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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1888.

2 September 1987

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

No. 35 of 1987: Workmen's Compensation Amendment Act, 1987.

No. 1888.

2 September 1987

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

No. 35 van 1987: Ongevallewysigingswet, 1987.

Act No. 35, 1987

WORKMEN'S COMPENSATION AMENDMENT ACT, 1987

GENERAL EXPLANATORY NOTE:

[]

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

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Workmen's Compensation Act, 1941, so as to authorize the Minister to fix a higher earnings limit for the purposes of the definition of workman; to provide for the increase of the amounts payable to workmen in respect of disablement, and for the increase of the amounts payable to the dependants of workmen in cases where workmen die as a result of accidents as contemplated in the Act; to increase the amount which may be paid in respect of burial expenses of workmen and to provide for further increases of that amount; to increase the monthly pensions which are payable in terms of section 39 or 40 at the commencement of the Workmen's Compensation Amendment Act, 1987, or awarded subsequently, by twenty-five per cent in the case of accidents which occurred before the commencement of the Workmen's Compensation Amendment Act, 1981, and by ten per cent in the case of accidents which occurred after the last-mentioned commencement but prior to the commencement of the Workmen's Compensation Amendment Act, 1987; and to authorize the Minister to increase the said monthly pensions; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 21 August 1987.)

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

Amendment of section 3 of Act 30 of 1941, as substituted by section 1 of Act 21 of 1964 and amended by section 1 of Act 58 of 1967, section 2 of Act 9 of 1970, section 2 of Act 11 of 1974, section 1 of Act 28 of 1977, section 1 of Act 24 of 1981 and section 2 of Act 29 of 1984.

Amendment of section 38 of Act 30 of 1941, as amended by section 18 of Act 27 of 1945,

1. Section 3 of the Workmen's Compensation Act, 1941 (hereinafter referred to as the principal Act), is hereby amended by the substitution of paragraph (b) of subsection (2) of the following paragraph: 5

“(b) persons whose annual earnings calculated in the manner set forth in section 41 exceed **[R18 000]** R24 000 or, from a date determined by the **[State President by proclamation]** Minister by notice in the Gazette, such higher amount as he may so determine;” 10

2. Section 38 of the principal Act is hereby amended—

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

“(a) Compensation for temporary total disablement shall be periodical payments during such tempor-

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Ongevallewet, 1941, ten einde die Minister te magtig om 'n hoër verdiensteperk vas te stel vir die doeleindes van die omskrywing van werksman; voorsiening te maak vir die verhoging van die bedrae wat betaalbaar is aan werksmense ten opsigte van arbeidsongeskiktheid, en vir die verhoging van die bedrae wat betaalbaar is aan die afhanklikes van werksmense in gevalle waar werksmense sterf as gevolg van ongevallen soos in die Wet beoog; die bedrag wat betaal kan word ten opsigte van die begrafniskoste van werksmense te verhoog en voorsiening te maak vir verdere verhogings van daardie bedrag; die maandelikse pensioene wat kragtens artikel 39 of 40 by die inwerkingtreding van die Ongevallewysigingswet, 1987, betaalbaar is, of wat daarna toegeken word, te verhoog met vyf-en-twintig persent in die geval van ongevallen wat plaasgevind het voor die inwerkingtreding van die Ongevallewysigingswet, 1981, en met tien persent in die geval van ongevallen wat plaasgevind het na laasgenoemde inwerkingtreding maar voor die inwerkingtreding van die Ongevallewysigingswet, 1987; en om die Minister te magtig om gemelde maandelikse pensioene te verhoog; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 21 Augustus 1987.)*

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

1. Artikel 3 van die Ongevallewet, 1941 (hieronder die Hoofwet genoem), word hierby gewysig deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:

“(b) persone wie se jaarlikse verdienste, bereken op die wyse uiteengesit in artikel 41, **[R18 000] R24 000** of, vanaf 'n datum deur die **[Staatspresident by proklamasie] Minister by kennisgewing** in die *Staatskoerant* bepaal, die hoër bedrag wat hy aldus mag bepaal, te bowe gaan;”.

Wysiging van artikel 3 van Wet 30 van 1941, soos vervang deur artikel 1 van Wet 21 van 1964 en gewysig deur artikel 1 van Wet 58 van 1967, artikel 2 van Wet 9 van 1970, artikel 2 van Wet 11 van 1974, artikel 1 van Wet 28 van 1977, artikel 1 van

en artikel 2 van Wet 29 van 1984.

