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GOVERNMENT GAZETTE

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PRESIDENT'S OFFICE

. 1517.

14 November 1997

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

. 61 of 1997: Compensation for Occupational Injuries and Diseases Amendment Act, 1997

KANTOOR VAN DIE PRESIDENT

No. 1517.

14 November 1997

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

No. 61 van 1997: Wysigingswet op Vergoeding vir Beroepsbeserings en -Siektes, 1997.

Act No. 61, 1997COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES
AMENDMENT ACT, 1997**GENERAL EXPLANATORY NOTE:**

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

GOVERNMENT GAZETTE ACT

To amend the Compensation for Occupational Injuries and Diseases Act, 1993, so as to define, substitute or delete certain expressions; to transfer certain functions to the Director-General and to make the Director-General accountable for the compensation fund; to allow the Director-General to delegate his or her powers; to alter the commissioner's functions; to provide for the payment of compensation to assessor's dependants; to further regulate the composition of the Compensation Board; to remove the duty on employers to provide first aid; to further regulate the assessment of employers; to provide for the payment of interest on overdue assessments; to further regulate objections and appeals against decisions of the Director-General; to provide that the Minister must consult with the Compensation Board before he or she makes regulations; to further regulate the manner in which compensation is calculated; and to effect certain textual alterations; and to provide for matters connected therewith.

*(English text signed by the President.)
(Assented to 6 November 1997.)*

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

Amendment of section 1 of Act 130 of 1993

1. Section 1 of the Compensation for Occupational Injuries and Diseases Act, 1993 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of "accident" of the following definition:

"accident" means an accident arising out of and in the course of an employee's employment and resulting in a personal injury, illness or the death of the employee;";

(b) by the substitution for the definition of "commissioner" of the following definition:

"commissioner" means the Compensation Commissioner appointed under section [2] 2(1)(a);";

(c) by the substitution for the definition of "compensation" of the following definition:

"compensation" means compensation in terms of this Act and, where applicable, medical aid or payment of the cost of such medical aid;";

(d) by the substitution for the definition of "dependant of an employee" of the following definition:

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- C Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993, ten einde sekere uitdrukings te omskryf, te vervang of te skrap; sekere werksaamhede aan die Direkteur-generaal oor te dra en die Direkteur-generaal rekenpligtig te maak vir die vergoedingsfonds; die Direkteur-generaal toe te laat om sy of haar bevoegdhede te deleger; die kommissaris se werksaamhede te wysig; voorsiening te maak vir die betaling van vergoeding aan die afhanklikes van assessore; die samestelling van die Vergoedingsraad verder te reël; die plig op werkgewers om eerstehulp te verskaf op te hef; die aanslae van werkgewers verder te reël; voorsiening te maak vir die betaling van rente op agterstallige aanslae; besware en appelle teen die Direkteur-generaal se beslissings verder te reël; voorsiening te maak dat die Minister met die Vergoedingsraad oorleg pleeg voordat hy of sy regulasies uitvaardig; die wyse van berekening van vergoeding verder te reël; en sekere teksveranderings aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die President geteken.)

(Goedgekeur op 6 November 1997.)

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

Wysiging van artikel 1 van Wet 130 van 1993

1. Artikel 1 van die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993 (hieronder die Hoofwet genoem), word hierby gewysig—
- 5 (a) deur die omskrywing van "afhanklike van 'n werknemer" deur die volgende omskrywing te vervang:
- " 'afhanklike van 'n werknemer'—
(a) 'n weduwee of wewenaar wat ten tyde van die [ongeval] werknemer se dood ooreenkomstig burgerlike reg met die werknemer getroud was;
(b) 'n weduwee of wewenaar wat ten tyde van die werknemer se dood 'n party by 'n huwelik met die werknemer ooreenkomstig inheemse reg en gebruik was, indien nóg die man nóg die vrou 'n party by 'n bestaande burgerlike huwelik was;
(c) indien daar geen weduwee of wewenaar bedoel in paragraaf (a) of (b) is nie, 'n [vrou of man] persoon met wie die werknemer ten tyde van die [ongeval na die oordeel van die kommissaris] werknemer se dood as [vrou of] man en vrou saamgeleef het;

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- “‘dependant of an employee’ means—
- (a) a widow or widower who at the time of the [accident] employee’s death was married to the employee according to civil law;
 - (b) a widow or widower who at the time of the employee’s death was a party to a marriage to the employee according to indigenous law or custom, if neither the husband nor the wife was a party to a subsisting civil marriage;
 - (c) if there is no widow or widower referred to in paragraph (a) or (b), a [woman or man] person with whom the employee was [in the opinion of the commissioner] at the time of the [accident] employee’s death living as [wife or] husband and wife;
 - (d) a child under the age of 18 years of the employee or of his or her spouse, and includes a posthumous child, step-child, an adopted child and [an illegitimate] a child born out of wedlock;
 - (e) a child over the age of 18 years of the employee or of his or her spouse, and a parent or any person who in the opinion of the Director-General was acting in the place of a parent, a brother, a sister, a half-brother or half-sister, a grandparent or a grandchild of the employee,
 - (f) a parent of the employee or any person who in the opinion of the commissioner was acting in the place of the parent] and who was in the opinion of the [commissioner] Director-General at the time of the [accident] employee’s death wholly or partly financially dependent upon the employee;”;
 - (e) by the insertion after the definition of “dependant of an employee” of the following definition:
“‘Director-General’ means the Director-General of the Department of Labour;”;
 - (f) by the substitution for the definition of “disablement” of the following definition:
“‘disablement’ means [disablement for employment, or permanent injury] temporary partial disablement, temporary total disablement, permanent disablement or serious disfigurement, as the case may be;”;
 - (g) by the substitution for the definition of “earnings” of the following definition:
“‘earnings’ means the remuneration of an employee at the time of the accident or the commencement of the occupational disease as calculated [under section 63] in terms of this Act;”;
 - (h) by the substitution for the definition of “Minister” of the following definition:
“‘Minister’ means the Minister of [Manpower] Labour;”;
 - (i) by the insertion after the definition of “mutual association” of the following definition:
“‘National Revenue Fund’ means the fund established by section 213 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);”;
 - (j) by the substitution for the definition of “occupational disease” of the following definition:
“‘occupational disease’ means any disease [mentioned in the first column of Schedule 3 arising out of and contracted in the course of an employee’s employment] contemplated in section 65(1)(a) or (b);”;
 - (k) by the insertion after the definition of “periodical payment” of the following definition:
“‘permanent disablement’, in relation to an employee and subject to section 49, means the permanent inability of such employee to perform any work as a result of an accident or occupational disease for which compensation is payable;”;

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WYSIGINGSWET OP VERGOEDING VIR BEROEPSBESERINGS
EN -SIEKTES, 1997

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- (d) 'n kind onder die ouderdom van 18 jaar van die werknemer of van sy of haar gade, en ook 'n postume kind, 'n stiefkind, 'n aangename kind en 'n buite-egtelike kind;
- (e) 'n kind bo die ouderdom van 18 jaar van die werknemer of van sy of haar gade, en 'n ouer of 'n persoon wat na die oordeel van die Direkteur-generaal in die plek van 'n ouer opgetree het, 'n broer, 'n suster, 'n halfbroer of halfsuster, 'n grootouer of 'n kleinkind van die werknemer;
- [f] **'n ouer van die werknemer of enige persoon wat na die oordeel van die kommissaris in die plek van 'n ouer opgetree het]**
- en wat na oordeel van die [kommissaris] Direkteur-generaal ten tyde van die [ongeval] werknemer se dood geheel of gedeeltelik finansieel van die werknemer afhanglik was;";
- (b) deur die omskrywing van "arbeidsongesektheid" deur die volgende omskrywing te vervang:
- "arbeidsongesektheid" [**ongeskiktheid vir diens, of blywende besering**] tydelike gedeeltelike arbeidsongesektheid, tydelike algehele arbeidsongesektheid, blywende arbeidsongesektheid of ernstige verminking, na gelang van die geval;";
- (c) deur die omskrywing van "beroepsiekte" deur die volgende omskrywing te vervang:
- "'beroepsiekte' 'n siekte [**genoem in die eerste kolom van Bylae 3 wat uit 'n werknemer se diens ontstaan en in die loop daarvan opgedoen word**] in artikel 65(1)(a) of (b) beoog,";
- (d) deur die volgende omskrywing na die omskrywing van "besigheid" in te voeg:
- "blywende arbeidsongesektheid, met betrekking tot 'n werknemer en behoudens artikel 49, die blywende onbekwaamheid van daardie werknemer om enige werk te doen as gevolg van 'n ongeval of beroepsiekte waarvoor vergoeding betaalbaar is";
- (e) deur die volgende omskrywing na die omskrywing van "chiropraktisy" in te voeg:
- "'Direkteur-generaal' die Direkteur-generaal van die Departement van Arbeid;"
- (f) deur die omskrywing van "kommissaris" deur die volgende omskrywing te vervang:
- "'kommissaris' die Vergoedingskommissaris kragtens artikel [2] (2)(1)(a) aangestel;"
- (g) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:
- "'Minister' die Minister van [Mannekrag] Arbeid;"
- (h) deur die volgende omskrywing na die omskrywing van "Minister" in te voeg:
- "Nasionale Inkomstefonds die fonds by artikel 213 van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), ingestel;"
- (i) deur die omskrywing van "ongeval" deur die volgende omskrywing te vervang:
- "'ongeval' 'n ongeval wat uit 'n werknemer se diens ontstaan en in die loop daarvan plaasvind en wat 'n persoonlike besering, siekte of die dood van die werknemer tot gevolg het;"
- (j) deur die omskrywing van "Staatsinkomstefonds" te skrap;
- (k) deur die omskrywing van "tydelike algehele arbeidsongesektheid" deur die volgende omskrywing te vervang:
- "tydelike algehele arbeidsongesektheid", met betrekking tot 'n werknemer, die tydelike algehele onbekwaamheid van daardie werknemer as gevolg van 'n ongeval of beroepsiekte waarvoor vergoeding betaalbaar is, om dieselfde of dergelike werk te doen as dié waarin hy of sy werksaam was ten tyde van daardie ongeval of by die aanvang van daardie beroepsiekte";

