



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notices

MINISTRY OF FINANCE

No. 207 2001

COMMENCEMENT OF THE MOTOR VEHICLE ACCIDENTS FUND ACT, 2001 (ACT NO. 4 OF 2001)

In terms of section 19 of the Motor Vehicle Accidents Fund Act, 2001 (Act No. 4 of 2001), I determine that the Motor Vehicle Accidents Fund Act, 2001 will come into operation on the 8th October 2001.

N. MBUMBA
MINISTER OF FINANCE

Windhoek, 3 October 2001

MINISTRY OF FINANCE

No. 208 2001

MOTOR VEHICLE ACCIDENTS FUND ACT, 2001: MOTOR VEHICLE ACCIDENTS FUND REGULATIONS

The Minister, on the recommendation of the Board has, under section 17 of the Motor Vehicle Accidents Fund Act, 2001 (Act No. 4 of 2001) -

- (a) made the regulations set out in the Schedule; and
- (b) repealed Government Notice No. 125 of 1991.

SCHEDULE

Definitions

1. In these regulations, a word or expression to which a meaning has been given in the Act bears that meaning, and unless the context otherwise indicates -

“MVAF” means the Motor Vehicle Accidents Fund established by section 2 of the Act; and

“the Act” means the Motor Vehicle Accidents Fund Act, 2001 (Act No. 4 of 2001)

Procedure for making claims

2. (1) A person who, under section 13 of the Act, wants to claim for compensation must complete form MVAF 1 which is set out in the Annexure and submit the completed form to the Fund.

(2) A claim under subregulation (1) must be accompanied by a medical report in form MVAF 1 which is set out in the Annexure and that report must -

- (a) be completed by the medical practitioner who treated the injured person or the deceased for the injuries which gave rise to the claim;
- (b) be completed by the medical superintendent or a representative of the medical superintendent or a person in charge of the hospital or health facility where the injured or deceased person was treated for the injuries which gave rise to the claim; or
- (c) if the medical practitioner referred to in paragraph (a) or the medical superintendent or the other person referred to in paragraph (b) fails to complete the report within a reasonable time after being requested and it appears that the claim may become prescribed under the Act, be completed by a medical practitioner who has acquainted himself or herself with the cause of the death or the nature of the injuries and the treatment or other medical services given to the deceased or injured person.

(3) Where a person in relation to whom a claim is made under the Act died prior to receiving treatment, the claimant is not obliged to produce the medical report referred to in subregulation (2), but the claim must be accompanied by -

- (a) a copy of the inquest proceedings, if an inquest was held;
- (b) a copy of the charge sheet pertaining to the incident, if any person was charged or prosecuted in respect of the incident; and
- (c) any other information which the Fund considers relevant to the cause of death.

(4) A person who, under section 10(6) of the Act, wants to claim for costs incurred in respect of medical treatment or services, goods or other services supplied to a claimant, must complete form MVAF 2 which is set out in the Annexure and submit the completed form to the Fund.

(5) A person who is required to complete any forms under these regulations must-

- (a) complete the form in all its particulars failing which will result in a claim not being accepted as a valid claim under the Act;
- (b) give a clear reply to each question contained in the form and if the question is not applicable, the words “not applicable” must be inserted;
- (c) where ticks, dashes, deletions or alterations have been made, confirm the tick, dash, deletion or alteration by his or her signature;

- (d) give precise details in respect of each item under the heading "Compensation claimed" and where applicable, provide supporting vouchers; and
- (e) send the completed form by registered post to the Fund or deliver it by hand to a person who has been authorised by the Fund to receive the claim and that person must acknowledge receipt of the claim in writing.
- (6) On receipt of a claim made under this regulation, the Fund may -
 - (a) allow the claim and in writing inform the claimant or the person referred to in subregulation (4) of the Fund's decision;
 - (b) allow part of the claim and in writing inform the claimant or the person referred to in subregulation (4) of the Fund's decision; or
 - (c) repudiate the claim and in writing inform the claimant or the person referred to in subregulation (4) of the Fund's decision and the reasons for the decision.