2. Artikel 38 van die Hoofwet word hierby gewysig—

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

“(a) Skadeloosstelling weens tydelike algehele arbeidsongeskiktheid is periodieke uitkerings gedurende

Wysiging van artikel 38 van Wet 30 van 1941, soos gewysig deur artikel 18 van Wet 27 van 1945,

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section 14 of
Act 36 of 1949,
section 13 of
Act 51 of 1956,
section 4 of
Act 7 of 1961,
section 2 of
Act 58 of 1967,
section 1 of
Act 60 of 1971,
section 6 of
Act 11 of 1974,
section 5 of
Act 28 of 1977,
section 3 of
Act 24 of 1981
and section 12 of
Act 29 of 1984.

any disablement at a rate of seventy-five per cent of the monthly earnings of the workman or, as from a date fixed by the Minister by notice in the *Gazette*, such higher percentage of such earnings determined by the Minister in such notice, up to **[R600] R1 500** of such earnings or, as from a date so fixed, such higher amount of such earnings so determined **[and fifty per cent of his monthly earnings in excess of R600 up to R1 300 of such earnings]**: Provided that the periodical payment shall not be less than R13 per month or, as from a date so fixed, such higher amount as may be so determined or the rate of the workman's earnings at the time of the accident, whichever is the lesser."; and

- (b) by the substitution for subsection (4) of the following subsection:

"(4) In determining the amount of any periodical payments, any excess of any monthly earnings of a workman above **[R1 300] R1 500** or, if the Minister has in terms of subsection (1) determined a higher amount of such earnings, any excess of such higher amount shall not be taken into consideration."

Amendment of
section 39 of
Act 30 of 1941,
as amended by
section 19 of
Act 27 of 1945,
section 15 of
Act 36 of 1949,
section 14 of
Act 51 of 1956,
section 5 of
Act 7 of 1961,
section 3 of
Act 58 of 1967,
section 2 of
Act 60 of 1971,
section 7 of
Act 11 of 1974,
section 6 of
Act 28 of 1977,
section 4 of
Act 24 of 1981
and section 13 of
Act 29 of 1984.

3. Section 39 of the principal Act is hereby amended—

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

"(a) Where the degree of disablement is thirty per cent, a lump sum equal to 15 times the monthly earnings of the workman or, as from a date fixed by the Minister by notice in the *Gazette*, a lump sum equal to as many times the monthly earnings of the workman as the Minister may determine in such notice, up to **[R600] R840** of such earnings or, from a date so fixed, up to such higher amount of such earnings so determined.";

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

"(c) Where the degree of disablement is one hundred per cent, a monthly pension equal to seventy-five per cent of the monthly earnings of the workman or, as from a date fixed by the Minister by notice in the *Gazette*, such higher percentage of the monthly earnings as the Minister may determine in such notice, up to **[R600] R1 500** of such earnings or, as from a date so fixed, such higher amount of such earnings so determined **[plus fifty per cent of his monthly earnings in excess of R600 up to R1 300 of such earnings]**: Provided that the pension payable shall not be less than R13 per month or, as from a date fixed by the Minister by notice in the *Gazette*, such higher amount per month as the Minister may determine in such notice or the rate of the workman's earnings at the time of the accident, whichever is the lesser.";

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

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sodanige tydelike arbeidsongeskiktheid teen 'n skaal van vyf-en-sewentig persent van die maandelikse verdienste van die werksman of, vanaf 'n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, sodanige hoër persentasie van sodanige verdienste as wat die Minister in sodanige kennisgewing bepaal tot **[R600] R1 500** van daardie verdienste of, vanaf 'n datum aldus vasgestel, sodanige hoër bedrag aldus bepaal: **[en vyftig persent van sy maandelikse verdienste bo R600 tot R1 300 van daardie verdienste]** Met dien verstande dat die periodieke uitkering nie minder as R13 per maand of, vanaf 'n datum aldus vasgestel, sodanige hoër bedrag aldus bepaal of die skaal van die werksman se verdienste ten tyde van die ongeval, na gelang van watter die kleinste is, mag bedra nie.”; en

artikel 14 van Wet 36 van 1949, artikel 13 van Wet 51 van 1956, artikel 4 van Wet 7 van 1961, artikel 2 van Wet 58 van 1967, artikel 1 van Wet 60 van 1971, artikel 6 van Wet 11 van 1974, artikel 5 van Wet 28 van 1977, artikel 3 van Wet 24 van 1981 en artikel 12 van Wet 29 van 1984.

(b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) By die bepaling van die bedrag van periodieke uitkerings word die bedrag van maandelikse verdienste van 'n werksman bo **[R1 300] R1 500** of, indien die Minister ingevolge subartikel (1) 'n hoër bedrag van sodanige verdienste bepaal het, enige oorskot van sodanige hoër bedrag buite rekening gelaat.”.