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(l) by the insertion after the definition of "prescribed" of the following definition:

"'presiding officer' means any officer appointed in terms of section 2(1)(a) or (b) and designated as such by the Director-General;";

(m) by the deletion of the definition of "State Revenue Fund";

(n) by the substitution for the definition of "temporary partial disablement" of the following definition:

"'temporary partial disablement', in relation to an employee, means the temporary partial inability of such employee as a result of an accident or occupational disease for which compensation is payable to perform the whole of the work at which he or she was employed at the time of such accident or at the commencement of such occupational disease or to resume work at a rate of earnings not less than that which he or she was receiving at the time of such accident or at the commencement of such occupational disease;"; and

(o) by the substitution for the definition of "temporary total disablement" of the following definition:

"'temporary total disablement', in relation to an employee, means the temporary total inability of such employee as a result of an accident or occupational disease for which compensation is payable to perform the work at which he or she was employed at the time of such accident or at the commencement of such occupational disease or work similar thereto;";

Substitution of section 2 of the Act 130 of 1993

2. The following section is hereby substituted for section 2 of the principal Act:

"Staff to assist Director-General"

2. (1) The Minister shall, subject to such conditions as he or she may determine, in order to assist the Director-General in the performance of his or her functions in terms of or under this Act and subject to the laws governing the public service, appoint—

(a) an officer to be called the Compensation Commissioner; and

(b) such other officers and employees as the Minister or an officer designated by him or her may deem necessary.

(2) The commissioner, and the officers and employees referred to in subsection (1) (b), shall be remunerated out of the National Revenue Fund, which shall be reimbursed out of the compensation fund for the expenditure concerned."

Substitution of section 3 of Act 130 of 1993

3. The following section is hereby substituted for section 3 of the principal Act:

"Delegation of powers and assignment of duties by Director-General"

3. (1) The [commissioner] Director-General may, subject to such conditions as he or she may determine, delegate any of his or her powers or assign any of his or her duties to the [commissioner], or an officer or employee referred to in section [2(2)] 2(1)(b), and may at any time cancel any such delegation or assignment.

(2) A delegation or assignment under subsection (1)—

(a) shall not divest the [commissioner] Director-General of the power delegated or duty assigned, and he or she may at any time amend or set aside any decision made thereunder; and

(b) shall not prevent the exercise of the power or the performance of the duty concerned by the [commissioner] Director-General himself or herself.".

- (l) deur die omskrywing van "tydelike gedeeltelike arbeidsongesiktheid" deur die volgende omskrywing te vervang:

"tydelike gedeeltelike arbeidsongesiktheid", met betrekking tot 'n werknaem, die tydelike gedeeltelike onbekwaamheid van daardie werknaem as gevolg van 'n ongeval of beroepsiekte waarvoor vergoeding betaalbaar is, om al die werk te doen waarin hy of sy werksaam was ten tyde van daardie ongeval of by die aanvang van daardie beroepsiekte of om werk te hervat teen 'n skaal van verdienste nie minder nie as dié wat hy of sy ten tyde van daardie ongeval of by die aanvang van daardie beroepsiekte ontvang het;";

- (m) deur die omskrywing van "verdienste" deur die volgende omskrywing te vervang:

"verdienste" die besoldiging van 'n werknaem ten tyde van die ongeval of die aanvang van die beroepsiekte soos [kragtens artikel 63] ingevolge hierdie Wet bereken;";

- (n) deur die omskrywing van "vergoeding" deur die volgende omskrywing te vervang:

"vergoeding" vergoeding ingevolge hierdie Wet en, waar toepaslik, geneeskundige hulp of betaling van die koste van daardie geneeskundige hulp;"; en

- (o) deur die volgende omskrywing na die omskrywing van "voorgeskryf" in te voeg:

"voorsittende beampete" 'n beampete ingevolge artikel 2(1)(a) of (b) aangestel en as sodanig deur die Direkteur-generaal aangewys;".

25 Vervanging van artikel 2 van Wet 130 van 1993

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

"Personneel om Direkteur-generaal by te staan

2. (1) Die Minister moet onderworpe aan die voorwaardes wat hy of sy bepaal, ten einde die Direkteur-generaal by te staan by die verrigting van sy of haar werksaamhede ingevolge of kragtens hierdie Wet en behoudens die wette wat die Staatsdiens reël—

- (a) 'n beampete aanstel wat die Vergoedingskommissaris heet; en
(b) daardie ander beampetes en werknaemers aanstel wat die Minister of 'n beampete deur hom of haar aangewys, nodig ag.

(2) Die kommissaris, en die beampetes en werknaemers in subartikel (1)(b) bedoel, word besoldig uit die Nasionale Inkomste Fonds, wat uit die vergoedingsfonds vir die betrokke uitgawes vergoed word."

Vervanging van artikel 3 van Wet 130 van 1993

3. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

"Delegering van bevoegdhede en opdra van pligte deur Direkteur-generaal

3. (1) Die [kommissaris] Direkteur-generaal kan, onderworpe aan die voorwaardes wat hy of sy bepaal, enige van sy of haar bevoegdhede of pligte aan die kommissaris, of 'n beampete of werknaem bedoel in artikel [2(2)] 2(1)(b), deleer of opdra, en kan so 'n delegering of opdrag te eniger tyd intrek.

- (2) 'n Delegering of opdrag kragtens subartikel (1)—
(a) onneem die [kommissaris] Direkteur-generaal nie die bevoegdheid of plig wat hy of sy deleer of opdra nie, en hy of sy kan 'n beslissing daarkragtens gegee te eniger tyd wysig of tersyde stel; en
(b) belet nie die uitoefening van die betrokke bevoegdheid of plig deur die [kommissaris] Direkteur-generaal self nie."

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AMENDMENT ACT, 1997**Amendment of section 4 of Act 130 of 1993****4.** Section 4 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Subject to the provisions of this Act, the [commissioner] Director-General shall—”;

(b) by the deletion of paragraph (a) of subsection (1);

(c) by the substitution for paragraph (g) of subsection (1) of the following paragraph:

(g) decide whether a person is a dependant of an employee and, if so, the [extent of dependency upon the employee] percentage of dependence, and, in the case where there is more than one dependant, which shall receive compensation and the allocation of compensation among them;”;

(d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“The [commissioner] Director-General may—”; and

(e) by the deletion of paragraph (e) of subsection (2).

Insertion of section 6A in Act 130 of 1993**5.** The following section is hereby inserted in the principal Act after section 6:**“Functions of commissioner****6A. The commissioner shall—**

(a) receive notices of accidents and occupational diseases, claims for compensation, medical reports and accounts, objections, applications, returns of earnings and payments due to the compensation fund;

(b) by notice in the *Gazette* prescribe the rules referred to in section 56(3)(c), as well as the forms to be used and the particulars to be furnished in connection with notice of occupational injuries and diseases, claims for compensation or any other form or matter which he or she may deem necessary for the administration of this Act.”**Amendment of section 8 of Act 130 of 1993****6.** Section 8 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

(4) The Minister may [after consultation with the Minister for National Health and Welfare] in addition to the assessors referred to in subsection (1) appoint one or more medical practitioners, including a medical practitioner appointed under section [2(2)] 2(1)(b), as medical assessors.”

Substitution of section 9 of Act 130 of 1993**7.** The following section is hereby substituted for section 9 of the principal Act:**“Compensation payable to assessors**

(1) If an assessor, excluding an assessor in the employ of an employer contemplated in section 84(1)(a)(i), meets with an accident arising out of and in the course of the performance by him or her of his or her functions as assessor and resulting in a personal injury, illness or his or her death, he or she or his or her dependants, as the case may be, shall be entitled to compensation as if he or she were an employee at the time of the accident.

(2) Compensation in terms of this section shall be paid by the Director-General out of the compensation fund.”

Wysiging van artikel 4 van Wet 130 van 1993

- 4.** Artikel 4 van die Hoofwet word hierby gewysig—
 (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 5 “Behoudens die bepalings van hierdie Wet moet die [kommissaris] Direkteur-generaal—”;
 (b) deur paragraaf (a) van subartikel (1) te skrap;
 (c) deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang:
 10 “(g) beslis of 'n persoon 'n afhanglike van 'n werknemer is en, indien wel, die [mate waarin hy van die werknemer afhanglik is] persentasie afhanglikheid en, in die geval waar daar meer as een afhanglike is, wie vergoeding moet ontvang en die verdeling van die vergoeding tussen hulle;”;
 (d) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 15 “Die [kommissaris] Direkteur-generaal kan—”; en
 (e) deur paragraaf (e) van subartikel (2) te skrap.

Invoeging van artikel 6A in Wet 130 van 1993

- 5.** Die volgende artikel word hierby in die Hoofwet na artikel 6 ingevoeg:
- 20 **“Werksaamhede van kommissaris**
- 6A. Die kommissaris moet—**
- (a) kennisgewings van ongevalle en beroepsiektes, eise vir vergoeding, geneeskundige verslae en rekenings, besware, aansoeke, opgawes van verdienste en betalings betaalbaar aan die vergoedingsfonds ontvang;
- 25 (b) by kennisgewing in die *Staatskoerant* die reëls bedoel in artikel 56(3)(c) voorskryf, asook die vorms wat gebruik moet word en die besonderhede wat verskaf moet word in verband met beroepsbeserings en -siektes, eise vir vergoeding of enige ander vorm of aangeleentheid wat hy of sy vir die uitvoering van hierdie Wet nodig 30 ag.”.

