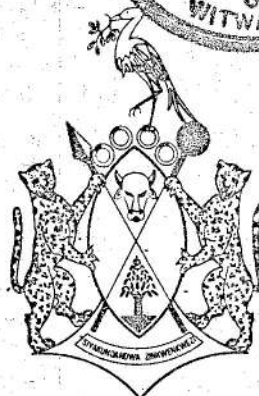


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<p>ISEBE LEZOTHUTHO</p> <p>ISAZISO SIKARHULUMENTE SAMA-80</p> <p>NGOKWENJENJE KUYAZISWA UKUBA UMO- NGAMELI UWUVUMILE UMTHETHO OLANDE- LAYO NOBHEBNGEZWAYO APHA KUSAZISWA ULUNTU NGOKUBANZI:-</p> <p>UMTHETHO WEENGOZI ZEZITHUTHI EZIZIMOTO, 1986</p> <p>UMTHETHO NOMBOLO 28 WOVE-1986</p>			<p>DEPARTMENT OF TRANSPORT</p> <p>GOVERNMENT NOTICE NO. 80</p> <p>IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY PUBLISHED FOR GENERAL INFORMATION:-</p> <p>MOTOR VEHICLE ACCIDENTS ACT, 1986</p> <p>ACT NO. 28 OF 1986</p>		

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UMTHETHO WEENGOZI ZEZITHUTHI EZIZIMOTO, 1986

UMTHETHO

Ukwenza amalungiselelo entlawulo yembuyekazo ngelahleko ethile okanye umonakalo othe wathi ngokungekho mthethweni wenziwa ngokuthi kuqhutywe izithuthi ezizimoto ezithile, ukusekwa kweNgxowa-mali yeAshorensi yeZithuthi ezizimoto nentlawulo yembuyekazo ngemali evela kuloo ngxowa-mali, nokwenza amalungiselelo emicimbi ethi izalwe koko.

(Okubhalwe ngesiNgesi kusayinwe nguMongameli. Kwavunywa ngomhla wama 25 Septemba 1986.)

MAKWENZIWE UMTHETHO yile Ndlu yeNdibano yeSizwe yeRiphabliki yeCiskei, ngolu hlobo lulandelayo:-

1. **linkcazo-magama.** - KuLo Mthetho, ngaphandle-kokuba okuqulethweyo kunika enye intshingiselo -

"iarhente eyalathelweyo" ithetha iarhente ethe yalathelwa phantsi kwecandelo 6(1)(a);

"ishishini" alibandakanyi naliphi na ishishini elingekho mthethweni;

"ukuhanjiswa" ngokuphathelele ekuhanjiseni komntu kwisithuthi esiyimoto, kuya kuthatyathwa ngokuba kubandakanya ukuhanjiswa ngethuba kanye ubani esenza isenzo sokungena okanye ukukhwela kwisithuthi esiyimoto esichaphazelekayo ngenjongo yokuba ahanjise okanye esenza isenzo sokuhla kwisithuthi esiyimoto esichaphazelekayo emva kokuba ethe wahanjiswa;

"Ingxowa-mali yeCMVA" ithetha iNgxowa-mali yeCiskei yeAshorensi yeZithuthi ezizimoto ethe yasekwa licandelo 3;

"uMlawuli-Jikelele" uthetha uMlawuli-Jikelele weloThutho;

"umbutho wokukhweliswa" uthetha nawuphina umbutho ekuthi kuwo -

(a) ilungu ngalinye lithabathe inxaxheba ekuhambiseni okanye ekwenzeni ukuba kuhanjise ngesithuthi esiyimoto amalungu aloo mbutho okanye abanye abantu abathe balathelwa ngaloo malungu ukuya okanye ukubuya kwindawo emiselweyo ngenjongo emiselweyo; okanye

(b) ilungu ngalinye libe ngumnini wesithuthi esiyimoto kwaye elinye ilungu lawo okanye amanye amalungu awo liya kuthi ngesithuthi esiyimoto elingumnini waso okanye abangabani bazo, ngokwemeko leyo, lihambise okanye libangele ukuba kuhanjise amalungu aloo mbutho okanye abanye abantu abalathelwe ngaloo malungu abaya okanye abavefa kwindawo ethile ngenjongo ethile;

"ugunyaziwe wendawo" uthetha ugunyaziwe wendawo njengoko ethe wachazwa kuMthetho weCiskei weziHamba-Ndleleni, 1977 (Umthetho 10 wowe-1977).

