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BUITENGEWONE



EXTRAORDINARY

Staatskoerant

VAN DIE UNIE VAN SUID-AFRIKA

THE UNION OF SOUTH AFRICA

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KANTOOR VAN DIE EERSTE MINISTER.

Onderstaande Goewermentskennisgewing word ter algemene inligting gepubliseer:—

No. 1106.]

[16 Mei 1952.

Hierby word bekendgemaak dat dit Sy Eksellensie die Goewerneur-generaal behaag het om sy goedkeuring te heg aan onderstaande Wette wat hierby ter algemene inligting gepubliseer word:—

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OFFICE OF THE PRIME MINISTER.

The following Government Notice is published for general information:—

No. 1106.]

[16th May, 1952.

It is hereby notified that His Excellency the Governor-General has been pleased to assent to the following Acts which are hereby published for general information:—

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No. 27, 1952.]

WET**Tot wysiging van die Motorvoertuigassuransiewet, 1942.***(Engelse teks deur die Goewerneur-generaal geteken.)
(Goedgekeur op 3 Mei 1952.)***DIT WORD BEPAAL** deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—Wysiging van
artikel 1 van
Wet 29 van 1942.**1. Artikel een** van die Motorvoertuigassuransiewet, 1942 (hieronder die Hoofwet genoem), word hiermee gewysig—

(a) deur die woordskrywing van „Minister” deur die volgende te vervang:

„Minister” beteken die Minister van Vervoer;”;

(b) deur aan die end van die woordskrywing van „eienaar” die woorde „maar nie ook die verkoper van ’n motorvoertuig ingevolge ’n huurkoopkontrak nie,” by te voeg.

Wysiging van
artikel 4 van
Wet 29 van 1942.**2. Artikel vier** van die Hoofwet word hiermee gewysig deur die volgende sub-artikel aan die end daarvan by te voeg:

„(3) Indien bewys word dat ’n assuransie- of uitkennings-teken wat ooreenkomstig die bepalinge van hierdie Wet of die regulasies in verband met ’n motorvoertuig uitgereik is, verloor of vernietig is, of indien so ’n teken wat geskend is of waarvan die teks onleesbaar geword het, teruggegee word, kan ’n duplikaat daarvan uitgereik word.”.

Wysiging van
artikel 11 van
Wet 29 van 1942.**3. Artikel elf** van die Hoofwet word hiermee gewysig—

(a) deur in sub-artikel (1) na die woord „motorvoertuig” waar dit die vierde keer voorkom die woorde „of sy werknemer in die uitvoering van sy pligte” in te voeg;

(b) deur in sub-paragraaf (iv) van die voorbehoudsbepaling by sub-artikel (1), na die woorde „betrokke motorvoertuig”, die woorde „of in die geval van ’n werknemer van bedoelde bestuurder of eienaar ten opsigte van wie sub-paragraaf (ii) nie van toepassing is nie, in die loop van sy diens,” in te voeg; en

(c) deur aan die end daarvan die volgende sub-artikel by te voeg:

„(3) ’n Aksie om so ’n eis af te dwing kan ingestel word in enige hof wat andersins bevoeg is, in wie se regsgebied die gebeurtenis wat die besering of dood veroorsaak het, plaasgevind het.”.

Wysiging van
artikel 12 van
Wet 29 van 1942.**4. Artikel twaalf** van die Hoofwet word hiermee gewysig deur die woorde na „aanspreeklik is”, te vervang deur die woorde „dan moet die maatskappy daardie koste, tensy dit reeds betaal is, regstreeks betaal aan die persoon wat op betaling daarvan geregtig is, en het genoemde persoon die reg om daardie koste sonder enige sessie van aksie op die maatskappy te verhaal.”.Vervanging van
artikel 14 van
Wet 29 van 1942.**5. Artikel veertien** van die Hoofwet word hiermee herroep en deur die volgende artikel vervang:„Assurateur
se reg van
verhaal.**14. (1)** Wanneer ’n geregistreerde maatskappy ingevolge artikel *elf* of *twaalf* skadevergoeding betaal het, dan kan hy, behoudens die by sub-artikels (2) en (3) bepaalde, sonder dat hy ’n formele sessie van die vorderingsreg verkry het, op die eienaar van die betrokke verassureerde motorvoertuig, of op enigiemand wie se nalatigheid of ander onregmatige daad die verlies of skade veroorsaak het, soveel van die bedrag wat hy as skadevergoeding betaal het, verhaal, as wat die in artikel *elf* bedoelde derde party, as dit nie vir die bepalinge van artikel *dertien* was nie, op die eienaar sou kon verhaal het of op die persoon wie se nalatigheid of ander onregmatige daad die verlies of skade veroorsaak het, na gelang van die geval, as die geregistreerde maatskappy geen sodanige skadevergoeding betaal het nie.