Wysiging van artikel 8 van Wet 130 van 1993

- 6.** Artikel 8 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:
- “(4) Die Minister kan [na oorleg met die Minister vir Nasionale Gesondheid en Welsyn] benewens die assessore bedoel in subartikel (1), een of meer geneeshere, met inbegrip van 'n geneesheer aangestel kragtens artikel [2(2)] 35 2(1)(b), as geneeskundige assessorne aanstel.”.

Vervanging van artikel 9 van Wet 130 van 1993

- 7.** Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:
- 40 **“Vergoeding aan assessorne betaalbaar**
- 9.** (1) Indien 'n assessor, uitgesonderd 'n assessor in diens van 'n werkgever beoog in artikel 84(1)(a)(i), 'n ongeval oorkom wat uit die verrigting van sy of haar werksaamhede as assessor en in die loop daarvan plaasgevind het en wat 'n persoonlike besering, siekte of sy of haar dood tot gevolg het, is hy of sy of sy of haar afhanglikes, na gelang van die geval, op vergoeding geregtig asof hy of sy ten tyde van die ongeval 'n werknemer was.
- (2) Vergoeding ingevolge hierdie artikel word deur die Direkteur-generaal uit die vergoedingsfonds betaal.”.

Substitution of section 11 of Act 130 of 1993

8. The following section is hereby substituted for section 11 of the principal Act:

“Composition of Board

11. (1) The Board shall consist of—

- (a) the [commissioner] Director-General or an officer contemplated in section 2(1)(a) or (b) designated by him or her, who shall act as [chairman] chairperson;
 - (b) two persons [nominated] appointed by the Minister, one of whom shall be [nominated] appointed after consultation with the Minister [for National] of Health [and Welfare];
 - (c) the Chief Inspector of Occupational Health and Safety or his or her nominee;
 - (d) one person as a member and one person as an alternate member appointed by the Minister from a list of the names of not more than three persons nominated in order of preference by The Rand Mutual Assurance Company Limited;
 - (e) one person as a member and one person as an alternate member appointed by the Minister from a list of the names of not more than three persons nominated in order of preference by the Federated Employers' Mutual Assurance Company Limited;
 - (f) two persons as members and up to two persons as alternate members appointed by the Minister from a list of the names of not more than six persons nominated in order of preference by the South African Medical and Dental Council;
 - (g) three persons as members and up to three persons as alternate members appointed by the Minister to represent the interests of all employers from a list of the names of not more than 10 persons nominated in order of preference by employers' organisations;
 - (h) five persons as members and up to five persons as alternate members appointed by the Minister to represent the interests of all employees from a list of the names of not more than [ten] 16 persons nominated in order of preference by employees' organisations.
- (2) An assessor [shall not be eligible for appointment] may not be appointed as a member or an alternate member of the Board.
- (3) An alternate member may attend and take part in the proceedings at any meeting of the Board whenever the member in whose stead he or she has been appointed as an alternate member, is absent from the meeting.”.

Amendment of section 16 of Act 130 of 1993

9. Section 16 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph:

- “(d) the reimbursement of the [State] National Revenue Fund in respect of remuneration paid in terms of section [2(3)] 2(2);”.

Amendment of section 20 of Act 130 of 1993

10. Section 20 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The [commissioner] Director-General shall keep such accounts, including an account with a bank contemplated in the Banks Act, 1990 (Act No. 94 of 1990), and records as are necessary for the exercise of proper control over the compensation fund and the reserve fund, and shall prepare yearly balance sheets made up to the last day of the financial year, showing in all necessary detail the assets and liabilities and the revenue and expenditure of the funds.”.

Vervanging van artikel 11 van Wet 130 van 1993

8. Artikel 11 van die Hoofwet word hierby deur die volgende artikel vervang:

"Samestelling van Raad"

11. (1) Die Raad bestaan uit—

- (a) die [kommissaris] Direkteur-generaal of 'n beampete in artikel 2(1)(a) of (b) beoog deur hom of haar aangewys, wat as voorsteller optree;
 - (b) twee persone [benoem] wat deur die Minister aangestel word, van wie een na oorleg met die Minister [vir Nasionale] van Gesondheid [en Welsyn benoem] aangestel word;
 - (c) die Hoofinspekteur van Beroepsgesondheid en Veiligheid of sy of haar benoemde;
 - (d) een persoon as 'n lid en een persoon as 'n plaasvervangende lid wat uit 'n lys van die name van hoogstens drie persone deur 'The Rand Mutual Assurance Company Limited' in volgorde van voorkeur benoem, deur die Minister aangestel word;
 - (e) een persoon as 'n lid en een persoon as 'n plaasvervangende lid wat uit 'n lys van die name van hoogstens drie persone deur die 'Federated Employers' Mutual Assurance Company Limited' in volgorde van voorkeur benoem, deur die Minister aangestel word;
 - (f) twee persone as lede en tot twee persone as plaasvervangende lede wat uit 'n lys van die name van hoogstens ses persone deur die Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad in volgorde van voorkeur benoem, deur die Minister aangestel word;
 - (g) drie persone as lede en tot drie persone as plaasvervangende lede wat uit 'n lys van die name van hoogstens 10 persone deur werkgewersorganisasies in volgorde van voorkeur benoem, deur die Minister aangestel word om die belangte van alle werkgewers te verteenwoordig;
 - (h) vyf persone as lede en tot vyf persone as plaasvervangende lede wat uit 'n lys van die name van hoogstens [tien] 16 persone deur werknehmersorganisasies in volgorde van voorkeur benoem, deur die Minister aangestel word om die belangte van alle werknehmers te verteenwoordig.
- (2) 'n Assessor [is nie bevoeg om] word nie as lid of plaasvervangende lid van die Raad aangestel [te word] nie.
- (3) 'n Plaasvervangende lid kan teenwoordig wees en deelneem aan die verrigtinge tydens enige vergadering van die Raad wanneer die lid in wie se plek hy of sy as 'n plaasvervangende lid aangestel is, afwesig is van die vergadering.''

40 Wysiging van artikel 16 van Wet 130 van 1993

9. Artikel 16 van die Hoofwet word hierby gewysig deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:

"(d) die vergoeding van die [Staatsinkomstefonds] Nasionale Inkomstefonds ten opsigte van besoldiging wat ingevolge artikel [2(3)] 2(2) betaal is;".

45 Wysiging van artikel 20 van Wet 130 van 1993

10. Artikel 20 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die [kommissaris] Direkteur-generaal moet die rekenings, met inbegrip van 'n rekening by 'n bank beoog in die Bankwet, 1990 (Wet No. 94 van 1990), en rekords hou wat nodig is vir die uitoefening van behoorlike beheer oor die vergoedingsfonds en die reserwefonds, en moet jaarliks balansstate tot die laaste dag van die boekjaar opmaak, wat alle nodige besonderhede van die bates en laste en die inkomste en uitgawes van die fondse aantoon.".

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AMENDMENT ACT, 1997**Amendment of section 30 of Act 130 of 1993****11.** Section 30 of the principal Act is hereby amended—

(a) by the substitution for the proviso to subsection (1) of the following proviso:

“Provided that the Minister may, from time to time, order that, in addition to any securities deposited in terms of the Insurance Act, 1943 (Act No. 27 of 1943), and the Workmen’s Compensation Act, securities considered by the [commissioner] Director-General to be sufficient to cover the liabilities of the mutual association in terms of this Act be deposited with the [commissioner] Director-General or his or her nominee.”; and

(b) by the substitution for subsections (5) and (6) of the following subsections, respectively:

“(5) If an association has deposited with the [commissioner] Director-General or his or her nominee any such security and thereafter fails to meet in full any of its liabilities in terms of this Act, or is placed in liquidation, then, notwithstanding the provisions of any other law, such security shall vest in the [commissioner] Director-General for the purpose of the liabilities of the association in terms of this Act.

(6) If at any time the Minister is satisfied that a mutual association has failed to comply with any of the conditions imposed by him or her under subsection (1), he or she may suspend or withdraw the licence issued to that association under the said subsection [and no appeal shall lie against his decision].”.

Amendment of section 32 of Act 130 of 1993**12.** Section 32 of the principal Act is hereby amended by the deletion of paragraph (c) of subsection (1).**Amendment of section 36 of Act 130 of 1993****13.** Section 36 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) In awarding damages in an action referred to in subsection (1)(a) the court shall have regard to the [amount to which the employee is entitled] compensation paid in terms of this Act.”.