"uMphathiswa" uthetha uMphathiswa woThutho;

"Isithuthi esiyimoto" sithetha isithuthi esiyimoto njengoko kuthe kwachazwa kwicandelo 1(1) loMthetho woLawulo loThutho eziNdleleni, 1982 (Umthetho 15 wowe-1982);

"Isithuthi esiyimoto" sithetha nasiphi na isithuthi esenzelwe okanye esilungiselelwe ukuba sihanjise okanye sitsalwe endleleni ngokusebenzisa amafutha, kwaye kubandakanywa nayiphi na inqwelo yeso sithuthi;

"umnini", ngokuphathelele -

(a) kwisithuthi esiyimoto umthengisi weemoto asigcinileyo ngethuba ashishinayo neya kuthi ngokwemigaqo yawo nawuphina umthetho ophathelele ekulayisenisweni kwezithuthi ezizimoto ingabi nokuqhutywa okanye isetyenziswe kwindlela yoluntu ngaphandle kokuba ithi igunyaziswe yilayisensi yomthengisi-zimoto, umthengisi weemoto lowo uchaphazelekayo ongumnini wayo, uthetha loo mthengisi-zimoto;

(b) kwisithuthi esiyimoto esithe sazuzwa ukuze sihanjise ngumnini layisensi yothutho-zimoto ngethuba aqhuba ishishini lakhe lokuhambisa izithuthi ezizimoto ezintsha nesingekahanjiswa nguye, uthetha loo mnini layisensi yothutho-zimoto;

(c) kwisithuthi esiyimoto esithengwe ngentengiselwano ethi ihlawulelwe ngezavenge, uthetha umthengi othe waqhuba olu hlobo lwentengo oluhlawulelwa ngezavenge;

(d) kwisithuthi esiyimoto esiphantsi kwemvumelwano yengqeshiso ithuba ubuncinane leenyanga ezilishumi elinesibini, uthetha umqeshi ochaphazelekayo;

"omiselweyo" uthetha omiselwe ngumgaqo;

"umgaqo" uthetha umgaqo othe wenziwa nothi usebenze phantsi kwecandelo 17;

"IRiphabliki" ithetha IRiphabliki yeCiskei;

"umvuzo", ngokubhekisele ekuhanjiseni kwakhe nawuphi na umntu ngaphakathi okanye ngaphezu kwesithuthi, awubandakanyi nawuphi na umvuzo othi wenze ukuba oko kufanisiwa kungabikho mthethweni ngokwamalungiselelo oMthetho WoLawulo loThutho eziNdloleni, 1982;

"limeko ezizodwa" azibandakanyi nakuphi na ukutyeshela, ukusilela okanye ukungazi;

"inqwelo" ayibandakanyi sixhobo solimo okanye nasiphi na esinye isixhobo esingenzelwanga okanye esingalungiselelwanga ukuthutha abantu okanye impahla;

"UNdyabo" uthetha uMphathiswa weMali noPhuhliso loQoqosho okanye naliphi na igosa elisebenza phantsi kwegunya lakhe.

2. Imiqondiso yokuzazisa. - (1) (a) Ngokulawulwa ngamalungiselelo ecandelwana (2) akukho mntu uya kuthi aqhube isithuthi kuyo nayiphi na indawo ngaphandle kokuba umqondiso wokuzazisa okwimo emiselweyo uthi uncanyatheliswe kweso sithuthi ngendlela emiselweyo.

(b) Isicelo somqondiso wokuzazisa ekubhekiselwe kuwo kumhlathi (a) siya kuthi senziwe kwifomu emiselweyo kwiarhente eyalathelweyo echaphazelekayo eya kuthi inikezele loo mqondiso, uthi wazaliswa ngokufanelekileyo, ngaphandle kwentlawulo kuloo mceli.

