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**GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWING**

**DEPARTMENT OF TRANSPORT
DEPARTEMENT VAN VERVOER**

No. R. 347

15 May 2013

ROAD ACCIDENT FUND ACT, 1996 (ACT NO. 56 of 1996)

ROAD ACCIDENT FUND AMENDMENT REGULATIONS, 2013

I Ben Dikobe Martins, Minister of Transport hereby, in terms of section 26 of the Road Accident Fund Act, 1996 (Act No.56 of 1996), makes the following Regulations as set out in the attached Schedule.



Mr D. B. MARTINS, MP

MINISTER OF TRANSPORT

DATE:

SCHEDULE

Definitions

Amendment of regulation 1 of the Regulations

1. In these Regulations "the Regulations" mean the regulations published by Government Notice No. R.769 and R. 770 in Government Gazette No.31249 on 21 July 2008.
2. Regulation 1 of the Regulations is hereby amended by the insertion after the definition of "AMA Guides" of the following definition:

“‘complications’ means any medical complication and, or, functional impairment relating to the third party, which in the opinion of the medical practitioner, could result in the injury being assessed as serious in terms of sub regulation 3(1)(b)(ii) and/or 3(1)(b)(iii).”.

Amendment of regulation 3 of the Regulations

3. Regulation 3 of the Regulations is hereby amended –

(a) the substitution in sub regulation (1)(b) for paragraph (i) of the following paragraph: -

“(i) Any one, or any combination, of the following injuries, are for purposes of section 17 of the Act, not to be regarded as a serious injury and no injury shall be assessed as serious if the injury meets the following description -

(aa) any whiplash type or soft tissue injury to the neck or back;

(bb) any strain, tear, crush or damage to any muscle or soft tissue;

(cc) any mild sprain, strain, tear or damage to any ligament of any joint unless there is continuing instability of the joint;

(dd) any lacerations, abrasion, cut, tear, or damage to skin or soft tissue, provided there is no resulting permanent serious disfigurement;

(ee) any complete or partial amputation of the little finger of either hand, or both the right and left hand;

(ff) fracture of any finger of either hand, or both the right and left hand;

(gg) any complete or partial amputation of any one toe of either foot or both the right and left foot unless there is partial or complete amputation of the big toe;

(hh) fracture of any toe of either foot, or both the right and left foot;

- (ji) any damage to or loss of a tooth or any number of teeth;
- (jj) superficial burns to any part of the body;
- (kk) superficial injury to one or both eyes;
- (ll) fracture of the nasal bone or damage to the nasal cartilage;
- (mm) any scar or scars caused by any injury listed in items (aa) to (ll), provided there is no resulting permanent serious disfigurement;
- (nn) any bruising or bleeding into the soft tissue as a result of any injury listed in items (aa) to (mm);
- (oo) any sequelae in the form of pain or discomfort as a result of any injury listed in items (aa) to (nn); and
- (pp) any mild or moderate form of depression, anxiety, chronic headaches or post-traumatic stress disorder;

Provided that, if any complication arises from any one, or any combination of the injuries listed in items (aa) to (pp), the third party shall be entitled to be assessed in terms of sub regulations 3(1)(b)(ii) and (3)(1)(b)(iii)."

(b) by the substitution in sub regulation 2 for paragraph (a) of the following paragraph:

"(a) Unless otherwise provided in these Regulations -

- (i) the costs of an assessment shall not exceed R 2 650.00 (excluding VAT), or such adjusted tariff of fees determined by the Minister from time to time by notice in the Gazette;
- (ii) no amount in excess of that determined in paragraph (i) shall be recoverable from the Fund or an agent: provided that the amount determined in paragraph (i) excludes the additional cost of information, records or reports required by the medical practitioner to perform the assessment, the cost of which shall be in addition to the aforementioned amount; and

(iii) the costs of an assessment shall be borne by the Fund or an agent only if the third party's injury is found to be serious and the Fund or the agent attracts overall liability in terms of the Act.”;

(c) by the insertion in paragraph (b) of sub regulation (2) of the word “written” before the word “request”;

(d) by the insertion after subregulation (2) of the following subregulation:

“(2A) (a) The Fund or an agent must determine a request by a third party in terms of sub regulation (2) within 60 days from the date on which the written request was sent by registered post or delivered by hand to the Fund or an agent.