Amendment of section 39 of Act 130 of 1993**14.** Section 39 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) the [State and the provincial authorities] national and provincial spheres of government, the respective heads of departments referred to in section [6] 7(3) of the [Public Service Act, 1984 (Act No. 111 of 1984)] Public Service Act, 1994 (Proclamation No. 103 of 1994);”;

(b) by the substitution for paragraph (c) of subsection (2) of the following paragraph:

“(c) a provincial legislature, the Secretary of the provincial legislature in question.”;

(c) by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) An employer [individually liable] referred to in section 84(1)(a)(ii) shall within 60 days after the commencement of this Act, and an employer referred to in section 84(1)(a)(iii) shall within 30 days after having been granted exemption under section 84(2), furnish the commissioner in the prescribed manner with the name of a person who shall be responsible to report on behalf of such employer accidents as required by subsection (1) (in this section referred to as the ‘responsible person’).”;

(d) by the substitution for subsection (6) of the following subsection:

“(6) An employer, excluding an employer referred to in section 84(1)(a)(i), [and] (ii) and (iii), who fails to comply with subsection (1) shall be guilty of an offence.”; and

Wysiging van artikel 30 van Wet 130 van 1993

11. Artikel 30 van die Hoofwet word hierby gewysig—

(a) deur die voorbehoudbepaling by subartikel (1) deur die volgende voorbehoudbepaling te vervang:

5 “Met dien verstande dat die Minister van tyd tot tyd kan gelas dat, benewens enige sekuriteite gedeponeer ingevolge die Versekeringswet, 1943 (Wet No. 27 van 1943), en die Ongevallewet, sekuriteite deur die [kommissaris] Direkteur-generaal as genoegsaam geag om die aanspreeklikheid van die onderlinge vereniging ingevolge hierdie Wet te dek, by die [kommissaris] Direkteur-generaal of sy of haar benoemde gedeponeer word.”; en

10 (b) deur subartikels (5) en (6) deur onderskeidelik die volgende subartikels te vervang:

15 “(5) Indien 'n vereniging sodanige sekuriteit by die [kommissaris] Direkteur-generaal of sy of haar benoemde gedeponeer het en daarna versum om enige van sy aanspreeklikhede ingevolge hierdie Wet ten volle na te kom, of in likwidasie geplaas word, dan word die [kommissaris] Direkteur-generaal, niteenstaande die bepalings van enige ander wet, eienaar van bedoelde sekuriteit ten einde aan die aanspreeklikhede van die vereniging ingevolge hierdie Wet te voldoen.

20 (6) Indien die Minister te eniger tyd oortuig is dat 'n onderlinge vereniging versum het om aan enige van die voorskrifte deur hom of haar kragtens subartikel (1) opgelê, te voldoen, kan hy of sy die lisensie aan daardie vereniging uitgereik kragtens bedoelde subartikel, opskort of intrek [en teen sy beslissing kan nie geappelleer word nie].”

Wysiging van artikel 32 van Wet 130 van 1993

12. Artikel 32 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (1) te skrap.

Wysiging van artikel 36 van Wet 130 van 1993

30 **13.** Artikel 36 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) By die toekenning van skadevergoeding in 'n aksie bedoel in subartikel (1)(a) moet die hof die [bedrag waarop die werknemer] vergoeding wat ingevolge hierdie Wet [geregtig] betaal is in aanmerking neem.”

35 Wysiging van artikel 39 van Wet 130 van 1993

14. Artikel 39 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

40 “(a) die [Staat en die provinsiale owerhede] nasionale en provinsiale sfere van regering, die onderskeie departementshoofde bedoel in artikel [6] 7(3) van die [Staatsdienswet, 1984 (Wet No. 111 van 1984)] Staatsdienswet, 1994 (Proklamasie No. 103 van 1994);”;

(b) deur paragraaf (c) van subartikel (2) deur die volgende paragraaf te vervang:

45 “(c) 'n provinsiale wetgewer, die Sekretaris van die betrokke provinsiale wetgewer.”;

(c) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:

50 “(a) 'n Werkewer [individueel aanspreeklik] bedoel in artikel 84(1)(a)(ii), moet binne 60 dae na die inwerkingtreding van hierdie Wet, en 'n werkewer bedoel in artikel 84(1)(a)(iii) moet binne 30 dae nadat vrystelling kragtens artikel 84(2) aan hom of haar verleen is, op die voorgeskrewe wyse aan die kommissaris die naam verstrek van 'n persoon wat verantwoordelik is om namens daardie werkewer ongevalle aan te meld soos vereis deur subartikel (1) (in hierdie artikel die 'verantwoordelike persoon' genoem).”;

(d) deur subartikel (6) deur die volgende subartikel te vervang:

55 “(6) 'n Werkewer, uitgesonderd 'n werkewer bedoel in artikel 84(1)(a)(i), [en] (ii) en (iii), wat versum om aan subartikel (1) te voldoen, is aan 'n misdryf skuldig.”; en

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(e) by the substitution for subsection (8) of the following subsection:

“(8) If an employer, excluding an employer referred to in section 84(1)(a)(i), [and] (ii) and (iii), fails to report in the prescribed manner an accident which has happened to an employee in his, her or its service within seven days after having received notice thereof or having learned thereof in some other manner, the [commissioner] Director-General may impose a fine of not more than the full amount of the compensation payable in respect of such accident upon him, her or it in addition to any other penalty to which he, she or it may be liable.”.

5

Amendment of section 41 of Act 130 of 1993

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15. Section 41 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subject to section 62, an employer shall within [14] seven days after having received a claim, medical report or other documents or information concerning such claim send such claim, [and any relevant information and documents] report, documents or information to the commissioner.”.

15

Amendment of section 46 of Act 130 of 1993

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16. Section 46 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) The [commissioner] Director-General may of his or her own motion or on an *ex parte* application by a party to a claim for compensation, order any attorney employed by such party or a representative who has allegedly, contrary to subsection (2), claimed fees or remuneration, to submit to him or her a statement showing what he or she has received or contracted to receive from his or her client, and to submit for taxation his or her bill of costs, including attorney and client costs, against such client.”.

25

Amendment of section 47 of Act 130 of 1993

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17. Section 47 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

30

“(a) Compensation for temporary total disablement shall be calculated on the basis set out in item 1 of Schedule 4 subject to [a] the minimum and maximum [amount prescribed by the Minister by notice in the Gazette, after consultation with the Board] amounts.”;

(b) by the deletion of paragraph (b) of subsection (1);

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(c) by the substitution for paragraph (b) of subsection (3) of the following paragraph:

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“(b) After the expiry of the said three months, compensation so paid by such [employee] employer shall be repaid to the employer by the [commissioner] Director-General or mutual association concerned, as the case may be.”;

(d) by the addition to subsection (3) of the following paragraph:

45

“(c) An employer who fails to comply with paragraph (a) shall be guilty of an offence.”; and

(e) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

50

“(a) Periodical payments shall take place for so long as the temporary total disablement continues, but not for a period exceeding [12] 24 months.”.

Amendment of section 49 of Act 130 of 1993

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18. Section 49 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following subsection:

55

“(a) Compensation for permanent disablement shall be calculated on the basis set out in items 2, 3, 4 and 5 of Schedule 4 subject to [a] the minimum and maximum [amount prescribed by the Minister by notice in the Gazette, after consultation with the Board] amounts.”;

(e) deur subartikel (8) deur die volgende subartikel te vervang:

“(8) Indien 'n werkgewer, uitgesonderd 'n werkgewer bedoel in artikel 84(1)(a)(i), [en] (ii) en (iii), versuim om 'n ongeval wat 'n werkneemster in sy of haar diens oorkom binne sewe dae nadat hy of sy kennis daarvan ontvang het of op 'n ander wyse daarvan te wete gekom het, op die voorgeskrewe wyse aan te meld, kan die [kommissaris] Direkteur-generaal, benewens enige ander straf waaraan hy of sy onderhewig mag wees, hom of haar 'n boete oplê van hoogstens die volle bedrag van vergoeding wat ten opsigte van dié ongeval betaalbaar is.”.

10

Wysiging van artikel 41 van Wet 130 van 1993

15. Artikel 41 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Behoudens artikel 62 moet 'n werkgewer binne [14] sewe dae nadat hy of sy 'n eis, geneeskundige verslag of ander stukke of inligting oor dié eis ontvang het, die eis, [en enige tersaaklike inligting of stukke] verslag, stukke of inligting aan die kommissaris stuur.”.

10

Wysiging van artikel 46 van Wet 130 van 1993

16. Artikel 46 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

“(a) Die [kommissaris] Direkteur-generaal kan uit eie beweging of op aansoek ex parte deur 'n party by 'n eis vir vergoeding 'n prokureur in diens van sodanige party of 'n verteenwoordiger wat, strydig met subartikel (2), na bewering gelde of vergoeding geëis het, gelas om aan hom of haar 'n staat voor te lê wat aantoon wat hy of sy van sy of haar kliënt ontvang het of ooreengekom het om te ontvang, en om sy of haar kosterekkening teen die kliënt, met inbegrip van prokureur-en-kliënt-koste, vir taksasie voor te lê.”.

25

Wysiging van artikel 47 van Wet 130 van 1993

17. Artikel 47 van die Hoofwet word hierby gewysig—

30 (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) Vergoeding vir tydelike algehele arbeidsongeskiktheid word bereken op die grondslag in item 1 van Bylae 4 uiteengesit onderworpe aan [n] die minimum en maksimum [bedrag voorgeskryf deur die Minister by kennisgewing in die Staatskoerant, na raadpleging met die Raad] bedrae.”;

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(b) deur paragraaf (b) van subartikel (1) te skrap;

(c) deur paragraaf (b) van subartikel (3) deur die volgende paragraaf te vervang:

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“(b) Na verstryking van bedoelde drie maande word die vergoeding aldus deur sodanige werkgewer betaal, deur die [kommissaris] Direkteur-generaal of die betrokke onderlinge vereniging, na gelang van die geval, aan die werkgewer terugbetaal.”;

45

(d) deur die volgende paragraaf by subartikel (3) te voeg:

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“(c) 'n Werkgewer wat versuim om aan paragraaf (a) te voldoen, is aan 'n misdryf skuldig.”; en

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(e) deur paragraaf (a) van subartikel (5) deur die volgende paragraaf te vervang:

“(a) Periodiese uitbetalings geskied solank die tydelike algehele arbeidsongeskiktheid voortduur, maar vir 'n typerk van hoogstens [12] 24 maande.”.

Wysiging van artikel 49 van Wet 130 van 1993

50. Artikel 49 van die Hoofwet word hierby gewysig—

55 (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) Vergoeding vir blywende arbeidsongeskiktheid word bereken op die grondslag in items 2, 3, 4 of 5 van Bylae 4 uiteengesit onderworpe aan [n] die minimum en maksimum [bedrag voorgeskryf deur die Minister by kennisgewing in die Staatskoerant, na raadpleging met die Raad] bedrae.”;

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- (b) by the deletion of paragraph (b) of subsection (1); and
 (c) by the addition to subsection (2) of the following paragraph:
- “(c) If an injury or serious mutilation contemplated in paragraph (a) or (b) has unusually serious consequences for an employee as a result of the special nature of the employee’s occupation, the Director-General may determine such higher percentage as he or she deems equitable.”.