No. 27, 1952.]

ACT

To amend the Motor Vehicle Insurance Act, 1942.

(English text signed by the Governor-General.)
(Assented to 3rd May, 1952.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. Section *one* of the Motor Vehicle Insurance Act, 1942 (hereinafter referred to as the principal Act), is hereby amended— Amendment of section 1 of Act 29 of 1942.

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

" 'Minister' means the Minister of Transport;".

(b) by the addition to the definition of "owner" of the words "but does not include the seller of a motor vehicle under a hire purchase agreement;".

2. Section *four* of the principal Act is hereby amended by the addition at the end thereof of the following sub-section: Amendment of section 4 of Act 29 of 1942.

"(3) If it is proved that any token of insurance or token of identity issued in connection with any motor vehicle in accordance with the provisions of this Act or the regulations, has been lost or destroyed, or if any such token which has been defaced or of which the text has become illegible, is surrendered, a duplicate thereof may be issued."

3. Section *eleven* of the principal Act is hereby amended— Amendment of section 11 of Act 29 of 1942.

(a) by the insertion in sub-section (1) after the words "motor vehicle" where they occur for the fourth time of the words "or his servant in the execution of his duty";

(b) by the insertion in sub-paragraph (iv) of the proviso to sub-section (1) after the word "question" of the words "or in the case of an employee of such driver or owner in respect of whom sub-paragraph (ii) does not apply, in the course of his employment,"; and

(c) by the addition at the end thereof of the following sub-section:

"(3) Any action to enforce any such claim may be brought in any court of otherwise competent jurisdiction within whose area of jurisdiction the occurrence which caused the injury or death took place."

4. Section *twelve* of the principal Act is hereby amended by the substitution for the words after the word "*eleven*" of the words "the company shall unless that cost has already been paid, pay that cost direct to the person who is entitled to payment therefor and the said person shall be entitled to recover that cost from the company without any cession of action". Amendment of section 12 of Act 29 of 1942.

5. Section *fourteen* of the principal Act is hereby repealed and the following section substituted therefor: Substitution of section 14 of Act 29 of 1942.

"Right of recourse by insurer.

14. (1) When a registered company has paid any compensation under section *eleven* or *twelve* it may, subject to the provisions of sub-sections (2) and (3), without having obtained a formal cession of the right of action, recover from the owner of the insured motor vehicle in question, or from any person whose negligence or other unlawful act caused the loss or damage in question, so much of the amount paid by way of compensation as the third party mentioned in section *eleven* could, but for the provisions of section *thirteen*, have recovered from the owner or from the person whose negligence or other unlawful act caused the loss or damage, as the case may be, if the registered company had not paid any such compensation.

(2) Die geregistreerde maatskappy het nie so 'n reg van verhaal teen die eienaar van die verassureerde motorvoertuig nie—

(a) in 'n geval waarin die motorvoertuig ten tyde van die gebeurtenis wat tot betaling van die skadevergoeding aanleiding gegee het, deur 'n ander persoon dan die eienaar bestuur is, tensy—

(i) genoemde persoon so onder die invloed van bedwelvende drank of van 'n verdowingsmiddel was dat sy toestand die enigste oorsaak daarvan was, en die eienaar hom toegelaat het om die motorvoertuig te bestuur, wetende dat hy onder die invloed van bedwelvende drank of 'n verdowingsmiddel is; of

(ii) genoemde persoon die motorvoertuig bestuur het in stryd met 'n belofte wat hy ingevolge sub-artikel (1) van artikel *ses* gedoen het, of onder 'n in artikel *agt* bedoelde bevel gestaan het, en die eienaar hom toegelaat het om die motorvoertuig te bestuur, wetende van die belofte of bevel; of

(iii) genoemde persoon die motorvoertuig bestuur het sonder in besit te wees van 'n lisensie wat kragtens die wetsbepalings op die lisensieer van bestuurders van motorvoertuie uitgereik is, of genoemde persoon, terwyl hy die besitter was van 'n leerlings- of ander beperkte lisensie kragtens so 'n wetsbepaling uitgereik, versuim het, toe hy die motorvoertuig bestuur het, om aan die voorskrifte of voorwaardes van bedoelde leerlings- of beperkte lisensie te voldoen, en die eienaar hom toegelaat het om die motorvoertuig te bestuur, wetende dat hy nie so 'n lisensie besit nie of dat hy versuim om aan die voorskrifte of voorwaardes van bedoelde leerlings- of beperkte lisensie te voldoen, na gelang van die geval; of