(c) Iindleko zoshicilelo lwale miqondiso ikhankanyiweyo zokuzazisa kunye neefomu zezicelo ngako oko ziya kuthi zihlawulwe yiNgxowa-mali yeCMVA.

(2) Amalungiselelo ecandelwana (1) awayi kusebenza ngokuphathelele kwisithuthi -

(a) esimnini unguwo nawuphi na umbuso okanye urhulumente okanye uMongameli; okanye

(b) esibhaliswe endaweni engaphandle kwiRiphabliki kuloo ndawo, ukuba lo mntu uqhuba okanye uthi avumele omnye umntu ukuba aqhube isithuthi esiyimoto esitolo hlobo uthi wenza amalungiselelo athe amiselwa ukuqinisekisa ukuba imbuyekazo iya kuthi ihlawulwe ngayo nayiphi na ilahleko elolo hlobo okanye umonakalo njengoko kuthe kwakhankanywa kwicandelo 8 onokuthi ubangelwe okanye uveliswe kukuqhutywa kweso sithuthi siyimoto kwiRiphabliki ngumnini waso okanye isicaka sakhe okanye iarhente yakhe; okanye.

(c) esithi sisetyenziswe ngokwelayisenisi yomthengisi weemoto okanye ilayisenisi yothutho lweemoto, njengoko uthi yachazwa kuwo nawuphi na umthetho obhekiselele ekulayisenisweni kwezithuthi; okanye

(d) ekungafuneki ukuba silayiseniswe ngokwemigaqo yawo nawuphi na umthetho ololo hlobo.

(3) Nawuphi na umntu othi aphule icandelwana (1) (a) uya kuthi abe netyala lokwaphula umthetho kwaye xa ethe wagwetywa uya kuthi ahlawule ifayini engekho ngaphezulu kwe-R100.

3. Ukusekwa kweNgxowa-mali ye-CMVA. - (1) Ngale ndlela kusekwa ingxowa-mali eza kuthi yaziwe ngokuba yiNgxowa-mali yaseCiskei yeNgozi yeziThuthi eziziiMoto eya kuthi ibe liqumrhu.

(2) Ingeniso yeNgxowa-mali yeCMVA, kubandakanywa ingeniso evela kutyalo-mali, iya kuthi ikhululwe kwiRhafu yengeniso.

(3) Ukususela ekuqalisweni kwalo Mthetho iNgxowa-mali yaseCiskei yeAshorensi yeziThuthi eziziiMoto ekhankanyiweyo kwicandelo 5 loMthetho osisiNyanzelo weInshorensi yeziThuthi eziziiMoto, 1983 (UMthetho 4 wowe-1983), uya kuthi uyeke ukusebenza, zonke izixa-mali ezithe zafakwa kuloo ngxowa-mali kwangoko phambi koko kuqaliswa ziya kuthi zingene kwiNgxowa-mali yeCMVA kwaye onke amaTyala kunye namalungelo, akhoyo nathi azuzwe, ale Ngxowa-mali yaseCiskei yeAshorensi yeziThuthi eziziiMoto aya kuthi awele kwiNgxowa-mali yeCMVA.

(4) Umongameli unokuthi ngesihlokomiso kwiGazethi asebenzise kwiNgxowa-mali yeCMVA nawuphi na amalungiselelo oMthetho weeKhampani, 1973 (UMthetho 61 wowe-1973) okanye awo nawuphi na omnye uMthetho ophathelele kwiikhampani, ongqinelanayo namalungiselelo alo Mthetho, kunye nezo zilungiso zinokuthi zikhankanywe kweso sihlokomiso, kwaye unokuthi ahlomele okanye atshitshise nasiphi na isihlokomiso esilolo hlobo.

(5) Umbhalisi weeKhampani uya kuthi ngokweenjongo zeSahluko IV salo Mthetho weeKhampani, 1973 ukhankanyiweyo abhale igama kunye nesishunqulelo "Ingxowa-mali yeCiskei yeAshorensi yeziThuthi eziziiMoto" kunye "Ingxowa-mali yeCMVA", ngokufandelelana, kwirejista yeekhampani ethi igcinwe nguye ngokwemigaqo yaloo Mthetho.

