolge hierdie Wet verklaar, en so 'n lid stem nie

25 ten opsigte van enige besluit van die Raad vir sover hy of sy so 'n belang daarby het nie;

(b) te alle tye in die beste belang van die Fonds optree;

(c) die amp beklee vir 'n tydperk van drie jaar vanaf die datum van aanstelling van so 'n lid.

30 (3) Die Minister kan 'n lid van die Raad in subartikel (1)(b) bedoel van die amp onthef indien daar voldoende rede is om dit te doen.

(4) Behoudens subartikel (2)(a) het elke lid van die Raad een stem oor enige aangeleentheid voor die Raad.

35 (5) Die Hoof- Uitvoerende Beampte kan vergaderings van die Raad bywoon, maar het geen stem nie.

(6) Die Raad moet so gou moontlik—

(a) twee van sy lede onderskeidelik as Voorsitter en Ondervoorsitter aanstel;

(b) 'n uitvoerende komitee van die Raad instel wat bestaan uit drie lede van die Raad, die Voorsitter en Ondervoorsitter van die Raad en die Hoof- Uitvoer-

40 ende Beampte.

(7) Die Voorsitter, of in sy of haar afwesigheid, die Ondervoorsitter, moet te alle tye by die vergaderings van die Raad en die uitvoerende komitee voorsit.

(8) Die uitvoerende komitee moet—

45 (a) die bevoegdhede en werksaamhede van die Fonds in artikel 4 uiteengesit, behoudens die voorskrifte van die Raad, uitoefen en verrig;

(b) die bevoegdhede en werksaamhede van die Raad wat die Raad aan hom delegeer of opdra, uitoefen en verrig; en

(c) vir die doeleindes van die verrigting van sy werksaamhede, minstens een maal per maand vergader.

50 (9) Wanneer dit ook al nodig is om 'n lid in subartikel (1)(b) bedoel in die Raad aan te stel—

(a) moet die Minister—

(i) by kennisgewing in die *Staatskoerant* en die nasionale nuusmedia, 'n oproep doen om nominasies van persone wat aan die maatstawwe in subartikel (1)(b) vermeld, voldoen;

55 (ii) 'n lys van nominasies in antwoord op so 'n oproep ontvang, aldus publiseer; en

(iii) 'n keurkmittee instel, wat soos volg saamgestel is:

- (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 5
- (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.

Powers and functions of Board, and procedure 10

11. (1) The Board shall, subject to the powers of the Minister, exercise overall authority and control over the financial position, operation and management of the Fund, and may *inter alia*—

- (a) make recommendations to the Minister in respect of— 15
 - (i) the annual budget of the Fund;
 - (ii) any amendment of this Act;
 - (iii) the entering into an agreement with any institution referred to in section 9;
 - (iv) the appointment of the Chief Executive Officer;
 - (v) any regulation to be made under this Act; 20
- (b) terminate the appointment of any agent and determine the conditions on which such appointment is effected or terminated;
- (c) approve the appointment, determination of conditions of employment and dismissal by the Chief Executive Officer of staff of the Fund on management level; 25
- (d) approve internal rules and directions in respect of the management of the Fund;
- (e) approve loans made or given by the Fund;
- (f) approve donations for research in connection with any matter regarding injuries sustained in motor vehicle accidents; 30
- (g) determine guidelines in relation to the investment of the money of the Fund; and
- (h) delegate or assign to the Chief Executive Officer and any member of the staff of the Fund any power or duty of the Board as it may deem fit, but shall not be divested of any power or duty so delegated or assigned, and may amend or withdraw any decision made by virtue of such delegation or assignment. 35

(2) The Board may as often as it deems necessary, but shall at least once during a financial year, or when requested by the Minister to do so, report to the Minister regarding matters dealt with during that year or as requested by the Minister.

(3) A quorum for any meeting of the Board shall be a majority of its voting members. 40

(4) The Board shall meet as often as the business of the Fund may require.

(5) (a) The member of the Board referred to in section 10(1)(a) shall be reimbursed by the Fund for all reasonable expenses incurred in attending meetings of the Board.

(b) Members of the Board referred to in section 10(1)(b) shall be remunerated by the Fund for services rendered as such members and reimbursed for all reasonable expenses incurred in attending meetings of the Board: Provided that the Chairperson of the Board may receive such higher remuneration than that of the other members, as may be determined by the Board. 45

(6) (a) Resolutions of the Board shall, whenever practicable, be taken on the basis of consensus. 50

(b) If consensus cannot be reached and except where otherwise expressly provided, all matters before the Board shall be decided by a majority of the votes cast.

Chief Executive Officer and staff

12. (1) (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 55

- (aa) Die Direkteur-generaal: Vervoer;
- (bb) een lid van die Portefeuljekomitee oor Vervoer (Nasionale Vergadering), deur daardie Komitee aangewys;
- (cc) een lid van die gekose komitee oor vervoer (Senaat), deur daardie Komitee aangewys; en
- (dd) twee persone wat uitgebreide ondervinding in derde party-vergoeding het, deur die Minister aangestel; en
- (b) moet die keurkomitee onderhoude in die openbaar voer met die van die genomineerdes wat beskikbaar is, en aanbevelings aan die Minister doen.

10 Bevoegdhede en werksaamhede van Raad, en prosedure

11. (1) Die Raad oefen, behoudens die bevoegdhede van die Minister, algehele gesag en beheer oor die finansiële posisie, werking en bestuur van die Fonds uit, en kan onder andere—

- (a) aanbevelings aan die Minister doen ten opsigte van—
- (i) die jaarlikse begroting van die Fonds;
 - (ii) enige wysiging van hierdie Wet;
 - (iii) die aangaan van 'n ooreenkoms met enige instelling in artikel 9 bedoel;
 - (iv) die aanstelling van die Hoof- Uitvoerende Beampte;
 - (v) enige regulasie wat kragtens hierdie Wet uitgevaardig staan te word;
- (b) die aanstelling van enige agent beëindig, en die voorwaardes bepaal waarop sodanige aanstelling geskied of beëindig word;
- (c) die aanstelling, bepaling van diensvoorwaardes en ontslag deur die Hoof- Uitvoerende Beampte van personeel van die Fonds op bestuursvlak goedkeur;
- (d) interne reëls en voorskrifte ten opsigte van die bestuur van die Fonds goedkeur;
- (e) lenings wat deur die Fonds aangeaan of toegestaan is, goedkeur;
- (f) skenkings vir navorsing in verband met enige aangeleentheid betreffende beserings in motorvoertuigongelukke opgedoen, goedkeur;
- (g) riglyne met betrekking tot die belegging van die geld van die Fonds bepaal; en
- (h) enige bevoegdheid of plig van die Raad na goeddunke aan die Hoof- Uitvoerende Beampte en enige lid van die personeel van die Fonds deleger of opdra, maar is nie ontdoen van enige bevoegdheid of plig aldus gedeleger of opgedra nie, en kan enige besluit uit hoofde van so 'n delegering of opdrag geneem, wysig of intrek.

(2) Die Raad kan wanneer hy dit nodig ag, maar moet minstens een maal gedurende 'n boekjaar, of wanneer deur die Minister daartoe versoek, aan die Minister verslag doen betreffende aangeleenthede waarmee gedurende daardie jaar gehandel is of soos deur die Minister versoek is.

(3) 'n Meerderheid van sy stemgeregtigde lede maak 'n kworum vir 'n vergadering van die Raad uit.

(4) Die Raad vergader wanneer die besigheid van die Fonds dit vereis.

(5) (a) Die lid van die Raad bedoel in artikel 10(1)(a) word deur die Fonds terugbetaal vir alle redelike uitgawes met die bywoning van vergaderings van die Raad aangegaan.

(b) Lede van die Raad bedoel in artikel 10(1)(b) word deur die Fonds besoldig vir dienste as sodanige lede gelewer en terugbetaal vir alle redelike uitgawes met die bywoning van vergaderings van die Raad aangegaan: Met dien verstande dat die Voorsitter van die Raad die hoër besoldiging as dié van die ander lede kan ontvang wat die Raad bepaal.

(6) (a) Besluite van die Raad word, wanneer ook al doenlik, op die grondslag van eenstemmigheid geneem.

(b) Indien eenstemmigheid nie bereik kan word nie en behalwe waar uitdruklik anders bepaal word, word alle aangeleenthede voor die Raad deur 'n meerderheid van die uitgebragte stemme beslis.

Hoof- Uitvoerende Beampte en personeel

12. (1) (a) Die Minister stel op aanbeveling van die Raad die Hoof- Uitvoerende Beampte van die Fonds aan op die bedinge en voorwaardes van diens wat hy of sy

or she may determine: Provided that the Chief Executive Officer of the Multilateral Motor Vehicle Accidents 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.