(iv) die eienaar of sy verteenwoordiger in die aansoek om die assuransieverklaring op grond waarvan die skadevergoeding betaal is, wetens 'n valse bewering gemaak het betreffende enige besonderheid wat 'n weiering deur die maatskappy om die assuransieverklaring sonder 'n in sub-artikel (1) van artikel *ses* bedoelde belofte met betrekking tot 'n daarin bedoelde met naam genoemde persoon, uit te reik, sou geregverdig het, en die verlies of skade veroorsaak is deur die nalatigheid of ander onregmatige daad van genoemde persoon terwyl hy die motorvoertuig met toestemming van die eienaar bestuur het; of

(b) in 'n geval waarin die motorvoertuig ten tyde van genoemde gebeurtenis deur die eienaar bestuur is, tensy—

(i) hy so onder die invloed van bedwelvende drank of van 'n verdowingsmiddel was dat sy toestand die enigste oorsaak van genoemde gebeurtenis was; of

(ii) hy die motorvoertuig bestuur het in stryd met 'n belofte wat hy ingevolge sub-artikel (1) van artikel *ses* gedoen het of onder 'n in artikel *agt* bedoelde bevel gestaan het; of

(iii) hy die motorvoertuig bestuur het sonder in besit te wees van 'n lisensie wat kragtens die wetsbepalings op die lisensieer van bestuurders van motorvoertuie uitgereik is, of terwyl hy die besitter was van 'n leerlings- of ander beperkte lisensie kragtens so 'n wetsbepaling uitgereik, versuim het, toe hy die motorvoertuig bestuur het, om aan die voorskrifte of voorwaardes van bedoelde leerlings- of beperkte lisensie te voldoen; of

(2) The registered company shall not have any such right of recourse against the owner of the insured motor vehicle—

(a) in any case in which, at the time of the occurrence which gave rise to the payment of the compensation, the motor vehicle was being driven by a person other than the owner, unless—

(i) the said person was under the influence of intoxicating liquor or of a drug to such a degree that his condition was the sole cause of the said occurrence, and the owner allowed him to drive the motor vehicle knowing that he was under the influence of intoxicating liquor or of a drug; or

(ii) the said person was driving the motor vehicle contrary to an undertaking given under sub-section (1) of section *six*, or was subject to an order referred to in section *eight*, and the owner allowed him to drive the motor vehicle knowing of the undertaking or order; or

(iii) the said person was driving the motor vehicle without holding a licence issued under the law relating to the licensing of drivers of motor vehicles, or the said person, being the holder of a learner's or other restricted licence issued under such law, failed, while he was driving the motor vehicle, to comply with the requirements or conditions of such learner's or restricted licence, and the owner allowed him to drive the motor vehicle knowing that he did not hold such a licence or that he failed to comply with the requirements or conditions of such learner's or restricted licence, as the case may be; or

(iv) the owner or his representative, in the application for the declaration of insurance under which the compensation was paid, knowingly made a false statement in respect of any particular which would have justified the company in refusing to issue the declaration of insurance without an undertaking referred to in sub-section (1) of section *six* in regard to a named person therein referred to, and the loss or damage has been caused by the negligence or other unlawful act of the said person while he was driving the motor vehicle with the consent of the owner; or

(b) in any case in which, at the time of the said occurrence, the said motor vehicle was being driven by the owner, unless—

(i) he was under the influence of intoxicating liquor or of a drug to such a degree that his condition was the sole cause of the said occurrence; or

(ii) he was driving the motor vehicle contrary to an undertaking given under sub-section (1) of section *six* or was subject to an order referred to in section *eight*; or

(iii) he was driving the motor vehicle without holding a licence issued under the law relating to the licensing of drivers of motor vehicles or being the holder of a learner's or other restricted licence issued under such law, failed while he was driving the motor vehicle, to comply with the requirements or conditions of such learner's or restricted licence; or

