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Kaapstad,

THE PRESIDENCY

No. 1057 10 December 2012

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

Act No. 15 of 2012: Road Accident Fund (Transitional Provisions) Act, 2012

DIE PRESIDENSIE

No. 1057 10 Desember 2012

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

Wet 15 van 2012: Wet op Padongelukfonds (Oorgangsbepalings), 2012



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

(English text signed by the President)
(Assented to 6 December 2012)

ACT

To provide for transitional measures in respect of certain categories of third parties whose claims were limited under the Road Accident Fund Act, 1996 (Act No. 56 of 1996), prior to 1 August 2008; and to provide for matters connected therewith.

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

Definitions

1. In this Act, unless the context indicates otherwise—
- “**Fund**” bears the same meaning as defined in the Road Accident Fund Act, 1996 (Act No. 56 of 1996);
 - “**new Act**” means the Road Accident Fund Act, 1996 (Act No. 56 of 1996), as it stood from 1 August 2008 onwards;
 - “**old Act**” means the Road Accident Fund Act, 1996 (Act No. 56 of 1996), as it stood prior to 1 August 2008;
 - “**prescribed**” means prescribed by the Minister by regulation in the *Gazette*;
 - “**third party**” means a person who has a right to claim compensation from the Fund in terms of section 17 of the old Act, whose claim is subject to the limitations imposed by section 18(1) or (2) of that Act, and whose claim has, upon this Act taking effect, not prescribed or been finally determined by settlement or judgment.

Transitional arrangements for certain third parties

2. (1) Unless the third party expressly and unconditionally indicates to the Fund on the prescribed form, within one year of this Act taking effect, to have his or her claim remain subject to the old Act, the claim of such third party is subject to the new Act under the following transitional regime:
- (a) Subject to the remaining provisions of this Act, the cause of action of the third party is deemed to have arisen on 1 August 2008 for purposes of section 12 of the Road Accident Fund Amendment Act, 2005 (Act No. 19 of 2005), and section 17(4A)(b) of the new Act.
 - (b) The right of the third party to claim compensation for non-pecuniary loss is limited to a maximum amount of R25 000, unless—
 - (i) the third party submits a serious injury assessment report as contemplated in Regulation 3 of the Road Accident Fund Regulations, 2008, indicating a serious injury, within two years of this Act taking effect; and
 - (ii) it is determined in accordance with Regulation 3 of the Road Accident Fund Regulations, 2008, that the third party suffered a serious injury.

(English text signed by the President)
(Assented to 6 Desember 2012)

WET

Om voorsiening te maak vir oorgangsbepalings ten opsigte van sekere kategorieë derde partye wie se eise kragtens die Padongelukfondswet, 1996 (Wet No. 56 van 1996), voor 1 Augustus 2008 beperk was; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Woordomsrywings

1. In hierdie Wet, tensy die samehang anders aandui, beteken—
- “**derde party**” ’n persoon wat ’n reg het om ingevolge artikel 17 van die ou Wet skadevergoeding van die Fonds te eis, wie se eis onderhewig is aan die beperkings deur artikel 18(1) of (2) van daardie Wet opgelê, en wie se eis, by die inwerkingtreding van hierdie Wet, nie verjaar het of finaal deur skikking of uitspraak bepaal is nie.
 - “**Fonds**” dieselfde soos omskryf in die Padongelukfondswet, 1996 (Wet No. 56 van 1996);
 - “**nuwe Wet**” die Padongelukfondswet, 1996 (Wet No. 56 van 1996), soos dit vanaf 1 Augustus 2008 en daarna lui;
 - “**ou Wet**” die Padongelukfondswet, 1996 (Wet No. 56 van 1996), soos dit voor 1 Augustus 2008 gelui het; en
 - “**voorgeskrif**” deur die Minister by regulasie in die *Staatskoerant* voorgeskryf;

Oorgangsmatreëls vir sekere derde partye

2. (1) Tensy die derde party uitdruklik en onvoorwaardelik, binne een jaar vanaf die inwerkingtreding van hierdie Wet, op die voorgeskrewe vorm vir die Fonds aandui dat sy of haar eis aan die ou Wet onderhewig moet bly, is die eis van sodanige derde party kragtens die oorgangstelsel hieronder onderhewig aan die nuwe Wet:
- (a) Behoudens die oorblywende bepalings van hierdie Wet, word die derde party se eisoorzaak geag op 1 Augustus 2008 te ontstaan het, by die toepassing van artikel 12 van die Wysigingswet op die Padongelukfonds, 2005 (Wet No. 19 van 2005), en artikel 17(4A)(b) van die nuwe Wet.
 - (b) Die reg van die derde party om skadevergoeding vir niegeldelike verlies te eis, is beperk tot ’n maksimum bedrag van R25 000, tensy—
 - (i) die derde party binne twee jaar vanaf die inwerkingtreding van hierdie Wet ’n ernstigebesering-assesseringsverslag voorlê soos in Regulasie 3 van die Padongelukfondsregulasies, 2008, beoog, welke verslag ’n ernstige besering aandui; en
 - (ii) ooreenkomstig Regulasie 3 van die Padongelukfondsregulasies, 2008, bepaal word dat die derde party ’n ernstige besering opgedoen het.