Conditions applicable where owner or driver of motor vehicle cannot be identified

3. (1) If claim under the circumstances referred to in section 10(1)(b) of the Act is made, the Fund is not liable to compensate any person unless -

- (a) the claim arises from the driving of a motor vehicle in Namibia and the bodily injury or death was caused by or arose from the negligence or other unlawful act of the driver, the owner of the motor vehicle or an employee of the owner of the motor vehicle in the course of executing his or her duties as an employee of the owner of the motor vehicle;
- (b) the claimant took all reasonable steps to identify the owner or driver of the motor vehicle but failed to do so;
- (c) the claimant submitted, if reasonably possible, within 14 days after he or she was in a position to do so, an affidavit to the police in which particulars of the occurrence that gave rise to the claim are set out; and
- (d) the motor vehicle in question (including anything in, on or attached to it) came into physical contact with the injured or deceased person or with any other person, vehicle, conveyance or any other object or objects which directly or indirectly caused or contributed to the injury or death.

(2) The amount of compensation payable in the case of a claim which falls under 10(1)(b) of the Act, must not exceed the amount of compensation payable in the case of a claim which falls under section 10(1)(a) of the Act.

(3) Sections 10, 11, 13, 14 and 15 of the Act apply to a claim which falls under section 10(1)(b) of the Act except that the person who makes a claim under the circumstances referred to in section 10(1)(b) must, before commencing legal proceedings to obtain compensation in court, give security to the satisfaction of the court for the costs which the Fund may incur in connection with the case and no court will hear or determine a case in which the person making the claim has not complied with this regulation.

(4) Where a claimant has lodged a claim which complies with this regulation, and the claim falls under section 10(1)(b) of the Act, the Fund may, after receiving the claim, request the person who suffered bodily injury which gave rise to the claim or the claimant, if he or she is not the same person who was injured -

- (a) to present himself or herself to the Fund or to a person who has been appointed by the Fund, to be questioned by the Fund or by that person in connection with the occurrence which gave rise to the claim; or
- (b) to make a sworn statement setting out the circumstances of the occurrence on which the claim is based.

General: Forms

4. (1) The form which, under section 12 of the Act, the owner and driver of a motor vehicle are required to complete is form MVAF 3 which is set out in the Annexure, and the owner and driver must, within the period mentioned in that section, send the completed form by registered post to the Fund or deliver it by hand to a person who has been authorised by the Fund to receive the form and that person must, in writing, acknowledge receipt of the form.

(2) Where the Fund has settled a claim made under the Act in full, the claimant or a person authorised to act on his or her behalf by section 10(1)(b) of the Act must complete and sign the discharge form MVAF 8 on which is set out in the Annexure, and once that form has been signed the Fund is discharged from liability in respect of future claims from the same claimant and arising from the same occurrence or incident.

(3) A person who, under section 10(7) of the Act, wants to apply for advance payment must complete form MVAF 9 which is set out in the Annexure and send it by registered post to the Fund or deliver it by hand to a person who has been authorised by the Fund to receive the form and that person must, in writing, acknowledge receipt of the form.

(4) For the purposes of keeping proper records of the Fund the Chief Executive Officer of the Fund must complete or cause to be completed the following forms which are set out in the Annexure -

- (a) form MVAF 4 which covers all claims received by the Fund during each month;
- (b) form MVAF 5 which covers all payments made by the Fund during each week;
- (c) form MVAF 6 which covers the total number of claims which have been received but not yet finalised by the Fund at the end of each financial year;
- (d) form MVAF 7 which covers information in respect of money recovered under section 15 of the Act during the previous six months.

(5) The records kept under subregulation (4) form part of the annual report of the Fund prepared under section 4 of the Act.