- (iv) hy of sy verteenwoordiger in die aansoek om die assuransieverklaring op grond waarvan die skadevergoeding betaal is, wetens 'n valse bewering gemaak het betreffende 'n besonderheid wat 'n weiering deur die maatskappy om die assuransieverklaring sonder 'n in sub-artikel (1) van artikel *ses* bedoelde belofte met betrekking tot die eienaar self, uit te reik, sou geregverdig het; of
- (c) in 'n geval waarin nòg paragraaf (a) nòg paragraaf (b) van toepassing is, tensy—
 - (i) die eienaar of sy verteenwoordiger in genoemde aansoek wetens 'n valse bewering gemaak het betreffende 'n besonderheid wat 'n weiering deur die maatskappy, op 'n in sub-artikel (3) of (4) van artikel *ses* bedoelde grond, om die assuransieverklaring uit te reik, sou geregverdig het, en die gebruiksongeskiktheid van die motorvoertuig die enigste oorsaak van genoemde gebeurtenis was; of
 - (ii) die eienaar versuim het om aan 'n voorskrif van sub-artikel (1) van artikel *twee-en-twintig* met betrekking tot genoemde gebeurtenis te voldoen of wetens aan genoemde geregistreerde maatskappy valse inligting betreffende genoemde gebeurtenis verstrek het.
- (3) Die bepalinge van sub-paragrafe (i), (ii) en (iii) van paragraaf (b) en van sub-paragraaf (ii) van paragraaf (c) van sub-artikel (2) is *mutatis mutandis* van toepassing ten opsigte van enige reg van verhaal deur genoemde geregistreerde maatskappy kragtens sub-artikel (1) teen enige persoon wat ten tyde van die gebeurtenis wat tot betaling van die skadevergoeding aanleiding gegee het, die verassureerde motorvoertuig met toestemming van sy eienaar bestuur het.”.

Wysiging van
artikel 15 van
Wet 29 van 1942.

6. Artikel *vyftien* van die Hoofwet word hiermee gewysig deur in sub-artikel (2) voor die woord „moet”, die woorde „of 'n groter aantal van bedoelde motorvoertuie as wat in sy in artikel *vyf* bedoelde aansoek aangegee is, op 'n publieke pad of straat of op 'n ander plek waar die publiek toegang het, bestuur of toelaat dat hul aldus bestuur word,” in te voeg, en die woorde „of verandering”, waar hul aan die end van genoemde sub-artikel voorkom, te vervang deur die woorde „verandering of groter aantal”.

Wysiging van
artikel 17 van
Wet 29 van 1942.

7. Artikel *sewentien* van die Hoofwet word hiermee gewysig deur die volgende voorbehoudsbepaling aan die end van sub-artikel (3) by te voeg:

„Met dien verstande dat uit die bedrag wat aldus terugbetaal moet word, hoogstens twee sjielings en ses pennies by wyse van kantoorgelde teruggehou kan word.”.

Wysiging van
artikel 19 van
Wet 29 van 1942.

8. Artikel *negentien* van die Hoofwet word hiermee gewysig deur in sub-artikel (3) die woorde „'n motorvoertuig besit” te vervang deur die woorde „die eienaar is van 'n motorvoertuig”.

Wysiging van
artikel 21 van
Wet 29 van 1942.

9. Artikel *een-en-twintig* van die Hoofwet word hiermee gewysig deur die volgende voorbehoudsbepaling aan die end van sub-artikel (4) by te voeg:

„Met dien verstande dat indien 'n motorvoertuig waarvan 'n deponent die eienaar is, 'n merk dra waardeur dit as sy eiendom uitgeken kan word, hy by die Minister aansoek kan doen om vrystelling van die vereiste om soos voormeld 'n teken daaraan te bevestig, en indien die Minister die aansoek toestaan, is die deponent aldus vrygestel en moet hy, voordat hy so 'n motorvoertuig vervreem of verlaat, bedoelde merk verwyder.”.

Wysiging van
artikel 23 van
Wet 29 van 1942.

10. Artikel *drie-en-twintig* van die Hoofwet word hiermee gewysig deur na die woorde „uitgereik is”, die woorde „of van 'n teken wat uitgereik is ooreenkomstig regulasies wat kragtens paragraaf (c) van artikel *twee-en-dertig* uitgevaardig is,” in te voeg.

Kort titel.

11. Hierdie Wet heet die Wysigingswet op Motorvoertuig-assuransie, 1952.

- (iv) he or his representative, in the application for the declaration of insurance under which the compensation was paid, knowingly made a false statement in respect of any particular which would have justified the company in refusing to issue the declaration of insurance without an undertaking referred to in sub-section (1) of section *six* in regard to the owner himself; or
- (c) in any case in which neither paragraph (a) nor paragraph (b) applies, unless—
 - (i) the owner or his representative, in the said application, knowingly made a false statement in respect of any particular which would have justified the company in refusing, on any ground referred to in sub-section (3) or (4) of section *six*, to issue the declaration of insurance, and the unroad-worthiness of the motor vehicle was the sole cause of the said occurrence; or
 - (ii) the owner has failed to comply with any requirement of sub-section (1) of section *twenty-two* with reference to the said occurrence or has knowingly furnished the said registered company with false information relating to the said occurrence.