Amendment of section 50 of Act 130 of 1993

19. Section 50 of the principal Act is hereby amended by the substitution for the words preceding the proviso of the following words:

“The Minister may on the recommendation of the [commissioner] Director-General, and after consultation with the Board, amend Schedule 2 by notice in the Gazette in respect of injuries or categories of injuries as well as the percentage of disablement”.

Amendment of section 52 of Act 130 of 1993

20. Section 52 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) If a pension exceeds the prescribed amount, the [commissioner] Director-General may, upon the application of the pensioner, in lieu of a portion of that pension not exceeding the prescribed amount pay or direct the payment of a lump sum [not exceeding the prescribed amount].”.

Amendment of section 54 of Act 130 of 1993

21. Section 54 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) If the employee leaves a dependant referred to in paragraph (a), (b) or (c) of the definition of ‘dependant of an employee’ in section 1 (in this section referred to as ‘widow or widower’), and there are no children, a lump sum as set out in item 6 of Schedule 4 and a monthly pension as set out in item 7 of Schedule 4 [subject to a maximum amount prescribed by the Minister by notice in the Gazette];”;

(b) by the substitution in subsection (1) for the words preceding the proviso to paragraph (b) of the following words:

“if the employee leaves a widow or widower and a [dependant] child referred to in paragraph (d) of the said definition [of ‘dependant of an employee’ in section 1], compensation to the widow or widower calculated in accordance with paragraph (a) of this subsection and in respect of the [dependant referred to in paragraph (d) of the said definition] child a pension calculated in accordance with paragraph (c) of this subsection”;

(c) by the substitution in subsection (1) for the words preceding the proviso to paragraph (c) of the following words:

“if the employee leaves a [dependant] child referred to in paragraph (d) of the said definition [of ‘dependant of an employee’ in section (1)], or a child referred to in paragraph (e) of the said definition who in the opinion of the [Commissioner] Director-General is unable to earn an income owing to a physical or mental disability, a pension as set out in item 8 of Schedule 4 [subject to a maximum amount prescribed by the Minister by notice in the Gazette]”;

(d) by the substitution in subsection (1) for paragraphs (iv) and (v) of the proviso to paragraph (c) of the following paragraphs, respectively:

“(iv) the pension payable to a [dependant] child referred to in paragraph (d) of the said definition shall lapse at the end of the month in which such [dependant] child reaches the age of 18 years, except where such child is unable to earn an income owing to a physical or mental

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- (b) deur paragraaf (b) van subartikel (1) te skrap; en
 (c) deur die volgende paragraaf by subartikel (2) te voeg:
- “(c) Indien 'n besering of ernstige verminking beoog in paragraaf (a) of (b) buitengewone ernstige gevolge vir 'n werknemer inhoud as gevolg van die spesiale aard van die werknemer se beroep, kan die Direkteur-generaal die hoër persentasie wat hy of sy billik ag, bepaal.”.

Wysiging van artikel 50 van Wet 130 van 1993

19. Artikel 50 van die Hoofwet word hierby gewysig deur die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
- 10 “Die Minister kan op aanbeveling van die [kommissaris] Direkteur-generaal, en na oorleg met die Raad, Bylae 2 by kennisgewing in die Staatskoerant wysig ten opsigte van beserings of kategorieë beserings asook die persentasie arbeidsongeskiktheid”.

Wysiging van artikel 52 van Wet 130 van 1993

- 15 20. Artikel 52 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:
- “(a) Indien 'n pensioen [nie 'n] die voorgeskrewe bedrag te bowe gaan [nie], kan die [kommissaris] Direkteur-generaal op aansoek van die pensioentrekker in plaas van [daardie pensioen of] 'n gedeelte [daarvan] van daardie pensioen wat nie die voorgeskrewe bedrag te bowe gaan nie, 'n enkele geldsom betaal of gelas dat dit betaal word.”.

Wysiging van artikel 54 van Wet 130 van 1993

21. Artikel 54 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
- “(a) Indien die werknemer 'n afhanglike bedoel in paragraaf (a), (b) of (c) van die omskrywing van 'afhanglike van 'n werknemer' in artikel 1 (in hierdie artikel die 'weduwee of wewenaar' genoem) nalaat, en daar geen kinders is nie, 'n enkele geldsom soos in item 6 van Bylae 4 en 'n maandelikse pensioen soos in item 7 van Bylae 4 uiteengesit [onderworpe aan 'n maksimum bedrag voorgeskryf deur die Minister by kennisgewing in die Staatskoerant];”;
- (b) deur in subartikel (1) die woorde wat die voorbehoudsbepaling by paragraaf (b) voorafgaan deur die volgende woorde te vervang:
- “indien die werknemer 'n weduwee of wewenaar en 'n [afhanglike] kind bedoel in paragraaf (d) van [die] vermelde omskrywing [van 'afhanglike van 'n werknemer' in artikel 1] nalaat, vergoeding aan die weduwee of wewenaar volgens paragraaf (a) van hierdie subartikel bereken, en ten opsigte van die [afhanglike bedoel in paragraaf (d) van vermelde omskrywing] kind 'n pensioen volgens paragraaf (c) van hierdie subartikel bereken”;
- (c) deur in subartikel (1) die woorde wat die voorbehoudsbepaling by paragraaf (c) voorafgaan deur die volgende woorde te vervang:
- “indien die werknemer 'n [afhanglike] kind bedoel in paragraaf (d) van [die] vermelde omskrywing [van 'afhanglike van 'n werknemer' in artikel 1] nalaat, of 'n kind bedoel in paragraaf (e) van vermelde omskrywing wat na die oordeel van die [kommissaris] Direkteur-generaal weens 'n liggaamlike of geestelike gebrek nie in staat is om 'n inkomste te verdien nie nalaat, 'n pensioen soos in item 8 van Bylae 4 uiteengesit [onderworpe aan 'n maksimum bedrag voorgeskryf deur die Minister by kennisgewing in die Staatskoerant]”;
- (d) deur in subartikel (1), paragrawe (iv) en (v) van die voorbehoudsbepaling by paragraaf (c) deur onderskeidelik die volgende paragrawe te vervang:
- “(iv) die pensioen betaalbaar aan 'n [afhanglike] kind bedoel in paragraaf (d) van vermelde omskrywing verval aan die einde van die maand waarin sodanige [afhanglike] kind die ouderdom van 18 jaar bereik, behalwe waar die kind weens 'n liggaamlike of

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- disability, or dies or marries before reaching the age of 18 years, or until the child completes secondary education, or while the child is undergoing tertiary education and it could reasonably have been expected that the employee would have contributed to the maintenance of that child, whichever occurs last;
- (v) the pension payable to a child referred to in paragraph (d) or (e) of the said definition who is unable to earn an income owing to a physical or mental disability, shall cease on a date determined by the [commissioner] Director-General when in his or her opinion it may reasonably have been expected that the employee would no longer have contributed towards the maintenance of that child;”;
- (e) by the substitution for paragraph (d) of subsection (1) of the following paragraph:
- “(d) if the employee leaves no dependants referred to in paragraph (a), (b) or (c) of this subsection but a dependant referred to in paragraph (e) of the said definition, excluding a child over the age of 18 years [of the definition of ‘dependant of an employee’ in section (1)] who is unable to earn an income owing to a physical or mental disability, and—
- (i) who was wholly financially dependent upon the employee, a monthly pension which in all shall not amount to more than 40 per cent of the pension which would have been payable to the employee under section 49(1) for 100 per cent permanent disablement, for so long as in the opinion of the [commissioner] Director-General it may reasonably have been expected that the employee would have contributed to the maintenance of that person; or
- (ii) who was partly financially dependent upon the employee and there is no dependant as contemplated in subparagraph (i), a lump sum as set out in item 9 of Schedule 4.”; and
- (g) by the deletion of paragraph (e) of subsection (1).

Amendment of section 55 of Act 130 of 1993

22. Section 55 of the principal Act is hereby amended by the substitution for the words preceding the proviso of the following words:

“The Minister may on the recommendation of the [commissioner] Director-General, and after consultation with the Board, amend Schedule 4 by notice in the Gazette in respect of the nature, extent, minimum and maximum amount of benefits”.

Amendment of section 56 of Act 130 of 1993

23. Section 56 of the principal Act is hereby amended by the substitution in subsection (6) for the word “commissioner” of the expression “presiding officer”.