(b) A request by a third party in terms of sub regulation (2) shall not interrupt prescription.”;

(e) by the insertion in sub regulation (3) after paragraph (d) of the following paragraph:

“(dA) The Fund or an agent must, within 90 days from the date on which the serious injury assessment report was sent by registered post or delivered by hand to the Fund or to the agent who in terms of section 8 must handle the claim, accept or reject the serious injury assessment report or direct that the third party submit himself or herself to a further assessment.”;

(f) by the substitution in sub regulation (8) for paragraph (a) of the following paragraph:

“(a) The Registrar shall within 60 days after receiving notification from the other party, or after the expiry of the 60 day period referred to in sub regulation (7), refer the dispute for consideration by an appeal tribunal paid for by the Fund.”

Amendment of regulation 6 of the Regulations

4. Regulation 6 of the Regulations is hereby amended by the addition of the following subregulations: -

“(3) The Fund or an agent may at its cost, at the written request of the third party, pay directly to the medical practitioner or hospital concerned the reasonable necessary costs associated with the completion of the medical report contemplated in section 24(2)(a) of the Act, if the Fund decides that the third party lacks sufficient funds to obtain the medical report and the Fund foresees a reasonable prospect that the third party could succeed with the merits of the claim.

“(4) The Fund or an agent must determine a request by a third party in terms of sub regulation (3) within 60 days from the date on which the written request was sent by registered post or delivered by hand to the Fund.

“(5) A request by a third party in terms of sub regulation (3) shall not interrupt prescription.”

Short Title and Commencement

5. These Regulations are called the Road Accident Fund Amendment Regulations, 2013 and will come into operation on the date of their publication in the *Gazette*.

No. R. 347

15 Mei 2013

PADONGELUKFONDSWET, 1996 (WET NO. 56 VAN 1996)**PADONGELUKFONDS WYSIGINGSREGULASIES, 2013**

Ek, Dikobe Ben Martins, Minister van Vervoer het, kragtens artikel 26 van die Padongelukfondswet, 1996 (Wet No. 56 van 1996), die Regulasies in die aangehegte Bylae gemaak.



Mnr D. B. MARTINS, MP**MINISTER VAN VERVOER****DATUM:**

BYLAE

Woordomskrywings

1. In hierdie Regulasies beteken "die Regulasies" die regulasies gepubliseer in Goewermenskennisgewing No. R.769 en R. 770 in Staatskoerant No.31249 van 21 Julie 2008.

Wysiging van regulasie 1 van die Regulasies

2. Regulasie 1 van die Regulasies word hiermee gewysig deur na die definisie van "AMA Guides" die volgende definisie by te voeg:

"'komplikasie' beteken enige mediese komplikasie en, of, funksionele gebrek van die derde party, wat na die mening van die geneesheer moontlik daartoe kan lei dat die besering ingevolge subregulasie 3(1)(b)(ii) en, of, 3(1)(b)(iii) as ernstig geassesseer word;".

Wysiging van regulasie 3 van die Regulasies

3. Regulasie 3 van die Regulasies word hiermee gewysig deur: -

- (a) die vervanging van paragraaf (i) in subregulasie (1)(b) met die volgende paragraaf: -

"(i) Enige enkele, of kombinasie van, die volgende beserings, mag vir doeleindes van artikel 17 van die Wet, nie geag word 'n ernstige besering te wees nie, en geen besering sal as ernstig geassesseer word as die besering aan die volgende beskrywing voldoen nie -
(aa) enige sweepslag tipe of sagteweefsel besering van die nek of rug;

- (bb) enige verrekking, skeur, drukbesering of skade aan enige spier of sagteweefsel;
- (cc) enige matige verrekking, skeur of skade aan enige ligament of gewrig, tensy daar volgehoue onstabiliteit van die gewrig teenwoordig is;
- (dd) enige skeur, skaafwond, sny, of skade aan vel of sagteweefsel, tensy dit permanente ernstige ontsiering tot gevolg het;
- (ee) enige volledige of gedeeltelike amputasie van die kleinvinger van een van die twee hande, of van beide die linkerhand en die regterhand;
- (ff) fraktuur van enige vinger van een van die twee hande, of van beide die linkerhand en die regterhand;
- (gg) enige volledige of gedeeltelike amputasie van enige een toon van een van die twee voete, of beide die linkervoet en die regtervoet, tensy daar gedeeltelike of volledige amputasie van die groottoon is;
- (hh) fraktuur van enige toon van een van die twee voet, of van beide die linkervoet en die regtervoet;
- (ii) enige skade aan of verlies van 'n tand of enige getal tande;
- (jj) oppervlakkige brandwonde aan enige deel van die liggaam;
- (kk) oppervlakkige besering aan een of albei oë;
- (ll) fraktuur van die neusbeen of skade aan die neuskraakbeen;
- (mm) enige litteken veroorsaak deur enige besering gelys in (aa) tot (ll), tensy dit permanente ernstige ontsiering tot gevolg het;
- (nn) enige kneusing of bloeding in sagteweefsel as 'n gevolg van enige besering gelys in items (aa) tot (mm);