(3) The provisions of sub-paragraphs (i), (ii) and (iii) of paragraph (b) and of sub-paragraph (ii) of paragraph (c) of sub-section (2) shall apply *mutatis mutandis* in respect of any right of recourse by the said registered company under sub-section (1) against any person who, at the time of the occurrence which gave rise to the payment of the compensation, was driving the insured motor vehicle with the consent of its owner.”.

6. Section *fifteen* of the principal Act is hereby amended by the insertion in sub-section (2) after the word “paid” of the words “or drives or permits to be driven on a public road or street or in any other place to which the public has access any number of such motor vehicles in excess of the number stated in his application referred to in section *five*,” and the substitution for the words “or alteration”, where they occur at the end of the said sub-section, of the words “alteration or excess”.

Amendment of section 15 of Act 29 of 1942.

7. Section *seventeen* of the principal Act is hereby amended by the addition at the end of sub-section (3) of the following proviso:

Amendment of section 17 of Act 29 of 1942.

“Provided that of the amount to be so refunded, not more than two shillings and sixpence may be retained by way of an office fee.”.

8. Section *nineteen* of the principal Act is hereby amended by the substitution in sub-section (3), for the word “owns”, of the words “is the owner of”.

Amendment of section 19 of Act 29 of 1942.

9. Section *twenty-one* of the principal Act is hereby amended by the addition at the end of sub-section (4) of the following proviso:

Amendment of section 21 of Act 29 of 1942.

“Provided that if a motor vehicle of which a depositor is the owner bears any marking by which it can be identified as being owned by him he may apply to the Minister for exemption from the requirement of affixing to it any token as aforesaid, and if the Minister grants the application the depositor shall be so exempted and shall before alienating or abandoning any such motor vehicle, remove such marking.”.

10. Section *twenty-three* of the principal Act is hereby amended by the insertion after the word “Act” of the words “or a token issued in terms of any regulations under paragraph (c) of section *thirty-two*,”.

Amendment of section 23 of Act 29 of 1942.

11. This Act shall be called the Motor Vehicle Insurance Amendment Act, 1952.

Short title.

Toepassing van kennisgewings en regulasies wat voorheen gepubliseer is.

8. Die bepalings van hierdie Wet raak nie die geldigheid van kennisgewings wat kragtens die Hoofwet of kragtens regulasies ingevolge die Hoofwet gemaak voor die inwerkingtreding van hierdie Wet gepubliseer is nie, maar so 'n kennisgewing of regulasie is nie in die Gebied Suidwes-Afrika van toepassing nie, totdat dit in die *Offisiële Staatskoerant* van genoemde gebied gepubliseer is.

Die Wetgewende Vergadering van Suidwes-Afrika kan gelde vir die doeleindes van die Hoofwet bewillig.

9. Ondanks andersluidende bepalings in die „Zuidwest-Afrika Konstitutie Wet, 1925” (Wet No. 42 van 1925) kan die Wetgewende Vergadering van die Gebied Suidwes-Afrika gelde uit die Inkomstefonds van die Gebied, vir die doeleindes van sub-artikel (3) van artikel *dertien* van die Hoofwet, soos deur artikel *drie* van hierdie Wet gewysig, bewillig.

Kort titel en datum van inwerkingtreding.

10. Hierdie Wet heet die Wysigingswet op Standaarde, 1952, en tree in werking op 'n datum wat deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* vasgestel word.

8. The provisions of this Act shall not affect the validity of any notices published under the principal Act or under the regulations framed thereunder before the commencement of this Act but no such notice or regulation shall be in force in the Territory of South-West Africa until it has been published in the *Official Gazette* of the said territory.

Operation of
notices and
regulations
previously
published.

9. Notwithstanding anything to the contrary contained in the South-West Africa Constitution Act, 1925 (Act No. 42 of 1925), the Legislative Assembly of the Territory of South-West Africa may appropriate funds from the Territory Revenue Fund for the purpose of sub-section (3) of section *thirteen* of the principal Act, as amended by section *three* of this Act.

Legislative
Assembly of
South-West Africa
may appropriate
funds for the
purposes of the
principal Act.

10. This Act shall be called the Standards Amendment Act, 1952, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Short title and
date of
commencement.