(b) The Chief Executive Officer shall— 5

(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.

(2) Subject to the directions of the Board, the Chief Executive Officer shall conduct 10 the current business of the Fund, and he or she may—

(a) exercise the powers and shall perform the functions of the Fund mentioned in section 4(1)(b), (c) and (d), (2) and (3);

(b) appoint, determine the conditions of employment of and dismiss the staff of the Fund, excluding members of staff on management level; 15

(c) draft internal rules and directions in respect of the management of the Fund and make recommendations in respect thereof to the Board;

(d) enter into an agreement with any person for the rendering of a particular service related to the management of the Fund or its functions;

(e) issue guidelines to agents regarding the manner in which claims should be administered by them on behalf of the Fund; and 20

(f) exercise such powers and shall perform such duties as may be delegated and assigned to him or her by the Board under section 11(1)(h). 25

Annual report

13. (1) The Board shall publish an annual report containing— 25

(a) the audited balance sheet of the Fund together with a report by the auditor, contemplated in section 14, in respect of such audit; and

(b) a report on the activities of the Fund during the year to which the audit relates.

(2) The Minister shall lay upon the Table in Parliament a copy of the annual report within 30 days after receipt thereof if Parliament is then in session, or, if Parliament is 30 not then in session, within 30 days after the commencement of its next ensuing session.

Financial control

14. (1) The Fund shall keep proper records of all its financial transactions and its assets and liabilities. 35

(2) (a) The accounts of the Fund shall be audited annually by the Auditor-General 35 appointed in terms of section 2 of the Auditor-General Act, 1989 (Act No. 52 of 1989), in accordance with the said Act and with such other laws as may be referred to in that Act.

(b) The Auditor-General shall submit to the Board copies of any report referred to in section 6 of the Auditor-General Act, 1989. 40

(3) The Financial Services Board established by section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), shall—

(a) exercise financial supervision over the Fund in accordance with the Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993), and with such other laws as may be referred to in that Act; 45

(b) submit copies of any reports on the business of the Fund compiled by that Board in terms of the provisions of the Financial Supervision of the Road Accident Fund Act, 1993, to the Board of the Fund; and

(c) consult with the Minister prior to the making of regulations under section 5 of the Financial Supervision of the Road Accident Fund Act, 1993. 50

Legal status of and proceedings by Fund, and limitation of certain liability

15. (1) The Fund may—

(a) institute or defend legal proceedings; and

(b) commence, conduct, defend or abandon legal proceedings in connection with claims investigated and settled by it. 55

bepaal: Met dien verstande dat die Hoof- Uitvoerende Beampte van die Multilaterale Motorvoertuigongelukkefonds wat daardie amp onmiddellik voor die inwerkingtrede van hierdie Wet beklee, geag word ingevolge hierdie subartikel as sodanig ten opsigte van die Fonds aangestel te wees.

- 5 (b) Die Hoof- Uitvoerende Beampte—
- (i) is 'n persoon wat beskik oor kennis van die bestuur van motorvoertuigongelukkeversekering of -skadevergoedingsaangeleentehede; en
 - (ii) beklee sy of haar amp solank dit die Minister behaag.
- (2) Behoudens die voorskrifte van die Raad, bedryf die Hoof- Uitvoerende Beampte 10 die lopende besigheid van die Fonds, en kan hy of sy—
- (a) die bevoegdhe en moet hy of sy die werksaamhede van die Fonds in artikel 4(1) (b), (c) en (d), (2) en (3) vermeld, uitoefen en verrig;
 - (b) die personeel van die Fonds, uitgesonderd personeellede op bestuursvlak, aanstel, hulle diensvoorwaardes bepaal, en hulle ontslaan;
 - 15 (c) interne reëls en voorskrifte ten opsigte van die bestuur van die Fonds opstel en aanbevelings ten opsigte daarvan aan die Raad doen;
 - (d) met enige persoon 'n ooreenkoms aangaan vir die lewering van 'n bepaalde diens in verband met die bestuur van die Fonds of sy werksaamhede;
 - (e) riglyne aan agente uitreik betreffende die wyse waarop eise deur hulle 20 namens die Fonds behartig moet word; en
 - (f) die bevoegdhe uitoefen en moet hy of sy die pligte verrig wat deur die Raad kragtens artikel 11(1)(h) aan hom of haar gedelegeer of opgedra word.

Jaarverslag

13. (1) Die Raad publiseer 'n jaarverslag bevattende—
- 25 (a) die geouditeerde balansstaat van die Fonds tesame met 'n verslag deur die ouditeur beoog in artikel 14 ten opsigte van sodanige audit; en
 - (b) 'n verslag oor die bedrywighede van die Fonds gedurende die jaar waarop die audit betrekking het.
- (2) Die Minister lê 'n afskrif van sodanige jaarverslag in die Parlement ter Tafel 30 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.

Finansiële beheer

14. (1) Die Fonds hou behoorlik boek van al sy finansiële transaksies en van sy bates 35 en laste.
- (2) (a) Die rekeninge van die Fonds word jaarliks geouditeer deur die Ouditeur-generaal aangestel kragtens artikel 2 van die Wet op die Ouditeur-generaal, 1989 (Wet No. 52 van 1989), ooreenkomstig genoemde Wet en die ander wette waarna in daardie Wet verwys word.
- 40 (b) Die Ouditeur-generaal lê afskrifte van enige verslag bedoel in artikel 6 van die Wet op die Ouditeur-generaal, 1989, aan die Raad voor.
- (3) Die Raad op Finansiële Dienste ingestel by artikel 2 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990)—
- 45 (a) oefen finansiële toesigging oor die Fonds uit ooreenkomstig die Wet op Finansiële Toesigging oor die Padongelukfonds, 1993 (Wet No. 8 van 1993), en die ander wette waarna in daardie Wet verwys word;
 - (b) lê afskrifte van enige verslae oor die besigheid van die Fonds deur daardie Raad opgestel ingevolge die bepalinge van die Wet op Finansiële Toesigging oor die Padongelukfonds, 1993, aan die Raad van die Fonds voor; en
 - 50 (c) pleeg oorleg met die Minister voor die uitvaardiging van regulasies kragtens artikel 5 van die Wet op Finansiële Toesigging oor die Padongelukfonds, 1993.

Regstatus van en -gedinge deur Fonds, en beperking van sekere aanspreeklikheid

15. (1) Die Fonds kan—
- 55 (a) regsdinge instel of bestry; en
 - (b) regsdinge in verband met eise wat deur die Fonds ondersoek en geskik is, aan die gang sit, voer, bestry of laat vaar.

(2) An action to enforce a claim against the Fund or an agent may be brought in any competent court within whose area of jurisdiction the occurrence which caused the injury or death took place.

(3) No member of the Board or officer or employee of the Fund, or other person performing work for the Fund, shall be liable for anything done in good faith in the exercise of his or her powers or the performance of his or her functions or duties under or in terms of this Act.

Exemption from taxation

16. (1) (a) The Fund, its assets, property, income and its operation and transactions shall be exempt from all taxation, or the Fund shall be refunded all taxation paid by it, as the case may be.

(b) The Fund shall be exempt from—

(i) all customs, excise and stamp duties; and

(ii) liability for payment, withholding or collecting of any tax or duty.

(2) Goods which have been acquired or imported free from customs or excise duty by the Fund shall not be sold, hired out or otherwise disposed of unless authority has been obtained in advance and any necessary duties and taxes paid.

(3) Notwithstanding subsection (1), the Fund shall not claim exemption from taxes which are no more than charges for public utility services.

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 any place within the Republic, if the injury or death is due to the negligence or other wrongful act of the driver or of the owner of the motor vehicle or of his or her employee in the performance of the employee's duties as employee.

(2) Upon acceptance of the amount offered as compensation in terms of subsection (1) the third party shall be entitled to the agreed party and party costs or taxed party and party costs in respect of the claim concerned.

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

(b) In issuing any order as to costs on making such award, the court may take into consideration any written offer, including a written offer without prejudice in the course of settlement negotiations, in settlement of the claim concerned, made by the Fund or an agent before the relevant summons was served.

(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, 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, after furnishing the third party in question with an undertaking to that effect or a competent court has directed the Fund or the

(2) 'n Aksie om 'n eis teen die Fonds of 'n agent af te dwing, kan ingestel word by enige bevoegde hof in wie se regsgebied die voorval wat die besering of dood veroorsaak het, plaasgevind het.

(3) Geen lid van die Raad of beampte of werknemer van die Fonds, of ander persoon wat werk vir die Fonds verrig, is aanspreeklik vir enigiets te goedertrou gedoen in die uitoefening van sy of haar bevoegdhede kragtens, of verrigting van sy of haar werksaamhede of pligte ingevolge, hierdie Wet nie.