Amendment of section 65 of Act 130 of 1993

24. Section 65 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Subject to the provisions of this Chapter, an employee shall be entitled to the compensation provided for and prescribed in this Act if it is proved to the satisfaction of the [commissioner] Director-General—

(a) that [an] the employee has contracted [an occupational] a disease mentioned in the first column of Schedule 3 and that such disease has arisen out of and in the course of his or her employment; or

(b) that [an] the employee has contracted a disease other than [an occupational disease] a disease contemplated in paragraph (a) and that such disease has arisen out of and in the course of his or her employment.”; and

(b) by the substitution for subsection (6) of the following subsection:

“(6) [Subject to the provisions of this Chapter, the] The provisions

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- 5 geestelike gebrek nie in staat is om 'n inkomste te verdien nie, of sterf of trou voordat hy of sy die ouderdom van 18 jaar bereik, of totdat die kind sekondêre onderrig voltooi het, of terwyl die kind tersiêre onderrig ondergaan en dit redelikerwys verwag kon gev
 word het dat die werknemer tot daardie kind se onderhoud sou bygedra het, welke ook al laaste plaasvind;
- 10 (v) die pensioen betaalbaar aan 'n kind bedoel in paragraaf (d) of (e) van vermelde omskrywing wat weens 'n liggaamlike of geestelike gebrek nie in staat is om 'n inkomste te verdien nie, verval op 'n datum deur die [kommissaris] Direkteur-generaal bepaal wanneer na sy of haar oordeel daar redelikerwys verwag kon gevord het dat die werknemer nie langer tot daardie kind se onderhoud sou bygedra het nie;";
- 15 (e) deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:
 "(d) indien die werknemer geen afhanklik is bedoel in paragraaf (a), (b) of (c) van hierdie subartikel nalaat nie, maar 'n afhanklike bedoel in paragraaf (e) van vermelde omskrywing, uitgesonderd 'n kind bo die ouderdom van 18 jaar [van die omskrywing van 'afhanklike van 'n werknemer' in artikel 1] wat weens 'n liggaamlike of
- 20 geestelike gebrek nie in staat is om 'n inkomste te verdien nie, en—
 (i) wat geheel finansieel van die werknemer afhanklik is, 'n maandelikse pensioen wat in die geheel nie meer mag bedra nie as 40 persent van die pensioen wat aan die werknemer kragtens artikel 49(1) betaalbaar sou gewees het vir 100 persent blywende arbeidsongeskiktheid, en vir so lank as wat daar na die oordeel van die [kommissaris] Direkteur-generaal redelickerwys verwag kon gevord het dat die werknemer tot daardie persoon se onderhoud sou bygedra het; of
- 25 (ii) wat gedeeltelik finansieel van die werknemer afhanklik is en daar nie 'n afhanklike soos beoog in subparagraph (i) is nie, 'n enkele geldsom soos in item 9 van Bylae 4 uiteengesit."; en
- 30 (g) deur paragraaf (e) van subartikel (1) te skrap.

Wysiging van artikel 55 van Wet 130 van 1993

- 35 22. Artikel 55 van die Hoofwet word hierby gewysig deur die woorde wat die voorbehoudbepaling voorafgaan deur die volgende woorde te vervang:
 "Die Minister kan op aanbeveling van die [kommissaris] Direkteur-generaal, en na oorleg met die Raad, Bylae 4 by kennisgewing in die Staatskoerant wysig ten opsigte van die aard, omvang, minimum en maksimum bedrag van voordele".

Wysiging van artikel 56 van Wet 130 van 1993

- 40 23. Artikel 56 van die Hoofwet word hierby gewysig deur in subartikel (6) die woorde "kommissaris" deur die uitdrukking "voorsittende beampete" te vervang.

Wysiging van artikel 65 van Wet 130 van 1993

- 45 24. Artikel 65 van die Hoofwet word hierby gewysig—
 (a) deur subartikel (1) deur die volgende subartikel te vervang:
 "(1) Behoudens die bepalings van hierdie Hoofstuk is 'n werknemer geregtig op die vergoeding wat in hierdie Wet bepaal en voorgeskryf word indien daar tot bevrediging van die [kommissaris] Direkteur-generaal bewys word—
 (a) dat ['n] die werknemer 'n [beroepsiekte] siekte genoem in die eerste kolom van Bylae 3 opgedoen het en dat sodanige siekte uit sy of haar diens ontstaan het en in die loop daarvan opgedoen is;
 (b) dat ['n] die werknemer 'n ander siekte as 'n [beroepsiekte] siekte in paragraaf (a) beoog, opgedoen het en dat sodanige siekte uit sy of haar diens ontstaan het en in die loop daarvan opgedoen is.>"; en
 (b) deur subartikel (6) deur die volgende subartikel te vervang:
 "(6) [Behoudens die bepalings van hierdie Hoofstuk is die] Die

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of this Act regarding [compensation in respect of] an accident shall apply *mutatis mutandis* to [a claim for compensation for] a disease referred to in subsection (1), except where such provisions are clearly inappropriate.”.

Amendment of section 69 of Act 130 of 1993

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25. Section 69 of the principal Act is hereby amended by the substitution for the words preceding the proviso of the following words:

“The Minister [after consultation with the Minister for National Health and Welfare] may on the recommendation of the [commissioner] Director-General, and after consultation with the Board and the chairpersons of the medical advisory panels, amend Schedule 3 by notice in the *Gazette*, also with retrospective effect, in respect of the description of diseases and work”.

Amendment of section 70 of Act 130 of 1993

26. Section 70 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The [commissioner] Director-General may [after consultation with the Director-general: National Health and Population Development] on a regional basis appoint medical advisory panels which shall consist of as many members as he or she may deem necessary to—”.

Repeal of section 71 of Act 130 of 1993

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27. Section 71 of the principal Act is hereby repealed.

Amendment of section 81 of Act 130 of 1993

28. Section 81 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) An employer shall [in respect of all of his employees] keep a register or other record of [wages, time worked, payment for piece work and overtime and all] the earnings and other prescribed particulars of all the employees, and [he] shall at all reasonable times produce such register or record or a microfilm or other microform reproduction thereof on demand to an authorised person referred to in section 7 for inspection.”; and

(b) by the addition of the following subsection:

“(4) A health and safety representative elected in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), or the Mine Health and Safety Act, 1996 (Act No. 29 of 1996), and a trade union representative elected in terms of section 14 of the Labour Relations Act, 1995 (Act No. 66 of 1995), shall have the right to inspect, and where appropriate bring to the attention of the commissioner, any register, record or document which the employer must maintain, keep or complete in terms of this Act.”.

Amendment of section 82 of Act 130 of 1993

29. Section 82 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) [An] Subject to subsection (1A), an employer, excluding an employer referred to in section 84(1)(a) and (b), shall [before] not later than the thirty-first day of March in each year [or, if he began carrying on business after that date, within one month after so beginning] furnish the commissioner with a return in the prescribed form, certified by him, her or it as correct, showing—

(a) the amount of earnings up to the maximum contemplated in section 83(8) paid by him, her or it to his, her or its employees during the

bepalings van hierdie Wet betreffende [vergoeding ten opsigte van] 'n ongeval is mutatis mutandis van toepassing op [n eis vir vergoeding vir] 'n siekte bedoel in subartikel (1), behalwe waar sodanige bepalings klaarblyklik onvanpas is.”.

5 Wysiging van artikel 69 van Wet 130 van 1993

25. Artikel 69 van die Hoofwet word hierby gewysig deur die woorde wat die voorbehoudbepaling voorafgaan deur die volgende woorde te vervang:

“Die Minister kan [na oorleg met die Minister vir Nasionale Gesondheid en Welsyn] op aanbeveling van die [kommissaris] Direkteur-generaal, en na oorleg met die Raad en die voorsitters van die geneeskundige adviespanele, Bylae 3 by kennisgewing in die Staatskoerant wysig, ook met terugwerkende krag, ten opsigte van die beskrywing van siektes en werk”.

Wysiging van artikel 70 van Wet 130 van 1993

26. Artikel 70 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die [kommissaris] Direkteur-generaal kan [na oorleg met die Direkteur-generaal: Nasionale Gesondheid en Bevolkingsontwikkeling] op 'n streeksgrondslag geneeskundige adviespanele aanstel wat bestaan uit soveel lede as wat hy of sy nodig ag om hom of haar—”.

20 Herroeping van artikel 71 van Wet 130 van 1993

27. Artikel 71 van die Hoofwet word hierby herroep.

Wysiging van artikel 81 van Wet 130 van 1993

28. Artikel 81 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) 'n Werkewer moet [ten opsigte van al sy werknemers] 'n register of ander rekord hou van [lone, werktyd, stukwerkloon, oortydloon en alle] die verdienste en ander voorgeskrewe besonderhede van al die werknemers, en [hy] moet daardie register of rekord of 'n mikrofilm- of ander mikrovormreproduksie daarvan te alle redelike tye op versoek aan 'n gemagtigde persoon bedoel in artikel 7 ter insae voorlê.”; en

(b) deur die volgende subartikel by te voeg:

“(4) 'n Gesondheids- en veiligheidsverteenwoordiger verkies ingevolge die Wet op Beroepsgeondheid en Veiligheid, 1993 (Wet No. 85 van 1993), of die Wet op Gesondheid en Veiligheid in Myne, 1996 (Wet No. 29 van 1996), en 'n vakbondverteenwoordiger verkies ingevolge artikel 14 van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), het die reg om enige register, rekord of dokument wat die werkewer ingevolge hierdie Wet moet in stand hou, hou of voltooi, te inspecteer, en waar toepaslik onder die aandag van die kommissaris te bring.”.

Wysiging van artikel 82 van Wet 130 van 1993

29. Artikel 82 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) [n Werkewer] Behoudens subartikel (1A), moet 'n werkewer, uitgesonderd 'n werkewer bedoel in artikel 84(1)(a) en (b), [moet voor] nie later nie as die een-en-dertigste dag van Maart in elke jaar [of, indien hy na daardie datum begin het om besigheid te dryf, binne een maand nadat hy aldus begin het] aan die kommissaris 'n opgawe in die voorgeskrewe vorm verstrek wat hy of sy as juis gesertifiseer het en wat aantoon—

(a) die bedrag aan verdienste tot die maksimum beoog in artikel 83(8) wat hy of sy aan sy of haar werknemers betaal het gedurende die

period with effect from the first day of March of the immediately preceding year up to and including the last day of February of the following year; and

(b) such further information as may be prescribed or as the [commissioner] Director-General may require.”;

(b) by the insertion of the following subsection after subsection (1):

“(1A) An employer who commences business after the last day of February of a particular year shall within seven days after such commencement furnish the commissioner with a return in the prescribed form, certified by him, her or it as correct, showing the estimated earnings of his, her or its employees for the period with effect from the commencement of the business up to and including the last day of February of the following year.”; and

(c) by the substitution for subsection (3) of the following subsection:

“(3) If in a return referred to in subsection (1) the amount shown as earnings, excluding earnings exceeding the maximum contemplated in subsection 83(8), is less than the amount actually paid, the [commissioner] Director-General may impose upon and recover from the employer a fine not exceeding 10 per cent of the difference between the amount shown and the actual amount.”.