3. Artikel 39 van die Hoofwet word hierby gewysig—

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

“(a) Wanneer die graad van arbeidsongeskiktheid dertig persent is, 'n enkele geldsom gelyk aan 15 maal die maandelikse verdienste van die werksman of, vanaf 'n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, 'n enkele geldsom gelyk aan soveel maal die maandelikse verdienste van die werksman as wat die Minister in sodanige kennisgewing bepaal tot **[R600] R840** van daardie verdienste of, vanaf 'n datum aldus vasgestel, tot so 'n hoër bedrag van sodanige verdienste aldus bepaal.”;

Wysiging van artikel 39 van Wet 30 van 1941, soos gewysig deur artikel 19 van Wet 27 van 1945, artikel 15 van Wet 36 van 1949, artikel 14 van Wet 51 van 1956, artikel 5 van Wet 7 van 1961, artikel 3 van Wet 58 van 1967, artikel 2 van Wet 60 van 1971, artikel 7 van Wet 11 van 1974, artikel 6 van Wet 28 van 1977, artikel 4 van Wet 24 van 1981 en artikel 13 van Wet 29 van 1984.

(b) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:

“(c) Wanneer die graad van arbeidsongeskiktheid honderd persent is, 'n maandelikse pensioen gelyk aan vyf-en-sewentig persent van die maandelikse verdienste van die werksman of, vanaf 'n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, sodanige hoër persentasie van die maandelikse verdienste as wat die Minister in sodanige kennisgewing bepaal tot **[R600] R1 500** van daardie verdienste of, vanaf 'n datum aldus vasgestel, sodanige hoër bedrag van sodanige verdienste aldus bepaal **[plus vyftig persent van sy maandelikse verdienste bo R600 tot R1 300 van daardie verdienste]**: Met dien verstande dat die betaalbare pensioen nie minder as R13 per maand of, vanaf 'n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, sodanige hoër bedrag per maand as wat die Minister in sodanige kennisgewing bepaal of die skaal van die werksman se verdienste ten tyde van die ongeval, na gelang van watter die kleinste is, mag bedra nie.”; en

(c) deur subartikel (2) deur die volgende subartikel te vervang:

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"(2) In determining the compensation under subsection (1) any excess of the monthly earnings of a workman above **[R1 300]** R1 500 or, as from a date fixed by the Minister by notice in the *Gazette*, above such higher amount as the Minister may determine in such notice, shall not be taken into consideration."

Amendment of section 40 of Act 30 of 1941, as amended by section 20 of Act 27 of 1945, section 16 of Act 36 of 1949, section 15 of Act 51 of 1956, section 6 of Act 7 of 1961, section 4 of Act 58 of 1967, section 8 of Act 11 of 1974, section 7 of Act 28 of 1977, section 5 of Act 24 of 1981 and section 14 of Act 29 of 1984.

4. Section 40 of the principal Act is hereby amended—

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

"(a) If the workman leaves as a dependant a widow or invalid widower and no children, a lump sum not exceeding twice the workman's monthly earnings or **[R600]** R840, whichever is the lesser, or, as from a date fixed by the Minister by notice in the *Gazette*, such higher amount as the Minister may determine in such notice, but not exceeding twice the workman's monthly earnings, whichever is the lesser, and a monthly pension equal to forty per cent of the pension which would have been granted to the workman if totally and permanently disabled, under section 39 (1) (c)."; and

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

"(2) The commissioner may in his discretion pay out of the accident fund, or, as the case may be, direct the employer individually liable to pay, an allowance not exceeding **[R650]** R900 or, as from a date fixed by the Minister by notice in the *Gazette*, such higher amount as the Minister may determine in such notice towards the necessary burial expenses of the workman."

Amendment of section 43bis of Act 30 of 1941, as inserted by section 17 of Act 51 of 1956 and amended by section 6 of Act 9 of 1970, section 9 of Act 11 of 1974, section 3 of Act 8 of 1979, section 6 of Act 24 of 1981 and section 17 of Act 29 of 1984.

5. Section 43bis of the principal Act is hereby amended by the substitution for subsection (1) of the following subsections:

"(1) All monthly pensions payable under section 39 or 40 at the commencement of the Workmen's Compensation Amendment Act, **[1984]** 1987, or awarded subsequently, in respect of accidents which happened before **[such]** the commencement of the Workmen's Compensation Amendment Act, 1981 (Act No. 24 of 1981), shall with effect from **[such]** the commencement of the Workmen's Compensation Amendment Act, 1987, be increased by **[fifteen]** twenty-five per cent or, as from a date fixed by the Minister by notice in the *Gazette*, by such percentage as the Minister may so determine.