10 Vrystelling van belasting

15 **16.** (1) (a) Die Fonds, sy bates, eiendom, inkomste en sy werking en transaksies is van alle belasting vrygestel, of alle belasting deur hom betaal, word aan die Fonds terugbetaal, na gelang van die geval.

(b) Die Fonds is vrygestel van—

(i) alle doeane-, aksyns- en seëlregte; en

20 (ii) die aanspreeklikheid vir die betaling, weerhouding of invordering van enige belasting of reg.

(2) Goedere wat deur die Fonds vry van doeane- of aksynsreg verkry of ingevoer is, word nie verkoop, verhuur of andersins van die hand gesit nie, tensy magtiging vooraf verkry is en die nodige reg en belasting betaal is.

(3) Ondanks subartikel (1) eis die Fonds nie vrystelling van belasting wat bloot 25 vorderings vir openbare nutsdienste is nie.

Aanspreeklikheid van Fonds en agente

30 **17.** (1) Die Fonds of 'n agent is—

(a) behoudens hierdie Wet, in die geval van 'n eis vir skadevergoeding kragtens hierdie artikel wat ontstaan uit die bestuur van 'n motorvoertuig waar die identiteit van die eienaar of die bestuurder daarvan vasgestel is;

35 (b) behoudens enige regulasie uitgevaardig kragtens artikel 26, in die geval van 'n eis vir skadevergoeding kragtens hierdie artikel wat ontstaan uit die bestuur van 'n motorvoertuig waar die identiteit van nóg die eienaar nóg die bestuurder daarvan vasgestel is,

40 verplig om enige persoon (die derde party) te vergoed vir enige verlies of skade wat die derde party gelei het as gevolg van enige liggaamlike besering van homself of haarself of die dood van of enige liggaamlike besering van enige ander persoon, wat veroorsaak is deur of voortvloei uit die bestuur van 'n motorvoertuig deur enige persoon op enige plek binne die Republiek, indien die besering of dood te wyte is aan die nalatigheid of 45 ander onregmatige daad van die bestuurder of van die eienaar van die motorvoertuig of van sy of haar werknemer in die uitvoering van die werknemer se pligte as werknemer.

(2) By aanvaarding van die bedrag aangebied as skadevergoeding ingevolge subartikel (1), is die derde party geregtig op die ooreengekome party-en-party-koste of getakseerde party-en-party-koste ten opsigte van die betrokke eis.

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

(b) By die uitreiking van enige kostebevel by sodanige toekenning kan die hof enige skriftelike aanbod in aanmerking neem, met inbegrip van 'n skriftelike aanbod sonder 45 benadeling in die loop van skikkingsonderhandelings, wat die Fonds of 'n agent ter skikking van die betrokke eis gemaak het voordat die tersaaklike dagvaarding beteken is.

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

50 (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 of haar insluit, is die Fonds of 'n agent geregtig om, nadat 'n onderneming te dien effekte aan die betrokke derde party verstrek is of 'n bevoegde hof die Fonds of die agent gelas het om sodanige onderneming te verstrek, die derde party ten opsigte van genoemde 55 koste te vergoed nadat die koste aangegaan is en by bewys daarvan;

(b) 'n eis om toekomstige verlies aan inkomste of onderhoud insluit, is die Fonds of 'n agent geregtig om, nadat 'n onderneming te dien effekte aan die betrokke derde party verstrek is of 'n bevoegde hof die Fonds of die agent

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.

(5) Where a third party is entitled to compensation in terms of this section and has incurred costs in respect of accommodation of himself or herself or any other person in a hospital or nursing home or the treatment of or any service rendered or goods supplied to himself or herself or any other person, the person who provided the accommodation or treatment or rendered the service or supplied the goods (the supplier) may claim the amount direct from the Fund or an agent on a prescribed form, and such claim shall be subject, *mutatis mutandis*, to the provisions applicable to the claim of the third party concerned, and may not exceed the amount which the third party could, but for this subsection, have recovered.

(6) The Fund, or an agent with the approval of the Fund, may make an interim payment to the third party out of the amount to be awarded in terms of subsection (1) to the third party in respect of medical costs, loss of income and loss of support: Provided that the Fund or such agent shall, notwithstanding anything to the contrary in any law contained, only be liable to make an interim payment in so far as such costs have already been incurred and any such losses have already been suffered.

Liability limited in certain cases

18. (1) The liability of the Fund or an agent to compensate a third party for any loss or damage contemplated in section 17 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, in connection with any one occurrence, be limited, excluding the cost of recovering the said compensation, and except where the person concerned was conveyed in or on a motor vehicle other than a motor vehicle owned by the South African National Defence Force during a period in which he or she rendered military service or underwent military training in terms of the Defence Act, 1957 (Act No. 44 of 1957), or another Act of Parliament governing the said Force, but subject to subsection (2)—

- (a) to the sum of R25 000 in respect of any bodily injury or death of any one such person who at the time of the occurrence which caused that injury or death was being conveyed in or on the motor vehicle concerned—
 - (i) for reward; or
 - (ii) in the course of the lawful 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 or her 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 or on the motor vehicle concerned under circumstances other than those 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 any one such person, excluding the payment of compensation in respect of any other loss or damage.

(2) Without derogating from any liability of the Fund or an agent to pay costs awarded against it or such agent in any legal proceedings, where the loss or damage contemplated in section 17 is suffered as a result of bodily injury to or 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 and who was an employee of the driver or owner of that motor vehicle and the third party is entitled to compensation under the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), in respect of such injury or death—

- (a) the liability of the Fund or such agent, in respect of the bodily injury to or death of any one such employee, shall be limited in total to the amount representing the difference between the amount which that third party could,

gelas het om sodanige onderneming te verstrek, die bedrag deur hom of die agent ten opsigte van genoemde verlies betaalbaar, paaiementsgewys agterna soos ooreengekom, te betaal.

- (5) Waar 'n derde party op skadevergoeding ingevolge hierdie artikel geregtig is en koste aangegaan het ten opsigte van huisvesting van hom of haar of iemand anders in 'n hospitaal of verpleeginrigting of die behandeling van of 'n diens gelewer of goedere verskaf aan hom of haar of iemand anders, kan die persoon wat die huisvesting of behandeling voorsien het of die diens gelewer of die goedere verskaf het (die verskaffer) die bedrag direk van die Fonds of 'n agent op 'n voorgeskrewe vorm eis, en sodanige eis is *mutatis mutandis* onderworpe aan die bepalings van toepassing op die betrokke derde party se eis, en mag nie die bedrag oorskry nie wat die derde party by ontstentenis van hierdie subartikel kon verhaal het.

- (6) Die Fonds, of 'n agent met goedkeuring van die Fonds, kan 'n tussentydse betaling op die bedrag wat ingevolge subartikel (1) ten opsigte van mediese koste, verlies aan inkomste en verlies aan onderhoud aan die derde party toegeken staan te word, aan die derde party maak: Met dien verstande dat die Fonds of so 'n agent, ondanks enige andersluidende wetsbepaling, slegs aanspreeklik is om 'n tussentydse betaling te doen vir sover sodanige koste reeds aangegaan is en enige sodanige verliese reeds gely is.

20 Aanspreeklikheid in sekere gevalle beperk

18. (1) Die aanspreeklikheid van die Fonds of 'n agent om 'n derde party te vergoed vir verlies of skade in artikel 17 beoog wat die gevolg is van liggaamlike besering of die dood van enige persoon wat ten tyde van die voorval wat daardie besering of dood veroorsaak het, in of op die betrokke motorvoertuig vervoer is, is in verband met 'n enkele voorval beperk, uitgesonderd die koste van die verhaling van genoemde skadevergoeding, en behalwe waar die betrokke persoon vervoer is in of op 'n ander motorvoertuig as 'n motorvoertuig wat behoort aan die Suid-Afrikaanse Nasionale Weermag gedurende 'n tydperk waarin hy of sy ingevolge die Verdedigingswet, 1957 (Wet No. 44 van 1957), of 'n ander Parlementswet wat genoemde Weermag beheers, militêre diens verrig het of militêre opleiding ondergaan het, maar behoudens subartikel (2)—

- (a) tot die bedrag van R25 000 ten opsigte van enige liggaamlike besering of dood van so 'n enkele persoon wat ten tyde van die voorval wat daardie besering of dood veroorsaak het, in of op die betrokke motorvoertuig vervoer is—
- (i) teen vergoeding; of
- (ii) in die loop van die wettige 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 of haar 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 dié in paragraaf (a) bedoel, tot die bedrag van R25 000 ten opsigte van verlies van 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 voortspuit uit die liggaamlike besering of dood van so 'n enkele persoon, uitgesonderd die betaling van skadevergoeding ten opsigte van enige ander verlies of skade.