(oo) enige sequelae in die vorm van pyn of ongemak as 'n gevolg van enige besering gelys in (aa) tot (nn); en

(pp) enige ligte tot matige vorme van depressie, angs, kroniese hoofpyn of post traumatiese stres versteuring;

Met dien verstande dat, as enige komplikasie voortspruit uit enige een, of enige kombinasie van die beserings gelys in items (aa) tot (pp), sal die derdeparty geregtig wees om geassesseer te word ingevolge subregulasies 3(1)(b)(ii) en (3)(1)(b)(iii)."

(b) die vervanging van paragraaf (a) in subregulasie 2 met die volgende paragraaf:

"(a) Tensy anders bepaal in hierdie Regulasies -

(i) sal die koste van 'n assessering nie R 2 650.00 (uitsluitende BTW), of sodanige aangepaste tarief van tyd-tot-tyd deur die Minister bepaal by wyse van kennisgewing in die Staatskoerant, oorskry nie;

(ii) enige bedrag wat die bedrag in paragraaf (i) oorskry sal nie van die Fonds of 'n agent verhaalbaar wees nie; met dien verstande dat die bykomende koste van inligting, rekords en verslae wat deur die geneesheer benodig word om die assessering te verrig, by die bedrag in paragraaf (i) bepaal uitgesluit is en bykomstig tot voormelde bedrag sal wees; en

(iii) die koste van die assessering sal slegs deur die Fonds of 'n agent gedra word indien die derdeparty se besering bevind word ernstig te wees en die Fonds of die agent oorhoofse aanspreeklikheid ingevolge die Wet opdoen.";

(c) die byvoeging in paragraaf (b) van sugregulasie (2) van die woord “geskrewe” voor die woord “versoek”;

(d) die byvoeging na subregulasie (2) van die volgende subregulasie:

“(2A) (a) Die Fonds of ‘n agent moet ‘n versoek deur ‘n deredeparty gemaak ingevolge subregulasie (2) binne 60 dae oorweeg, vanaf die datum waarop die geskrewe versoek per geregistreerde pos aan die Fonds of die agent gepos is of per hand afgelewer is.

(b) ‘n Versoek deur ‘n deredeparty ingevolge subregulasie (2) sal nie verjaring stuit nie”;

(e) die byvoeging in sugregulasie (3) na paragraaf (d) van die volgende paragraaf:

“(dA) Die Fonds of ‘n agent wat ingevolge artikel 8 die eis moet hanteer moet die ernstige assesseringsverslag, binne 90 dae vanaf die datum waarop die ernstige assesseringsverslag per geregistreerde pos gestuur of per hand aan die Fonds of die agent afgelewer is, aanvaar, verwerp of die deredeparty beveel om homself of haarself te onderwerp aan ‘n verdere assessering.”; en

(f) die vervanging van paragraaf (a) in subregulasie (8) met die volgende paragraaf: -

“(a) Die Registrateur sal binne 60 dae na ontvangs van die kennisgewing van die ander party, of na verstryking van die 60 dae periode vervat is in subregulasie (7), die dispuut verwys vir oorweging deur ‘n apéltribunaal deur die Fonds voor betaal.”.

Wysiging van regulasie 6 van die Regulasies

4. Regulasie 6 van die Regulasies word hiermee gewysig deur die byvoeging van die volgende subregulasies: -

“(3) Die Fonds, of ‘n agent, mag op sy koste, op die skriftelike versoek van ‘n derdeparty, die redelike noodsaaklike koste van die mediese verslag beoog in artikel 24(2)(a) van die Wet, direk betaal aan die betrokke geneesheer of hospitaal, sou die Fonds besluit dat die derdeparty nie oor genoegsame fondse beskik om die mediese verslag te bekom nie, en die Fonds ‘n redelik kans voorsien dat die derdeparty met die meriete van die eis mag slaag.

(4) Die Fonds of ‘n agent moet ‘n versoek deur ‘n derdeparty gemaak ingevolge subregulasie (3) binne 60 dae oorweeg, vanaf die datum waarop die geskrewe versoek per geregistreerde pos aan die Fond gepos is of per hand afgelewer is.

(5) A versoek deur ‘n derdeparty ingevolge subregulasie (3) sal nie verjaring stuit nie.”

Kort titel en inwerkingtreding

5. Hierdie Regulasies heet die Padongelukfonds Wysigingsregulasies, 2013 en tree in werking op die datum van publikasie in die Staatskoerant.
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