(2) All monthly pensions payable under section 39 or 40 at the commencement of the Workmen's Compensation Amendment Act, 1987, or awarded subsequently, in respect of accidents which happened on or after the commencement of the Workmen's Compensation Amendment Act, 1981 (Act No. 24 of 1981), but before the commencement of the Workmen's Compensation Amendment Act, 1987, shall from the commencement of the Workmen's Compensation Amendment Act, 1987, be increased by ten per cent or, as from a date fixed by the Minister by notice in the *Gazette*, by such percentage of such earnings as the Minister may determine in such notice."

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“(2) By die vasstelling van die skadeloosstelling ingevolge subartikel (1) word enige bedrag van die maandelikse verdienste van ’n werksman bo **[R1 300] R1 500** of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, bo sodanige hoër bedrag as wat die Minister in sodanige kennisgewing bepaal, buite rekening gelaat.”.

4. Artikel 40 van die Hoofwet word hierby gewysig—

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

“(a) As die werksman ’n weduwee of sieklike wewe-naar as nabestaande nalaat, en daar geen kinders is nie, ’n enkele geldsom van hoogstens twee maal die maandelikse verdienste van die werksman of **[R600] R840** of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, sodanige hoër bedrag as wat die Minister in sodanige kennisgewing bepaal, maar nie meer as twee maal die werksman se maandelikse verdienste, na gelang die een of die ander minder bedra, en ’n maandelikse pensioen gelyk aan veertig persent van die pensioen wat aan die werksman toegestaan sou gewees het ingevolge artikel 39 (1) (c) as hy algeheel en blywend arbeidsongeskik was.”; en

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Die kommissaris kan na goeddunke uit die ongevalliefonds ’n toelae van hoogstens **[R650] R900** of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, sodanige hoër bedrag as wat die Minister in sodanige kennisgewing bepaal, vir die nodige begrafniskoste van die werksman betaal of die werkgever individueel aanspreeklik gelas om dit te betaal, na gelang van die geval.”.

Wysiging van artikel 40 van Wet 30 van 1941, soos gewysig deur artikel 20 van Wet 27 van 1945, artikel 16 van Wet 36 van 1949, artikel 15 van Wet 51 van 1956, artikel 6 van Wet 7 van 1961, artikel 4 van Wet 58 van 1967, artikel 8 van Wet 11 van 1974, artikel 7 van Wet 28 van 1977, artikel 5 van Wet 24 van 1981 en artikel 14 van Wet 29 van 1984.

5. Artikel 43bis van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikels te vervang:

“(1) Alle maandelikse pensioene kragtens artikel 39 of 40 betaalbaar by die inwerkingtreding van die Ongevallewysigingswet, **[1984] 1987**, of daarna toegeken, ten opsigte van ongevallen wat voor **[sodanige] die inwerkingtreding van die Ongevallewysigingswet, 1981 (Wet No. 24 van 1981)**, plaasgevind het, word vanaf **[sodanige] die inwerkingtreding van die Ongevallewysigingswet, 1987**, met **[vyftien] vyf-en-twintig** persent of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, met sodanige persentasie as wat die Minister aldus bepaal, verhoog.

(2) Alle maandelikse pensioene kragtens artikel 39 of 40 betaalbaar by die inwerkingtreding van die Ongevallewysigingswet, 1987, of daarna toegeken, ten opsigte van ongevallen wat op of na die inwerkingtreding van die Ongevallewysigingswet, 1981 (Wet No. 24 van 1981), maar voor die inwerkingtreding van die Ongevallewysigingswet, 1987, plaasgevind het, word vanaf die inwerkingtreding van die Ongevallewysigingswet, 1987, met tien persent of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, met sodanige persentasie wat hy aldus bepaal, verhoog.”.

Wysiging van artikel 43bis van Wet 30 van 1941, soos ingevoeg deur artikel 17 van Wet 51 van 1956 en gewysig deur artikel 6 van Wet 9 van 1970, artikel 9 van Wet 11 van 1974, artikel 3 van Wet 8 van 1979, artikel 6 van Wet 24 van 1981 en artikel 17 van Wet 29 van 1984.

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Sections 2, 3
and 4 not to
apply in respect
of certain accidents.

6. The amendments effected by sections 2, 3 and 4 shall not apply in respect of accidents which occurred prior to the commencement of this Act.

Short title and
commencement.

7. This Act shall be called the Workmen's Compensation Amendment Act, 1987, and shall come into operation on a date 5 fixed by the State President by proclamation in the *Gazette*.

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6. Die wysigings deur artikels 2, 3 en 4 aangebring, is nie van toepassing ten opsigte van ongevallen wat voor die inwerkingtreding van hierdie Wet plaasgevind het nie.

Artikels 2, 3 en 4 nie ten opsigte van sekere ongevallen van toepassing nie.

5 7. Hierdie Wet heet die Ongevallewysigingswet, 1987, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Kort titel en inwerkingtreding.