- (2) Sonder om afbreuk te doen aan enige aanspreeklikheid van die Fonds of 'n agent om koste te betaal wat teen hom of so 'n agent in enige regsgeding toegeken is, waar die verlies of skade in artikel 17 beoog, gely word as gevolg van die liggaamlike besering of dood van enige persoon wat, ten tyde van die voorval wat daardie besering of dood veroorsaak het, in of op die betrokke motorvoertuig vervoer is en wat 'n werknemer van die bestuurder of eienaar van daardie motorvoertuig was en die derde party geregtig is op vergoeding kragtens die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993 (Wet No. 130 van 1993), ten opsigte van sodanige besering of dood—

- (a) is die aanspreeklikheid van die Fonds of so 'n agent, ten opsigte van die liggaamlike besering of dood van so 'n enkele werknemer, in totaal beperk tot die bedrag wat die verskil uitmaak tussen die bedrag wat daardie derde

but for this paragraph, have claimed from the Fund or such 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 Fund or such agent shall not be liable under the said Act for the amount of the compensation to which any such third party is entitled thereunder. 5

(3) Without derogating from any liability of the Fund or an agent to pay costs awarded against it or such agent in any legal proceedings, where the loss or damage contemplated in section 17 is suffered as a result of bodily injury to or death of a member of the South African National Defence Force, other than a person referred to in subsection (2), and the third party is entitled to compensation under the Defence Act, 1957, or another Act of Parliament governing the said Force in respect of such injury or death— 10

(a) the liability of the Fund or such agent, in respect of the bodily injury to or death of any such member of the said Force, shall be limited in total to the amount representing the difference between the amount which that third party could, but for this paragraph, have claimed from the Fund or such agent and any lesser amount to which that third party is entitled by way of compensation under the said Defence Act or the said other Act; and 15

(b) the Fund or such agent shall not be liable under the said Defence Act or the said other Act for the amount of the compensation to which any such third party is entitled thereunder. 20

(4) The liability of the Fund or an agent to compensate a third party for any loss or damage contemplated in section 17 which is the result of the death of any person shall in respect of funeral expenses be limited to the necessary actual costs to cremate the deceased or to inter him or her in a grave. 25

Liability excluded in certain cases 25

19. The Fund or an agent shall not be obliged to compensate any person in terms of section 17 for any loss or damage—

(a) for which neither the driver nor the owner of the motor vehicle concerned would have been liable but for section 21; or

(b) suffered as a result of bodily injury to or death of any person who, at the time of the occurrence which caused that injury or death— 30

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

(ii) is a person referred to in section 18(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 on the motor vehicle concerned; or 35

(c) if the claim concerned has not been instituted and prosecuted by the third party, or on behalf of the third party by—

(i) any person entitled to practise as an attorney within the Republic; or 40

(ii) any person who is in the service, or who is a representative of the state or government or a provincial, territorial or local authority; or

(d) where the third party has entered into an agreement with any person other than the one referred to in paragraph (c)(i) or (ii) in accordance with which the third party has undertaken to pay such person after settlement of the claim— 45

(i) a portion of the compensation in respect of the claim; or

(ii) any amount in respect of an investigation or of a service rendered in respect of the handling of the claim otherwise than on instruction from the person contemplated in paragraph (c)(i) or (ii); or

(e) suffered as a result of bodily injury to any person who— 50

(i) unreasonably refuses or fails to subject himself or herself, at the request and cost of the Fund or such agent, to any medical examination or examinations by medical practitioners designated by the Fund or agent;

(ii) refuses or fails to furnish the Fund or such agent, at its or the agent's request and cost, with copies of all medical reports in his or her possession that relate to the relevant claim for compensation; or 55

- party, by ontstentenis van hierdie paragraaf, van die Fonds of so 'n agent sou kon eis, of die bedrag van R25 000 (watter ook al die kleinste is) en enige kleiner bedrag waarop daardie derde party geregtig is by wyse van vergoeding kragtens genoemde Wet; en
- 5 (b) is die Fonds of so 'n agent nie kragtens genoemde Wet vir die bedrag van die vergoeding waarop so 'n derde party daarkragtens geregtig is, aanspreeklik nie.
- (3) Sonder om afbreuk te doen aan enige aanspreeklikheid van die Fonds of 'n agent om koste te betaal wat teen hom of so 'n agent in enige regsgeeding toegeken is, waar
- 10 die verlies of skade in artikel 17 beoog, gely word as gevolg van liggaamlike besering of dood van 'n lid van die Suid-Afrikaanse Nasionale Weermag, behalwe 'n persoon bedoel in subartikel (2), en die derde party geregtig is op vergoeding kragtens die Verdedigingswet, 1957, of 'n ander Parlements wet op genoemde Weermag ten opsigte van sodanige besering of dood—
- 15 (a) is die aanspreeklikheid van die Fonds of so 'n agent, ten opsigte van die liggaamlike besering of dood van so 'n lid van genoemde Weermag, in totaal beperk tot die bedrag wat die verskil uitmaak tussen die bedrag wat daardie derde party, by ontstentenis van hierdie paragraaf, van die Fonds of so 'n agent sou kon eis en enige kleiner bedrag waarop daardie derde party
- 20 geregtig is by wyse van vergoeding kragtens genoemde Verdedigingswet of genoemde ander Wet; en
- (b) is die Fonds of so 'n agent nie kragtens genoemde Verdedigingswet of genoemde ander Wet vir die bedrag van die vergoeding waarop so 'n derde party daarkragtens geregtig is, aanspreeklik nie.
- 25 (4) Die aanspreeklikheid van die Fonds of 'n agent om 'n derde party te vergoed vir enige verlies of skade in artikel 17 beoog wat die gevolg van die dood van enige persoon is, word ten opsigte van begrafniskoste beperk tot die noodsaaklike werklike koste om die oorledene te veras of ter aarde te bestel.

Aanspreeklikheid in sekere gevalle uitgesluit

- 30 **19.** Die Fonds of 'n agent is nie verplig om enige persoon ingevolge artikel 17 vir enige verlies of skade te vergoed nie—
- (a) waarvoor nóg die bestuurder nóg die eienaar van die betrokke motorvoertuig by ontstentenis van artikel 21 aanspreeklik sou gewees het nie; of
- 35 (b) wat gely is as gevolg van die liggaamlike besering of dood van enige persoon wat, ten tyde van die voorval wat daardie besering of dood veroorsaak het—
- (i) teen vergoeding vervoer is op 'n motorvoertuig wat 'n motorfiets is; of
- (ii) 'n persoon is bedoel in artikel 18(1)(b) 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
- 40 vervoer is; of
- (c) indien die betrokke eis nie deur die derde party ingestel en voortgesit is nie, of namens die derde party deur—
- (i) 'n persoon wat daarop geregtig is om as prokureur binne die Republiek te praktiseer; of
- 45 (ii) 'n persoon wat in diens is of 'n verteenwoordiger is van die staat of regering of 'n provinsiale, gebieds- of plaaslike owerheid; of
- (d) waar die derde party 'n ooreenkoms aangegaan het met enige ander persoon as die een bedoel in paragraaf (c)(i) of (ii) ooreenkomstig waarmee die derde party onderneem het om sodanige persoon na skikking van die eis—
- 50 (i) 'n gedeelte van die skadevergoeding ten opsigte van die eis te betaal; of
- (ii) enige bedrag te betaal ten opsigte van 'n ondersoek of van 'n diens gelewer ten opsigte van die hantering van die eis behalwe in opdrag van die persoon in paragraaf (c)(i) of (ii) beoog; of
- (e) wat gely is as gevolg van die liggaamlike besering van enige persoon wat—
- 55 (i) onredelik weier of versuim om hom of haar op versoek en koste van die Fonds of so 'n agent te onderwerp aan enige mediese ondersoek of ondersoek deur mediese praktisyns deur die Fonds of agent aangewys;
- (ii) weier of versuim om die Fonds of so 'n agent, op sy of die agent se versoek en koste, te voorsien van afskrifte van alle mediese verslae in sy
- 60 of haar besit wat betrekking het op die tersaaklike eis om skadevergoeding; of

- (iii) refuses or fails to allow the Fund or such agent at its or the agent's request to inspect all records relating to himself or herself that are in the possession of any hospital or his or her medical practitioner; or
- (f) if the third party refuses or fails—
- (i) to submit to the Fund or such agent, together with his or her claim form as prescribed or within a reasonable period thereafter and if he or she is in a position to do so, an affidavit in which particulars of the accident that gave rise to the claim concerned are fully set out; or
- (ii) to furnish the Fund or such agent with copies of all statements and documents relating to the accident that gave rise to the claim concerned, within a reasonable period after having come into possession thereof.

