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## GENERAL NOTICE

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### NOTICE 557 OF 2011

#### DEPARTMENT OF TRANSPORT

#### PUBLICATION FOR COMMENTS: ROAD ACCIDENT FUND AMENDMENT BILL, 2011

The above mentioned Bill is hereby published for public comments. Interested parties are invited to submit written comments on the Bill on or before the 20<sup>th</sup> September 2011

Submissions should be posted to the Director-General Department of Transport for the attention of Adv AM Masombuka at;

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**REPUBLIC OF SOUTH AFRICA**

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**ROAD ACCIDENT FUND AMENDMENT BILL, 2011**

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(Minister of Transport)

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**BILL**

**To amend the Road Accident Fund Act, 1996, so as 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).**

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

1. The Road Accident Fund Act 56 of 1996 is amended by the insertion of section 18A of the Act, after the existing section 18 of the Act, as follows:

**“18A Transitional arrangements for certain third parties**

- (1) In this section, unless the context indicates otherwise—
- (a) **‘new Act’** means the Road Accident Fund Act, 1996 (Act 56 of 1996), as it stood from 1 August 2008 onwards;
  - (b) **‘old Act’** means the Road Accident Fund Act, 1996 (Act 56 of 1996), as it stood prior to 1 August 2008; and
  - (c) **‘transitional third party’** means a person who has a right to claim compensation from the Fund in terms of section 17 of the old Act which is subject to one or more of the limitations imposed by section 18 of the old Act.
- (2) Subject to the provisions of this section, a transitional third party may elect to have his or her claim be governed by the transitional regime established by this section.
- (3) In order to elect to have the transitional regime apply to his or her claim, the transitional third party must:
- (a) submit to the Fund, in accordance with the procedure set out in section 24(1) of the new Act, written notification of the election, accompanied by the relevant forms prescribed in terms of the Road Accident Fund Regulations, 2008; and
  - (b) submit the documents referred to in paragraph (a) above before his or her claim under the old Act prescribes or is finally determined by settlement or judgment; and
  - (c) submit the documents referred to in paragraph (a) above by no later than one year after this section comes into effect.

- (4) The claim of a transitional third party who makes a valid election, is subject to the following transitional regime:
- (a) The transitional third party's cause of action is deemed to have arisen on 1 August 2008 for purposes of section 12 of the Road Accident Fund Amendment Act, 2005 (Act 19 of 2005) and section 17(4A)(b) of the new Act.
  - (b) The transitional third party's claim is reduced by the following amounts:
    - i) All amounts recovered by the transitional third party from the owner, driver or employer of the driver of the motor vehicle involved in the motor vehicle accident concerned;
    - ii) All interim payments made to the transitional third party in terms of section 17(6) of the old Act;
    - iii) All amounts paid to the suppliers of goods and services in terms of section 17(5) of the old Act in respect of costs incurred by the transitional third party before his or her election; and
    - iv) All amounts to which the transitional third party is entitled by way of compensation in relation to the motor vehicle accident concerned in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993), the Defence Act, 1957 (Act 44 of 1957) or another Act of Parliament governing the South African National Defence Force.
  - (c) The transitional third party shall make disclosure to the Fund regarding any and all amounts referred to in paragraph (b) above.
  - (d) The transitional regime does not affect 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 transitional third party before making his or

her election. After the transitional third party has made his or her election, the claims of the suppliers of goods and services in respect of costs incurred by the transitional third party, are governed by section 17(5) of the new Act.

- (e) 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 of the transitional third party's election, from any further liability to the transitional third party."

## **2. Short title and commencement**

This Act is called the Road Accident Fund Amendment Act, 2011 and comes into operation on the date fixed by the President by proclamation in the Gazette.

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