- (c) The claim of the third party must be reduced by the following amounts:
- (i) All amounts recovered by the third party from the owner, driver or employer of the driver of the motor vehicle involved in the motor vehicle accident concerned;
 - (ii) all amounts paid or accrued to the suppliers contemplated in section 17(5) of the old Act in respect of costs incurred by the third party; 5
 - (iii) all interim payments made to the third party in terms of section 17(6) of the old Act; or
 - (iv) all amounts that the third party may have received in compensation in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), the Defence Act, 2002 (Act No. 42 of 2002), or any other Act of Parliament governing the South African National Defence Force. 10
- (d) The third party must make a written declaration under oath on the prescribed form to the Fund regarding any compensation he or she may have received as indicated in paragraph (c). 15
- (e) A third party who has, prior to this Act coming into operation—
- (i) lodged a claim with the Fund on the prescribed claim form in terms of the old Act, shall not be required to lodge an RAF1 form in terms of the new Act; and 20
 - (ii) instituted an action against the Fund in a Magistrate's Court, may withdraw the action and, within 60 days of such withdrawal, institute an action in a High Court with appropriate jurisdiction over the matter: Provided that no special plea in respect of prescription may be raised during that period. 25
- (f) Notwithstanding the transitional regime contemplated in this Act, section 17(4B) of the new Act and the tariffs thereunder shall have no effect on the claims of the suppliers of goods and services in terms of section 17(5) of the old Act in respect of costs incurred by the third party prior to this Act taking effect. 30
- (g) The owner, driver and employer of the driver of the motor vehicle involved in the motor vehicle accident concerned are absolved, with effect from the date on which this Act comes into operation, from any liability to the third party.
- (2) If the third party is subject to an impediment contemplated in section 23(2) of the new Act or section 13(1)(a) of the Prescription Act, 1969 (Act No. 68 of 1969), the period of one year referred to in subsection (1) and the period of two years referred to in subsection (1)(b)(i) shall commence running when the impediment ceases to exist. 35

Short title and commencement

3. This Act is called the Road Accident Fund (Transitional Provisions) Act, 2012, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 40

- (c) Die volgende bedrae moet van die derde party se eis afgetrek word:
- (i) Alle bedrae deur die derde party van die eienaar, bestuurder of werkgewer van die bestuurder van die motorvoertuig betrokke in die toepaslike motorvoertuigongeluk verhaal;
 - (ii) alle bedrae betaal of toegeval aan die voorsieners in artikel 17(5) van die ou Wet beoog ten opsigte van uitgawes aangegaan deur die derde party;
 - (iii) alle tussentydse betalings ingevolge artikel 17(6) van die ou Wet aan die derde party gemaak; of
 - (iv) alle bedrae wat die derde party ter skadevergoeding kon ontvang het ingevolge die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993 (Wet No. 130 van 1993), die “Defence Act, 2002” (Wet No. 42 van 2002), of enige ander Parlementswet wat die Suid-Afrikaanse Nasionale Weermag beheer.
- (d) Die derde party moet ’n geskrewe beëdigde verklaring op die voorgeskrewe vorm aan die Fonds aflê betreffende enige skadevergoeding wat hy of sy, soos in paragraaf (c) aangedui, ontvang het. 15
- (e) ’n Derde party wat, voor hierdie Wet in werking getree het—
- (i) ’n eis op die voorgeskrewe eisvorm ingevolge die ou Wet by die Fonds ingedien het, hoef nie ’n RAF1-vorm ingevolge die nuwe Wet in te handig nie; en 20
 - (ii) ’n geding teen die Fonds in Landdroshof ingestel het, kan die geding onttrek en, binne 60 dae na sodanige onttrekking, ’n geding in ’n Hoë Hof met toepaslike regsbevoegdheid oor die aangeleentheid instel: Met dien verstande dat geen spesiale pleit ten opsigte van verjaring tydens daardie tydperk gemaak mag word nie. 25
- (f) Ondanks die oorgangstelsel in hierdie Wet beoog, het artikel 17(4B) van die nuwe Wet en die tariewe daarkragtens geen uitwerking op die eise van die voorsieners van goedere en dienste ingevolge artikel 17(5) van die ou Wet ten opsigte van uitgawes deur die derde party aangegaan voor hierdie Wet in werking getree het nie. 30
- (g) Die eienaar, bestuurder en werkgewer van die bestuurder van die motorvoertuig betrokke in die betrokke motorvoertuigongeluk is, met ingang van die datum waarop hierdie Wet in werking tree, kwytgeskeld van enige aanspreeklikheid teenoor die derde party.
- (2) Indien die derde party onderhewig is aan ’n beperking beoog in artikel 23(2) van die nuwe Wet of artikel 13(1)(a) van die Verjaringswet, 1969 (Wet No. 68 van 1969), begin die tydperk van een jaar in subartikel (1) bedoel en die tydperk van twee jaar in subartikel (1)(b)(i) bedoel wanneer die beperking wegval. 35

Kort titel en inwerkingtreding

3. Hierdie Wet heet die Wet op Padongelukfonds (Oorgangsbepalings), 2012, en tree 40 in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