Amendment of section 83 of Act 130 of 1993

30. Section 83 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Subject to the provisions of this section, an employer shall be assessed or provisionally assessed by the [commissioner] Director-General according to [the] a tariff of assessment calculated on the basis of such percentage of the annual earning of his, her or its employees as the [commissioner] Director-General with due regard to the requirements of the compensation fund for the year of assessment may deem necessary.”;

(b) by the substitution for paragraph (a) of subsection (6) of the following paragraph:

“(a) assess the employer on the basis of the earnings estimated in accordance with section [82(4)], and such assessment shall not be subject to adjustment; and] 82(5);”;

(c) by the addition to subsection (6) of the following paragraphs:

“(c) where it later appears that the actual earnings were more than the earnings estimated under paragraph (a), recover the difference in the assessment from the employer, and may impose and recover a fine on such difference as contemplated in paragraph (b); and

(d) where it later appears that the actual earnings were less than the earnings estimated under paragraph (a), make the necessary adjustment.”; and

(d) by the substitution for subsection (8) of the following subsection:

“(8) The Minister may, on the recommendation of the Director-General and after consultation with the Board, prescribe by notice in the Gazette a maximum amount of earnings on which an assessment of an employer shall be calculated by the [commissioner] Director-General.”.

Amendment of section 84 of Act 130 of 1993

31. Section 84 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for subparagraph (i) of paragraph (a) of the following subparagraph:

“(i) the [State] national and provincial spheres of government, including Parliament and [the provincial authorities and the government of a territory which in terms of any law is a self-governing territory within the Republic; and] provincial legislatures;”;

(b) by the addition to paragraph (a) of subsection (1) of the following subparagraph:

- tydperk vanaf die eerste dag van Maart van die onmiddellik voorafgaande jaar tot en met die laaste dag van Februarie van die daaropvolgende jaar; en
- (b) sodanige nadere inligting as wat voorgeskryf word of wat die [kommissaris mag] Direkteur-generaal mag verlang.”;
- (b) deur die volgende subartikel na subartikel (1) in te voeg:
- “(1A) ’n Werkgewer wat na die laaste dag van Februarie in ’n bepaalde jaar met ’n besigheid begin het, moet binne sewe dae na sodanige begin ’n opgawe in die voorgeskrewe vorm aan die kommissaris verstrek wat hy of sy as huis gesertifiseer het en wat die geraamde verdienste van sy of haar werknemers aantoon vir die tydperk vanaf die begin van die besigheid tot en met die laaste dag van Februarie van die daaropvolgende jaar.”;
- (c) deur subartikel (3) deur die volgende subartikel te vervang:
- “(3) Indien in ’n opgawe bedoel in subartikel (1) die bedrag van verdienste, uitgesonderd verdienste wat die maksimum beoog in subartikel 83(8) te bove gaan, getoon minder is as die werklik betaalde bedrag, kan die [kommissaris] Direkteur-generaal ’n boete van hoogstens 10 persent van die verskil tussen die aangetoonde bedrag en die werklike bedrag aan die werkgewer ople en dit op hom of haar verhaal.”.

Wysiging van artikel 83 van Wet 130 van 1993

- 30. Artikel 83 van die Hoofwet word hierby gewysig—**
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- “(1) Behoudens die bepalings van hierdie artikel word ’n werkgewer deur die [kommissaris] Direkteur-generaal aangeslaan of voorlopig aangeslaan ooreenkomsdig [die] ’n aanslagtarief bereken op die grondslag van so ’n persentasie van die jaarlikse verdienste van sy of haar werknemers as wat die [kommissaris] Direkteur-generaal met inagneming van die vereistes van die vergoedingsfonds vir die jaar van aanslag nodig ag.”;
- (b) deur paragraaf (a) van subartikel (6) deur die volgende paragraaf te vervang:
- “(a) die werkgewer aanslaan op die grondslag van die verdienste geraam ooreenkomsdig artikel [82(4), en so ’n aanslag is nie onderworpe aan wysiging nie; en] 82(5);”;
- (c) deur die volgende paragrawe by subartikel (6) te voeg:
- “(c) waar dit later blyk dat die werklike verdienste meer is as die verdienste kragtens paragraaf (a) geraam die verskil in die aanslag op die werkgewer verhaal, en ’n boete op dié verskil aan die werkgewer ople en dit op hom of haar verhaal soos in paragraaf (b) beoog;
- (d) waar dit later blyk dat die werklike verdienste minder is as die verdienste kragtens paragraaf (a) geraam, die nodige regstelling doen.”; en
- (d) deur subartikel (8) deur die volgende subartikel te vervang:
- “(8) Die Minister, kan op aanbeveling van die Direkteur-generaal en na oorlegpleging met die Raad, ’n maksimum bedrag van verdienste by kennigewwing in die Staatskoerant voorskryf waarop die aanslag van ’n werkgewer deur die [kommissaris] Direkteur-generaal bereken word.”.

50 Wysiging van artikel 84 van Wet 130 van 1993

- 31. Artikel 84 van die Hoofwet word hierby gewysig—**
- (a) deur in subartikel (1) subparagraaf (i) van paragraaf (a) deur die volgende subparagraaf te vervang:
- “(i) die [Staat] nasionale en provinsiale sfere van regering, met inbegrip van die Parlement en [provinsiale overhede, en die regering van ’n gebied wat ingevolge ’n wet ’n selfregerende gebied binne die Republiek is; en] provinsiale wetgewers;”;
- (b) deur die volgende subparagraaf by paragraaf (a) van subartikel (1) te voeg:

“(iii) a municipality contemplated in section 10B of the Local Government Transition Act, 1993 (Act No. 209 of 1993), to which exemption has been granted in terms of subsection (2);”; and

(c) by the substitution for subsection (2) of the following subsection:

“(2) The [commissioner] Director-General may upon application exempt any local authority referred to in subsection (1)(a)(ii) or any municipality referred to in subsection (1)(a)(iii) from the obligations of an employer in terms of this Act on such conditions as he or she may think fit.”.

Amendment of section 86 of Act 130 of 1993

32. Section 86 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) Interest is payable on an overdue assessment at a rate determined by the Director-General, which shall not exceed the prevailing standard rate of interest as defined in section 1 of the Exchequer Act, 1975 (Act No. 66 of 1975).”.

Amendment of section 91 of Act 130 of 1993

33. Section 91 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Any person affected by a decision of the [commissioner] Director-General or a trade union or employer’s organization of which that person was a member at the relevant time may, within [90] 180 days after such decision, lodge an objection against that decision with the commissioner in the prescribed manner.”;

(b) by the substitution in subsections (2), (3) and (4) for the word “commissioner” wherever it occurs of the expression “presiding officer”;

(c) by the substitution in subsection (5) for subparagraph (ii) of paragraph (a) of the following subparagraph:

“(ii) the question whether an accident or occupational disease causing the disablement or death of an employee was attributable to his or her serious and wilful misconduct;”;

(d) by the substitution for subsection (6) of the following subsection:

“(6) Except where the [commissioner] presiding officer orders otherwise, no obligation to pay any assessment, compensation or any other payment to the [commissioner] Director-General or to the compensation fund, or to pay any periodical payments to or on behalf of an employee under a decision of the [commissioner] presiding officer, shall be suspended or deferred by reason of the fact that an objection has been lodged against such decision in terms of subsection (1), or that an appeal has been noted in terms of subsection (5).”; and

(e) by the addition of the following subsection:

“(7) (a) If during the hearing of an objection the presiding officer dies or becomes unable to act as presiding officer—

(i) the hearing may, with the consent of the person, trade union or employers’ organization contemplated in subsection (1), proceed before another presiding officer and the assessors concerned; or

(ii) the hearing shall start *de novo* if the consent contemplated in subparagraph (i) is not given.

(b) If during the hearing of an objection an assessor dies or becomes unable to act as assessor—

(i) the hearing may, with the consent of the person, trade union or employers’ organization contemplated in subsection (1), proceed before the presiding officer concerned and the remaining assessor or assessors; or

(ii) the hearing shall start *de novo* if the consent contemplated in subparagraph (i) is not given.”.

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- “(iii) ‘n munisipaliteit in artikel 10B van die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993), beoog aan wie vrystelling ingevolge subartikel (2) verleen is;” en
- (c) deur subartikel (2) deur die volgende subartikel te vervang:
- 5 “(2) Die [kommissaris] Direkteur-generaal kan op aansoek ‘n plaaslike bestuur bedoel in subartikel (1)(a)(ii) of ‘n munisipaliteit bedoel in subartikel (1)(a)(iii) van die verpligte van ‘n werkewer ingevolge hierdie Wet vrystel op die voorwaardes wat hy of sy goeddink.”.

10 Wysiging van artikel 86 van Wet 130 van 1993

32. Artikel 86 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:
- 10 “(2) Rente is betaalbaar op ‘n agterstallige aanslag teen ‘n koers deur die Direkteur-generaal bepaal, wat nie die heersende standaardrentekoers soos om-skryf in artikel 1 van die Skatkiswet, 1975 (Wet No. 66 van 1975), te bowe gaan nie.”.