Presumptions regarding driving of motor vehicle

20. (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 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 Fund or agent only

21. When a third party is entitled under section 17 to claim from the Fund or an agent any compensation in respect of any loss or damage resulting from any bodily injury to or death of any person caused by or arising from the driving of a motor vehicle by the owner thereof or by any other person with the consent of the owner, that third party may not 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 an employee in the performance of his or her duties, from his or her employer, unless the Fund or such agent is unable to pay the compensation.

Submission of information to Fund, agent and third party

22. (1) (a) When, as a 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 the driver is not the owner, of the motor vehicle shall, if reasonably possible within 14 days after the occurrence, furnish the Fund on the prescribed form with particulars of the occurrence together with the prescribed statements, and the Fund shall furnish such information to the agent who in terms of section 8 is responsible for any claim arising from the occurrence.
- (b) Whenever the question arises whether it was reasonably possible to furnish the Fund with the information contemplated in paragraph (a) within 14 days after the occurrence, the onus of proving that it was not reasonably possible to do so shall be on the person who in terms of that paragraph must so furnish the information.
- (2) The agent or the Fund shall within a reasonable period after the third party has complied with the requirements contemplated in section 19(f) (i), furnish the third party or his or her agent with a copy of the information and statements which the owner or driver furnished in terms of subsection (1), together with all statements which were or are obtained from witnesses to the accident.

- (iii) weier of versuim om die Fonds of so 'n agent op sy of die agent se versoek toe te laat om insae te hê in alle aantekeninge met betrekking tot homself of haarself wat in die besit van enige hospitaal of sy of haar mediese praktisyn is; of
- 5 (f) indien die derde party weier of versuim—
- (i) om aan die Fonds of so 'n agent, tesame met sy of haar eisvorm soos voorgeskryf of binne 'n redelike tydperk daarna en indien hy of sy daartoe in staat is, 'n beëdigde verklaring voor te lê waarin die besonderhede van die ongeluk wat tot die betrokke eis aanleiding gegee het, volledig uiteengesit word; of
- 10 (ii) om binne 'n redelike tydperk nadat dit in sy of haar besit gekom het, die Fonds of so 'n agent te voorsien van afskrifte van alle verklarings en dokumente met betrekking tot die ongeluk wat tot die betrokke eis aanleiding gegee het.

15 Vermoedens betreffende bestuur van motorvoertuig

20. (1) By die toepassing van hierdie Wet word 'n motorvoertuig wat aangedryf word deur enige meganiese, diere- of mensekrag of deur swaartekrag of momentum geag bestuur te word deur die persoon in beheer van die voertuig.
- (2) By die toepassing van hierdie Wet word 'n persoon wat 'n motorvoertuig op enige plek geplaas of gelaat het, geag daardie motorvoertuig te bestuur terwyl dit as gevolg van swaartekrag van daardie plek wegbeweeg of terwyl dit stilstaan op daardie plek of op 'n plek waarheen dit vanaf eersgenoemde plek as gevolg van swaartekrag beweeg het.
- (3) Wanneer ook al enige motorvoertuig op enige plek geplaas of gelaat is, word daar by die toepassing van hierdie Wet vermoed, totdat die teendeel bewys word, dat sodanige voertuig deur die eienaar daarvan op sodanige plek geplaas of gelaat is.

Eis om vergoeding slegs ontvanklik teen Fonds of agent

21. Wanneer 'n derde party kragtens artikel 17 daarop geregtig is om van die Fonds of 'n agent enige skadevergoeding te eis ten opsigte van enige verlies of skade as gevolg van enige liggaamlike besering of dood van enige persoon wat veroorsaak is deur of ontstaan het uit die bestuur van 'n motorvoertuig deur die eienaar daarvan of deur enige ander persoon met die toestemming van die eienaar, kan daardie derde party nie van die eienaar of van die persoon wat die voertuig aldus bestuur het of, indien daardie persoon die voertuig as werknemer by die verrigting van sy of haar pligte bestuur het, van sy of haar werkgever skadevergoeding ten opsigte van daardie verlies of skade eis nie, tensy die Fonds of so 'n agent nie in staat is om die skadevergoeding te betaal nie.

Voorlegging van inligting aan Fonds, agent en derde party

22. (1) (a) Wanneer, as gevolg van die bestuur van 'n motorvoertuig, enige ander persoon as die bestuurder van daardie motorvoertuig gedood of beseer is, verstrek die eienaar en die bestuurder, indien die bestuurder nie die eienaar is nie, van die motorvoertuig, indien redelikerwys moontlik binne 14 dae na die voorval, aan die Fonds op die voorgeskrewe vorm besonderhede van die voorval tesame met die voorgeskrewe verklarings, en die Fonds moet sodanige inligting aan die agent verstrek wat ingevolge artikel 8 verantwoordelik is vir enige eis wat uit die voorval ontstaan.
- (b) Wanneer die vraag ontstaan of dit redelikerwys moontlik was om die inligting in paragraaf (a) beoog binne 14 dae na die voorval aan die Fonds te verstrek, rus die bewyslas dat dit nie redelikerwys moontlik was om dit te doen nie op die persoon wat ingevolge daardie paragraaf die inligting aldus moet verstrek.
- (2) Die agent of die Fonds verstrek binne 'n redelike tydperk nadat die derde party aan die vereistes in artikel 19(f)(i) beoog, voldoen het, 'n afskrif van die inligting en verklarings wat die eienaar of bestuurder ingevolge subartikel (1) verstrek het, tesame met alle verklarings wat van getuies van die ongeluk verkry is of word, aan die derde party of sy of haar agent.

Prescription of claim

23. (1) Notwithstanding anything to the contrary in any law contained, but subject to subsections (2) and (3), the right to claim compensation under section 17 from the Fund or an agent in respect of loss or damage arising from the driving of a motor vehicle in the case where the identity of either the driver or the owner thereof has been established, shall become prescribed upon the expiry of a period of three years from the date upon which the cause of action arose.

(2) Prescription of a claim for compensation referred to in subsection (1) shall not run against—

- (a) a minor;
- (b) any person detained as a patient in terms of any mental health legislation; or
- (c) a person under curatorship.

(3) Notwithstanding subsection (1), no claim which has been lodged in terms of section 24 shall prescribe before the expiry of a period of five years from the date on which the cause of action arose.

(4) Notwithstanding section 36 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), any right under subsection (1)(b) of that section to recover an amount which under the said Act is required to be paid to a third party in circumstances other than those mentioned in section 18 (2) of this Act shall for the purposes of subsections (1) and (3) be deemed to be a right to claim compensation under section 17 of this Act arising on the same date as the cause of action of such third party under the said section 17: Provided that if the recovery of any such amount has been debarred by virtue of this subsection, any compensation thereafter awarded to the third party under this Act shall be reduced by the amount concerned.

(5) Notwithstanding section 149*ter* of the Defence Act, 1957 (Act No. 44 of 1957), or of a similarly worded section of another Act of Parliament governing the South African National Defence Force, any right under the said sections to recover an amount which under the said legislation is required to be paid to a third party in circumstances other than those mentioned in section 18(3), shall for the purposes of subsections (1) and (3) be deemed to be a right to claim compensation under section 17 of this Act arising on the same date as the cause of action of such third party under the said section 17: Provided that if the recovery of any such amount has been debarred by virtue of this subsection, any compensation thereafter awarded to the third party under this Act shall be reduced by the amount concerned.

Procedure

24. (1) A claim for compensation and accompanying medical report under section 17 (1) shall—

- (a) be set out in the prescribed form, which shall be completed in all its particulars;
- (b) be sent by registered post or delivered by hand to the Fund at its principal, branch or regional office, or to the agent who in terms of section 8 must handle the claim, at the agent's registered office or local branch office, and the Fund or such agent shall at the time of delivery by hand acknowledge receipt thereof and the date of such receipt in writing.

(2) (a) The medical report shall be completed on the prescribed form by the medical practitioner who treated the deceased or injured person for the bodily injuries sustained in the accident from which the claim arises, or by the superintendent (or his or her representative) of the hospital where the deceased or injured person was treated for such bodily injuries: Provided that, if the medical practitioner or superintendent (or his or her representative) concerned fails to complete the medical report on request within a reasonable time and it appears that as a result of the passage of time the claim concerned may become prescribed, the medical report may be completed by another medical practitioner who has fully satisfied himself or herself regarding the cause of the death or the nature and treatment of the bodily injuries in respect of which the claim is made.

