

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 1057

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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



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(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.

- (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 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