Wysiging van artikel 91 van Wet 130 van 1993

33. Artikel 91 van die Hoofwet word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 20 “(1) Enige persoon wat deur ‘n beslissing van die [kommissaris] Direkteur-generaal geraak word of ‘n vakvereniging of ‘n werkewersorganisasie waarty van daardie persoon op die betrokke tyd ‘n lid was, kan binne [90] 180 dae na so ‘n beslissing op die voorgeskrewe wyse ‘n beswaar teen daardie beslissing by die kommissaris indien.”;
- (b) deur in subartikels (2), (3) en (4) die woord “kommissaris”, waar dit ook al voorkom, deur die uitdrukking “voorsittende beampete” te vervang;
- 25 (c) deur in subartikel (5) subparagraaf (ii) van paragraaf (a) deur die volgende subparagraaf te vervang:
- 30 “(ii) die vraag of ‘n ongeval of beroepsiekte wat die arbeidsongesiktheid of dood van ‘n werknemer veroorsaak het aan sy of haar eie ernstige en opsetlike wangedrag toe te skryf is;”;
- (d) deur subartikel (6) deur die volgende subartikel te vervang:
- 35 “(6) Tensy die [kommissaris] voorsittende beampete anders gelas, word geen verpligte om ‘n aanslag, vergoeding of enige ander bedrag aan die [kommissaris] Direkteur-generaal of die vergoedingsfonds te betaal, of om enige periodieke betalings aan of ten behoeve van ‘n werknemer kragtens ‘n beslissing van die [kommissaris] voorsittende beampete te betaal, opgeskort of uitgestel op grond van die feit dat ‘n beswaar teen so ‘n beslissing ingevolge subartikel (1) ingedien is, of dat ‘n appèl ingevolge subartikel (5) aangeteken is nie.”;
- (e) deur die volgende subartikel by te voeg:
- 40 “(7) (a) Indien die voorsittende beampete gedurende die verhoor van ‘n beswaar sterf of onbekwaam raak om as voorsitter op te tree—
- 45 (i) kan die verhoor, met die toestemming van die persoon, vakvereniging of werkewersorganisasie in subartikel (1) beoog, voor ‘n ander voorsittende beampete en die betrokke assessor voortgaan; of
- (ii) moet die verhoor *de novo* begin indien die toestemming in subparagraaf (i) beoog nie gegee word nie.
- 50 (b) Indien ‘n assessor gedurende die verhoor van ‘n beswaar sterf of onbekwaam raak om as assessor op te tree—
- (i) kan die verhoor, met die toestemming van die persoon, vakvereniging of werkewersorganisasie beoog in subartikel (1), voor die betrokke voorsittende beampete en die oorblywende assessor of assessor voortgaan; of
- 55 (ii) moet die verhoor *de novo* begin indien die toestemming in subparagraaf (i) beoog nie gegee word nie.”.

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AMENDMENT ACT, 1997**Amendment of section 92 of Act 130 of 1993**

34. Section 92 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

(1) If any question of law arises in the performance of the functions of the [commissioner] Director-General, the [commissioner] Director-General may of his or her own motion or at the request of a party with a sufficient interest in any matter or proceedings before the [commissioner] Director-General, state a case for decision by a [provincial or local division of the Supreme Court] High Court having jurisdiction.”.

Amendment of section 97 of Act 130 of 1993

35. Section 97 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Minister may make regulations, after consultation with the Board, regarding—”; and

(b) by the substitution for subsections (2) and (3) of the following subsections, respectively:

(2) Different regulations may be made under subsection (1) in respect of different classes of employers and employees and of different areas, and the Minister may, after consultation with the Board, in respect thereof differentiate in such manner as he or she may deem expedient.

(3) Any person who contravenes or fails to comply with any regulation made under subsection (1) [may in respect of any contravention thereof or failure to comply therewith prescribe a penalty of] shall be guilty of an offence and liable on conviction to a fine, or imprisonment for a period not exceeding six months.”.

Amendment of Schedule 4 to Act 130 of 1993

36. Schedule 4 to the principal Act is hereby amended—

(a) by the substitution in item 1 for the words in column (v) of the following words:

“75% of an employee’s monthly earnings at the time of the accident to a maximum compensation of R6 064,50 per month”;

(b) by the substitution in item 2 for the words in column (v) of the following words:

“15 times the monthly earnings of the employee at the time of the accident to a minimum and a maximum compensation of R12 375,00 and R67 950,00, respectively”;

(c) by the substitution in item 4 for the words in column (v) of the following words:

“75% of an employee’s monthly earnings at the time of the accident to a minimum and a maximum compensation of R618,75 and R6 064,50 per month, respectively”; and

(d) by the substitution in item 10 for the words in column (v) of the following words:

“A reasonable amount for funeral costs to a maximum [R4 000] R5 350,00 or the actual amount, whichever is the lesser”.

Substitution for “commissioner” of “Director-General” in Act 130 of 1993

37. The principal Act is hereby amended by the substitution for the word “commissioner” wherever it occurs of the word “Director-General”, except where it occurs in the definition of “commissioner” in section 1 and where it occurs in section 38(1), section 39(1), (3) and (12), section 41, section 43, section 44, paragraph (b) of the proviso to section 50, paragraph (b) of the proviso to section 55, section 56(1) and (3), paragraph (b) of the proviso to section 57(1), section 64, section 65(4), section 68, paragraph (b) of the proviso to section 69, section 74, section 80(1), (2), (3) and (5), section 82(1) and (2), section 86, section 87(4) and section 89(3).

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Wysiging van artikel 92 van Wet 130 van 1993

34. Artikel 92 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

5 “(1) Indien 'n regsvraag ontstaan by die verrigting van die werksaamhede van die [kommissaris] Direkteur-generaal, kan die [kommissaris] Direkteur-generaal uit eie beweging of op versoek van 'n party met 'n voldoende belang by 'n saak of verrigtinge voor die [kommissaris] Direkteur-generaal, 'n casuspositie opstel vir beslissing deur ['n provinsiale plaaslike afdeling van die Hooggereghof] 'n Hoë Hof met regsvraagdeurheid.”.

10 Wysiging van artikel 97 van Wet 130 van 1993

35. Artikel 97 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

15 “Die Minister kan na oorlegpleging met die Raad regulasies uitvaardig betreffende”; en

(b) deur subartikels (2) en (3) deur onderskeidelik die volgende subartikels te vervang:

20 “(2) Verskillende regulasies kan kragtens subartikel (1) ten opsigte van verskillende klasse werkgewers en werknemers en van verskillende gebiede gemaak word en die Minister kan, na oorlegpleging met die Raad, ten opsigte daarvan onderskei op die wyse wat hy of sy raadsaam ag.

25 “(3) ['n Regulasie] Enigiemand wat 'n regulasie kragtens subartikel (1) uitgevaardig [kan ten opsigte van 'n oortreding daarvan] oortree of versuim om daaraan te voldoen ['n straf voorskryf van] is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete, of gevengenisstraf vir 'n tydperk van hoogstens ses maande.”.

Wysiging van Bylae 4 by Wet 130 van 1993

36. Bylae 4 by die Hoofwet word hierby gewysig—

30 (a) deur in item 1 die woorde in kolom (v) deur die volgende woorde te vervang:

“75% van 'n werknemer se maandelikse verdienste ten tyde van die ongeval, met 'n maksimum vergoeding van R6 064,50 per maand”;

(b) deur in item 2 die woorde in kolom (v) deur die volgende woorde te vervang:

35 “15 maal die maandelikse verdienste van die werknemer ten tyde van die ongeval, met 'n minimum en 'n maksimum vergoeding van onderskeidelik R12 375,00 en R67 950,00”;

(c) deur in item 4 die woorde in kolom (v) deur die volgende woorde te vervang:

40 “75% van 'n werknemer se maandelikse verdienste ten tyde van die ongeval, met 'n minimum en 'n maksimum vergoeding van onderskeidelik R618,75 en R6 064,50 per maand”; en

(d) deur in item 10 die woorde in kolom (v) deur die volgende woorde te vervang:

45 “'n Redelike bedrag vir begrafniskoste, met 'n maksimum van [R4 000] R5 350,00 of die werklike koste, watter bedrag ook al die minste is”.

Vervanging van “kommissaris” deur “Direkteur-generaal” in Wet 130 van 1993

37. Die Hoofwet word hierby gewysig deur die woorde “kommissaris”, waar dit ook al voorkom, deur die woorde “Direkteur-generaal” te vervang, behalwe waar dit voorkom in die omskrywing van “kommissaris” in artikel 1 en waar dit voorkom in artikel 38(1), artikel 39(1), (3) en (12), artikel 41, artikel 43, artikel 44, paragraaf (b) van die voorbehoudsbepaling by artikel 50, paragraaf (b) van die voorbehoudsbepaling by artikel 55, artikel 56(1) en (3), paragraaf (b) van die voorbehoudsbepaling by artikel 57(1), artikel 64, artikel 65(4), artikel 68, paragraaf (b) van die voorbehoudsbepaling by artikel 69, artikel 74, artikel 80(1), (2), (3) en (5), artikel 82(1) en (2), artikel 86, artikel 87(4) en artikel 89(3).

Transitional provision

38. Any claim for compensation in respect of any accident that happened before the commencement of this Act shall be dealt with in terms of the principal Act as it was in force immediately before the commencement of this Act.

Short title and commencement

39. This Act shall be called the Compensation for Occupational Injuries and Diseases Amendment Act, 1997, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

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Oorgangsbeplaling

38. Enige eis vir vergoeding ten opsigte van 'n ongeval wat plaasgevind het voor die inwerkingtreding van hierdie Wet, word mee gehandel ingevolge die Hoofwet soos dit van krag was onmiddellik voor die inwerkingtreding van hierdie Wet.

5 Kort titel en inwerkingtreding

39. Hierdie Wet heet die Wysigingswet op Vergoeding vir Beroepsbeserings en -siektes, 1997, en tree in werking op 'n datum wat die President by proklamasie in die Staatskoerant bepaal.