Verjaring van eis

23. (1) Ondanks enige andersluidende wetsbepalings, maar behoudens subartikels (2) en (3), verjaar die reg om kragtens artikel 17 van die Fonds of 'n agent skadevergoeding te eis ten opsigte van verlies of skade wat ontstaan uit die bestuur van 'n motorvoertuig in die geval waar die identiteit van óf die bestuurder óf die eienaar daarvan vasgestel is, na verloop van 'n tydperk van drie jaar vanaf die datum waarop die eisoorzaak ontstaan het.
- (2) Verjaring van 'n eis om skadevergoeding in subartikel (1) bedoel, loop nie teen—
- (a) 'n minderjarige nie;
- (b) enige persoon wat ingevolge enige geestesgesondheidswetgewing as pasiënt aangehou word nie; of
- (c) 'n persoon onder kuratele nie.
- (3) Ondanks subartikel (1), verjaar geen eis wat ingevolge artikel 24 ingedien is voor die verstryking van 'n tydperk van vyf jaar vanaf die datum waarop die eisoorzaak ontstaan het nie.
- (4) Ondanks artikel 36 van die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993 (Wet No. 130 van 1993), word enige reg kragtens subartikel (1) (b) van daardie artikel om 'n bedrag te verhaal wat kragtens genoemde Wet in ander omstandighede as dié genoem in artikel 18(2) van hierdie Wet aan 'n derde party betaal moet word, by die toepassing van subartikels (1) en (3) geag 'n reg te wees om skadevergoeding kragtens artikel 17 van hierdie Wet te eis wat op dieselfde datum ontstaan as die eisoorzaak van sodanige derde party kragtens genoemde artikel 17: Met dien verstande dat indien die verhaal van so 'n bedrag uit hoofde van hierdie subartikel belet is, enige skadevergoeding wat daarna kragtens hierdie Wet aan die derde party toegeken word, met die betrokke bedrag verminder word.
- (5) Ondanks artikel 149ter van die Verdedigingswet, 1957 (Wet No. 44 van 1957), of van 'n soortgelyk bewoorde artikel van 'n ander Parlements wet op die Suid-Afrikaanse Nasionale Weermag, word enige reg kragtens genoemde artikels om 'n bedrag te verhaal wat kragtens genoemde wetgewing in ander omstandighede as dié in artikel 18(3) genoem aan 'n derde party betaal moet word, by die toepassing van subartikels (1) en (3) geag 'n reg te wees om skadevergoeding kragtens artikel 17 van hierdie Wet te eis wat op dieselfde datum ontstaan as die eisoorzaak van sodanige derde party kragtens genoemde artikel 17: Met dien verstande dat indien die verhaal van so 'n bedrag uit hoofde van hierdie subartikel belet is, enige skadevergoeding wat daarna kragtens hierdie Wet aan die derde party toegeken word, met die betrokke bedrag verminder word.

Prosedure

24. (1) 'n Eis om skadevergoeding en meegaande mediese verslag kragtens artikel 17(1) word—
- (a) in die voorgeskrewe vorm, waarvan al die besonderhede ingevul word, uiteengesit;
- (b) per aangetekende pos gestuur aan of per hand afgelewer by die Fonds by sy hoof-, tak- of streekkantoor, of aan of by die agent wat ingevolge artikel 8 die eis moet hanteer, by die agent se geregistreerde kantoor of plaaslike takkantoor, en die Fonds of so 'n agent, erken skriftelik ten tyde van die aflewering per hand die ontvangs daarvan en die datum van sodanige ontvangs.
- (2) (a) Die mediese verslag word op die voorgeskrewe vorm ingevul deur die mediese praktisyn wat die oorledene of beseerde persoon behandel het vir die liggaamlike beserings opgedoen in die ongeluk waaruit die eis ontstaan, of deur die superintendent (of sy of haar verteenwoordiger) van die hospitaal waar die oorledene of beseerde persoon vir sodanige liggaamlike beserings behandeling ontvang het: Met dien verstande dat, indien die betrokke mediese praktisyn of superintendent (of sy of haar verteenwoordiger) versuim om op versoek die mediese verslag binne 'n redelike tyd in te vul en dit blyk dat die betrokke eis as gevolg van tydsverloop kan verjaar, die mediese verslag ingevul kan word deur 'n ander mediese praktisyn wat hom of haar ten volle vergewis het van die oorsaak van die dood of van die aard en behandeling van die liggaamlike beserings ten opsigte waarvan die eis ingestel word.

(b) Where a person is killed outright in a motor vehicle accident the completion of the medical report shall not be a requirement, but in such a case the form referred to in subsection (1)(a) shall be accompanied by documentary proof, such as a copy of the relevant inquest record or, in the case of a prosecution of the person who allegedly caused the deceased's death, a copy of the relevant charge sheet from which it can clearly be determined that such person's death resulted from the accident to which the claim relates.

(3) A claim by a supplier for the payment of expenses in terms of section 17(5) shall be in the prescribed form, and the provisions of this section shall apply *mutatis mutandis* in respect of the completion of such form.

(4) (a) Any form referred to in this section which is not completed in all its particulars shall not be acceptable as a claim under this Act.

(b) A clear reply shall be given to each question contained in the form referred to in subsection (1), and if a question is not applicable, the words "not applicable" shall be inserted.

(c) A form on which ticks, dashes, deletions and alterations have been made that are not confirmed by a signature shall not be regarded as properly completed.

(d) Precise details shall be given in respect of each item under the heading "Compensation claimed" and shall, where applicable, be accompanied by supporting vouchers.

(5) If the Fund or the agent does not, within 60 days from the date on which a claim was sent by registered post or delivered by hand to the Fund or such agent as contemplated in subsection (1), object to the validity thereof, the claim shall be deemed to be valid in law in all respects.

(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.

Right of recourse of Fund or agent

25. (1) When the Fund or an agent has paid any compensation in terms of section 17 the Fund or agent may, subject to subsections (2) and (3), 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 wrongful 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 21, have recovered from the owner or from such person if the Fund or agent had not paid any such compensation.

(2) The Fund's or agent's right of recourse against the owner of a motor vehicle under subsection (1) shall only be applicable in any case where the motor vehicle at the time of the accident which gave rise to the payment of the compensation was being driven—

(a) by a person other than the owner and the driver was under the influence of intoxicating liquor or of a drug to such a degree that his or her condition was the sole cause of such accident and the owner allowed the driver to drive the motor vehicle knowing that the driver was under the influence of intoxicating liquor or of a drug; or

(b) by a person other than the owner without the driver holding a licence issued under any law governing the licensing of drivers of motor vehicles which the driver was required to hold, or the driver, being the holder of a learner's or other restricted licence issued under such law, failed, while he or she was so driving the motor vehicle, to comply with the requirements or conditions of such learner's or restricted licence, and the owner allowed the driver to drive

(b) Waar 'n persoon op slag in 'n motorvoertuigongeluk gedood is, is die invul van die mediese verslag nie 'n vereiste nie, maar in so 'n geval word die vorm in subartikel (1)(a) bedoel, vergesel van dokumentêre bewys, soos 'n afskrif van die tersaaklike rekord van die geregtelike doodsonderzoek of, in die geval van 'n vervolging van die persoon wat na bewering die oorledene se dood veroorsaak het, 'n afskrif van die tersaaklike klagstaat, waaruit dit duidelik vasgestel kan word dat sodanige persoon se dood voortgespruit het uit die ongeluk waarop die eis betrekking het.

(3) 'n Eis deur 'n verskaffer vir die betaling van uitgawes ingevolge artikel 17(5) moet in die voorgeskrewe vorm wees, en die bepalings van hierdie artikel is *mutatis mutandis* van toepassing in verband met die voltooiing van sodanige vorm.

(4) (a) Enige vorm in hierdie artikel bedoel wat nie in al sy besonderhede ingevul is nie, is nie as 'n eis kragtens hierdie Wet ontvanklik nie.

(b) 'n Duidelike antwoord word gegee op elke vraag vervat in die vorm in subartikel (1) bedoel, en indien 'n vraag nie van toepassing is nie, word die woorde "nie van toepassing nie" ingevul.

(c) 'n Vorm waarop regmerkies, strepies, deurhalings en veranderings aangebring is wat nie deur 'n handtekening bevestig is nie, word geag nie behoorlik ingevul te wees nie.

(d) Noukeurige besonderhede word gegee ten opsigte van elke item onder die hoof "Skadevergoeding geëis", en word vergesel van stawende bewysstukke waar toepaslik.

(5) Indien die Fonds of die agent nie binne 60 dae vanaf die datum waarop 'n eis soos in subartikel (1) beoog, per aangetekende pos gestuur is aan of per hand afgelewer is by die Fonds of 'n agent, beswaar maak teen die geldigheid daarvan nie, word die eis geag in alle opsigte regsgeeldig te wees.

(6) Geen eis is afdwingbaar met 'n regsgeding nie wat aan die gang gesit is deur 'n dagvaarding wat aan die Fonds of 'n agent beteken is—

(a) voor die verstryking van 'n tydperk van 120 dae vanaf die datum waarop die eis aan die Fonds of die agent gestuur of per hand afgelewer is, soos in subartikel (1) beoog; en

(b) voordat aan al die vereistes, in artikel 19(f) beoog, voldoen is:

Met dien verstande dat indien die Fonds of die agent voor die verstryking van genoemde tydperk aanspreeklikheid vir die eis skriftelik ontken, die derde party te eniger tyd na sodanige ontkenning 'n dagvaarding aan die Fonds of die agent, na gelang van die geval, kan beteken.

Verhaalsreg van Fonds of agent

25. (1) Wanneer die Fonds of 'n agent ingevolge artikel 17 enige skadevergoeding betaal het, kan die Fonds of agent, behoudens subartikels (2) en (3), sonder verkryging van 'n formele sessie van die aksiereg, op die eenaar van die betrokke motoryoertuig of op enige persoon wie se nalatigheid of ander onregmatige daad die betrokke verlies of skade veroorsaak het, soveel verhaal van die bedrag betaal by wyse van skadevergoeding as wat die betrokke derde party, by ontstentenis van artikel 21, op die eenaar of op sodanige persoon sou kon verhaal het as die Fonds of agent nie sodanige skadevergoeding betaal het nie.

(2) Die Fonds of agent se verhaalsreg teen die eenaar van 'n motorvoertuig kragtens subartikel (1) is slegs van toepassing in 'n geval waar die motorvoertuig ten tyde van die ongeluk wat tot die betaling van die skadevergoeding aanleiding gegee het—

(a) deur 'n ander persoon as die eenaar bestuur is en die bestuurder in so 'n mate onder die invloed van bedwelmende drank of van 'n dwelmmiddel was dat sy of haar toestand die enigste oorsaak van sodanige ongeluk was, en die eenaar die bestuurder toegelaat het om die motorvoertuig te bestuur wetende dat die bestuurder onder die invloed van bedwelmende drank of van 'n dwelmmiddel was; of

(b) deur 'n ander persoon as die eenaar bestuur is sonder dat die bestuurder die houer was van 'n lisensie wat kragtens enige wet op die lisensiering van bestuurders van motorvoertuie uitgereik is en wat die bestuurder moes gehou het, of die bestuurder, synde die houer van 'n leerling- of ander beperkte lisensie kragtens sodanige wet uitgereik, versuim het terwyl hy of sy die motorvoertuig aldus bestuur het om aan die vereistes of voorwaardes van sodanige leerling- of beperkte lisensie te voldoen, en die eenaar die bestuurder toegelaat het om die motorvoertuig te bestuur wetende dat die

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- the motor vehicle knowing that the driver did not hold such a licence or that the driver failed to comply with the requirements or conditions of a learner's or restricted licence, as the case may be; or
- (c) by the owner and he or she was under the influence of intoxicating liquor or of a drug to such a degree that his or her condition was the sole cause of such accident; or 5
- (d) by the owner without holding a licence issued under any law governing the licensing of drivers of motor vehicles, which he or she was required to hold, or the owner, being the holder of a learner's or other restricted licence issued under such law, failed, while he or she was so driving the motor vehicle, to comply with the requirements or conditions of such learner's or restricted licence; or 10
- (e) by the owner and he or she failed to comply with any requirement contemplated in section 22(1) with reference to the said accident, or knowingly furnished the Fund or the agent with false information relating to such accident and the Fund or agent was materially prejudiced by such failure or by the furnishing of such false information, as the case may be. 15
- (3) The provisions of subsection (2)(c), (d) and (e) shall apply *mutatis mutandis* in respect of any right of recourse by the Fund or the agent against any person who, at the time of the accident which gave rise to the payment of the compensation, was driving the motor vehicle concerned with or without the consent of its owner. 20

Regulations

26. (1) The Minister shall or may make regulations to prescribe any matter which in terms of this Act shall or may be prescribed or which may be necessary or expedient to prescribe in order to achieve or promote the object of this Act. 25
- (2) Any regulation contemplated in subsection (1) may for any contravention of or failure to comply with its provisions or the provisions of this Act, provide for penalties of a fine or imprisonment for a period not exceeding three months.

Repeal and amendment of laws

27. (1) Subject to section 28— 30
- (a) the laws mentioned in Part I of the Schedule are hereby repealed; and
- (b) all laws, including proclamations and decrees, which amended the laws mentioned in Part I of the Schedule are hereby repealed in so far as they so amended those laws.
- (2) The Financial Supervision of the Multilateral Motor Vehicle Accidents Fund Act, 1993 (Act No. 8 of 1993), is hereby amended as indicated in Part II of the Schedule. 35

Savings

28. (1) Notwithstanding section 2 (2), this Act shall not apply in relation to a claim for compensation in respect of which the occurrence concerned took place prior to the commencement of this Act in terms of a law repealed by section 27, and any such claim shall be dealt with as if this Act had not been passed. 40
- (2) The repeal of any law by section 27 shall not affect—
- (a) the previous operation of such law or anything duly done or permitted under such law; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under such law; or 45
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed in terms of such law; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, 50

- bestuurder nie so 'n lisensie gehou het nie of dat die bestuurder versuim het om aan die vereistes of voorwaardes van 'n leerling- of beperkte lisensie, na gelang van die geval, te voldoen; of
- 5 (c) deur die eienaar bestuur is en hy of sy in so 'n mate onder die invloed van bedwelvende drank of van 'n dwelmmiddel was dat sy of haar toestand die enigste oorsaak van sodanige ongeluk was; of
- 10 (d) deur die eienaar bestuur is sonder dat hy of sy die houer was van 'n lisensie wat kragtens enige wet op die lisensiëring van bestuurders van motorvoertuie uitgereik is en wat hy of sy moes gehou het, of die eienaar, synde die houer van 'n leerling- of ander beperkte lisensie kragtens sodanige wet uitgereik, versuim het terwyl hy of sy die motorvoertuig aldus bestuur het om aan die vereistes of voorwaardes van sodanige leerling- of beperkte lisensie te voldoen; of
- 15 (e) deur die eienaar bestuur is en hy of sy versuim het om aan enige vereiste beoog in artikel 22(1) met betrekking tot genoemde ongeluk te voldoen, of wetens vals inligting betreffende sodanige ongeluk aan die Fonds of die agent verstrek het en die Fonds of agent wesenlik deur sodanige versuim of deur die verstrekking van sodanige vals inligting, na gelang van die geval, benadeel is.
- 20 (3) Die bepalings van subartikel (2) (c), (d) en (e) is *mutatis mutandis* van toepassing ten opsigte van enige verhaalsreg van die Fonds of die agent teen enige persoon wat ten tyde van die ongeluk wat tot die betaling van die skadevergoeding aanleiding gegee het, die betrokke motorvoertuig met of sonder die toestemming van die eienaar daarvan bestuur het.

25 Regulasies

26. (1) Die Minister moet of kan regulasies uitvaardig om enige aangeleentheid voor te skryf wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word, of wat nodig of dienstig is om voor te skryf ten einde die oogmerk van hierdie Wet te bereik of te bevorder.
- 30 (2) 'n Regulasie in subartikel (1) beoog, kan vir 'n oortreding van die bepalings daarvan of van hierdie Wet of vir 'n versuim om aan die bepalings daarvan of van hierdie Wet te voldoen, strawwe voorskryf van 'n boete of gevangenisstraf vir 'n tydperk van hoogstens drie maande.

Herroeping en wysiging van wette

- 35 27. (1) Behoudens artikel 28—
- (a) word die wette genoem in Deel I van die Bylae hierby herroep; en
- (b) word alle wette, met inbegrip van proklamasies en dekrete, wat die wette genoem in Deel I van die Bylae gewysig het, hierby herroep vir sover hulle daardie wette aldus gewysig het.
- 40 (2) Die Wet op Finansiële Toesighouding oor die Multilaterale Motorvoertuigongelukkefonds, 1993 (Wet No. 8 van 1993), word hierby gewysig soos in Deel II van die Bylae aangedui.

Voorbehoude

- 45 28. (1) Ondanks artikel 2(2), is hierdie Wet nie van toepassing nie met betrekking tot 'n eis om skadevergoeding ten opsigte waarvan die betrokke voorval voor die inwerkingtreding van hierdie Wet ingevolge 'n wet by artikel 27 herroep, plaasgevind het, en sodanige eis word behandel asof hierdie Wet nie aangeneem is nie.
- (2) Die herroeping van enige wet by artikel 27 raak nie—
- 50 (a) die vroeëre werking van sodanige wet of enigiets wat behoorlik kragtens sodanige wet gedoen of toegelaat is nie; of
- (b) enige reg, voorreg, verpligting of aanspreeklikheid wat kragtens sodanige wet verkry is of ontstaan of opgeloopt het nie; of
- (c) enige boete, verbeurdverklaring of straf opgeloopt ten opsigte van enige misdryf ingevolge sodanige wet gepleeg nie; of
- 55 (d) enige ondersoek, regsgeding of regsmiddel ten opsigte van enige sodanige reg, voorreg, verpligting, aanspreeklikheid, boete, verbeurdverklaring of straf nie,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

Short title and commencement

29. This Act shall be called the Road Accident Fund Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the Gazette, except section 10, which shall be deemed to have come into operation on 21 April 1996.

30. (1) The provisions of this Act shall apply to any person who is liable to pay compensation in respect of an accident which occurred on or after the commencement of this Act, whether or not the accident occurred before the commencement of this Act. (2) The provisions of this Act shall apply to any person who is liable to pay compensation in respect of an accident which occurred on or after the commencement of this Act, whether or not the accident occurred before the commencement of this Act.

31. (1) The Minister may, after consulting the Commission, make regulations for the purposes of this Act. (2) The Minister may, after consulting the Commission, make regulations for the purposes of this Act.

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en enige sodanige ondersoek, regsgeding of regsmiddel kan ingestel, voortgesit of aangewend word en enige sodanige boete, verbeurdverklaring of straf kan opgelê word, asof hierdie Wet nie aangeneem is nie.

Kort titel en inwerkingtreeding

- 5 29. Hierdie Wet heet die Padongelukfondswet, 1996, en tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant* bepaal, behalwe artikel 10, wat geag word op 21 April 1996 in werking te getree het.

Short title	Act and year of law
Multilateral Motor Vehicle Accidents Fund Act, 1989	Act No. 84 of 1989
Multilateral Motor Vehicle Accidents Fund Act, 1989	Act No. 9 of 1989
Multilateral Motor Vehicle Accidents Fund Act, 1989	Act No. 2 of 1989
Multilateral Motor Vehicle Accidents Fund Act, 1989	Act No. 7 of 1989
Multilateral Motor Vehicle Accidents Fund Act, 1989	Act No. 9 of 1989
Multilateral Motor Vehicle Accidents Fund Act, 1989	Act No. 11 of 1989
Multilateral Motor Vehicle Accidents Fund Act, 1989	Act No. 23 of 1989

PART II

The Financial Supervision of the Multilateral Motor Vehicle Accidents Fund Act, 1996, is hereby amended—
(a) by the substitution for the long title of the following long title:

"ACT"

To further regulate the affairs of the [Multilateral Motor Vehicle Accidents] Road Accident Fund, and to provide for matters connected therewith;

(b) by the substitution in section 1 for the definition of "Fund" of the following definition:
"Fund" means the [Multilateral Motor Vehicle Accidents] Road Accident Fund mentioned in the [Multilateral Motor Vehicle Accidents] Road Accident Fund Act, 1989 (Act No. 23 of 1989);

(c) by the substitution for section 6 of the following section:

"Short title"

a. This Act shall be called the Financial Supervision of the Road Accident Fund Act, 1996.

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SCHEDULE**PART I**

No. and year of law	Short title
Act No. 32 of 1980	Compulsory Motor Vehicle Insurance Act, 1980 (Bophuthatswana)
Act No. 28 of 1986	Motor Vehicle Accidents Act, 1986 (Ciskei)
Act No. 84 of 1986	Motor Vehicle Accidents Act, 1986
Decree No. 9 of 1988	Decree No. 9 (Motor Vehicle Accidents) of 1988 (Transkei)
Act No. 5 of 1989	Multilateral Motor Vehicle Accidents Fund Act, 1989 (Bophuthatswana)
Act No. 7 of 1989	Multilateral Motor Vehicle Accidents Fund Act, 1989 (Venda)
Decree No. 9 of 1989	Decree No. 9 (Multilateral Motor Vehicle Accidents Fund) of 1989 (Transkei)
Act No. 17 of 1989	Multilateral Motor Vehicle Accidents Fund Act, 1989 (Ciskei)
Act No. 93 of 1989	Multilateral Motor Vehicle Accidents Fund Act, 1989

PART II

The Financial Supervision of the Multilateral Motor Vehicle Accidents Fund Act, 1993, is hereby amended—

- (a) by the substitution for the long title of the following long title:

“ACT

To further regulate the affairs of the [**Multilateral Motor Vehicle Accidents**] Road Accident Fund; and to provide for matters connected therewith.”;

- (b) by the substitution in section 1 for the definition of “Fund” of the following definition:

“ ‘Fund’ means the [**Multilateral Motor Vehicle Accidents**] Road Accident Fund mentioned in the [**Multilateral Motor Vehicle Accidents Fund Act, 1989 (Act No. 93 of 1989)**] Road Accident Fund Act, 1996; and

- (c) by the substitution for section 6 of the following section:

“Short title

6. This Act shall be called the Financial Supervision of the Road Accident Fund Act, 1993.”.

BYLAE

DEEL I

No. en jaar van wet	Kort titel
Wet No. 32 van 1980	Wet op Verpligte Motorvoertuigversekering, 1980 (Bophuthatswana)
Wet No. 28 van 1986	“Motor Vehicle Accidents Act, 1986” (Ciskei)
Wet No. 84 van 1986	Motorvoertuigongelukkewet, 1986
Dekreet No. 9 van 1988	“Decree No. 9 (Motor Vehicle Accidents) of 1988” (Transkei)
Wet No. 5 van 1989	Multilaterale Motorvoertuigongelukkefondswet, 1989 (Bophuthatswana)
Wet No. 7 van 1989	“Multilateral Motor Vehicle Accidents Fund Act, 1989” (Venda)
Dekreet No. 9 van 1989	“Decree No. 9 (Multilateral Motor Vehicle Accidents Fund) of 1989” (Transkei)
Wet No. 17 van 1989	“Multilateral Motor Vehicle Accidents Fund Act, 1989” (Ciskei)
Wet No. 93 van 1989	Multilaterale Motorvoertuigongelukkefondswet, 1989

DEEL II

Die Wet op Finansiële Toesighouding oor die Multilaterale Motorvoertuigongelukkefondse, 1993, word hierby gewysig—

- (a) deur die lang titel deur die volgende lang titel te vervang:

“WET

Tot verdere reëling van die sake van die [**Multilaterale Motorvoertuigongelukkefondse**] Padongelukfondse; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.”;

- (b) deur in artikel 1 die omskrywing van “Fonds” deur die volgende omskrywing te vervang:

“ ‘Fonds’ die [**Multilaterale Motorvoertuigongelukkefondse**] Padongelukfondse vermeld in die [**Multilaterale Motorvoertuigongelukkefondsewet, 1989 (Wet No. 93 van 1989)**] Padongelukfondsewet, 1996;”;

- (c) deur artikel 6 deur die volgende artikel te vervang:

“Kort titel

6. Hierdie Wet heet die Wet op Finansiële Toesighouding oor die Padongelukfondse, 1993.”.

BYLAE
DEEL I

Wet No. of Jaar van wet	Kort titel
Wet No. 33 van 1980	Wet op Verpand: Motorvoertuigverzekering, 1980 (Bepandingswet)
Wet No. 28 van 1980	"Motor Vehicle Accidents Act, 1980" (Clasak)
Wet No. 84 van 1983	Motorvoertuigwet, 1983
Deelwet No. 3 van 1983	Deelwet No. 9 (Motor Vehicle Accidents) of 1983 (Trenskel)
Wet No. 2 van 1980	Wet No. 2 van 1980: Motorvoertuigverzekeringwet, 1980 (Bepandingswet)
Wet No. 7 van 1983	"Multilateral Motor Vehicle Accidents Fund Act, 1983" (Trenskel)
Deelwet No. 9 van 1980	Deelwet No. 9 (Multilateral Motor Vehicle Accidents Fund) of 1980 (Trenskel)
Wet No. 11 van 1989	"Multilateral Motor Vehicle Accidents Fund Act, 1989" (Clasak)
Wet No. 53 van 1989	Multilaterale Motorvoertuigverzekeringwet, 1989

DEEL II

Die Wet op Finansiële Bevestiging oor die Multilaterale Motorvoertuigverzekeringwet, 1989, word hierby gewysig—

(a) deur die lang titel deur die volgende lang titel te vervang:

WET

Ter verdere regting van die sake 7 en die [Multilaterale Motorvoertuigverzekeringwet] Padonggelukfonds: en om voorsiening te maak vir aansoekentoeke wat daarmee in verband staan;

(b) deur in artikel 1 die omskrywing van "Fonds" deur die volgende omskrywing te vervang:

"Fonds" die [Multilaterale Motorvoertuigverzekeringwet] Padonggelukfonds soos vermeld in die [Multilaterale Motorvoertuigverzekeringwet, 1989 (Wet No. 53 van 1989) Padonggelukfonds, 1989];

(c) deur artikel 6 deur die volgende artikel te vervang:

"Kort titel

6. Hierdie Wet heet die Wet op Finansiële Bevestiging oor die Padonggelukfonds, 1989.