4. **UMphathi weStafu weNgxowa-mali yeCMVA.** - (1) (a) UMphathi uya kuthi amaxesha ngamaxesha ngokulawulwa xa kungenjalo yimithetho elawula inkonzo kaRhulumente atyumbe umntu oza kuba ngumphathi wengxowa-mali yeCMVA oya kuthi, phantsi kolawulo nesikhokelo soMlawuli-Jikelele, apha the imicimbi yeNgxowa-mali yeCMVA kwaye, ngokwezo njongo, unokuthi asebenzise amagunya kwaye uya kuthi enze imisebenzi yeNgxowa-mali yeCMVA.

(b) Xa umphathi ololo hlobo ethe ngaso nasiphi na isizathu akabikho okanye akabi nako ukwenza imisebenzi yakhe, uMlawuli-Jikelele unokuthi ngokubhaliweyo alathele ilungu lestafu sakhe ukuba lisebenze endaweni yoMphathi ithuba elimiselweyo elingekho ngaphezu kweentsuku zokusebenza ezingamashumi amathathu ngalo naliphi na ixesha elinye.

(2) Ngokulawulwa yimithetho elawula inkonzo kaRhulumente, esi siphathamandla sisebenza ngokufanelekileyo sinokuthi sityumbe amagosa okanye abaqeshwa njengoko kuyimfuneko ngokoluvo lwelo gosa ukwenzela ukuba umphathi abe nakho ukuphatha ingxowa-mali yeCMVA. Phantsi kwento ethi, endaweni yokwenza naluphi na utyumbo olulolo hlobo, esi siphathamandla sithi sisebenze ngokuyimpumelelo sinokuthi sizuze amancedo akhe nawuphi na umntu phantsi kwaloo miqathango inokuthi iqingqwe ngemvumelwano kunye naloo mntu kuthethwa ngaye.

5. **Iimali ezikwiNgxowa-mali yeCMVA.** - (1) Kuya kuthi kuhlawulwe kwiNgxowa-mali yeCMVA zonke iimali ezithe zazuzwa yiloo ngxowa-mali ngenxa yamalungiselelo ecandelo 1(2)(a)(ii) loMthetho weNgxowa-mali yaMandla oNgameleyo, 1979 (UMthetho 38 wowe-1977), necandelo 14 loMthetho woKhuseleko eziNdleleni, 1984 (UMthetho 21 wowe-1984).

(2) Iimali ezikwiNgxowa-mali yeCMVA ziya kuthi, ngokulawulwa ngamalungiselelo ecandelo 3(3) icandelwana (3) leli candelo kuniye necandelo 20, zisetyenziswe ukuhlawula iindleko ekuthe kwangenwa kuzo ngumphathi waloo ngxowa-mali ngethuba asebenzisa amagunya akhe kunye nokwenza umsebenzi wakhe ngokwemigaqo yalo Mthetho, ngaphandle kwakwimeko yamabango embuyekazo ekujongwe kuwo kwicandelo 8 ezivele ngenxa yokuqhuba apha kwiRiphabliki izithuthi ezizimoto ezibhaliswe ngaphandle kwiRiphabliki ngokwemigaqo yomthetho osebenzayo kuloo ndawo, nezi-inshorensi phantsi kwamalungiselelo awo nawuphina umthetho ophathelele kwi-inshorensi esisinyanzelo yezithuthi ezizimoto esebenzayo kuloo ndawo nekuthe ngokuphathelele kuyo kwenziwa amalungiselelo entlawulo yale mbuyekazo ikhankanyiweyo.

(3) UMphathi weNgxowa-mali yeCMVA uya kuthi enze ukuba isixa-mali ekujongwe kuso kwicandelo 14 loMthetho woKhuseleko eziNdleleni, 1984, ihlawulwe ngokuthe rhoqo kangangoko imeko inokuthi uyivumele iNgxowa-mali yeCMVA kwiBhunga loKhuseleko eziNdleleni elithe lasekwa licandelo 2 laloo Mthetho.

6. **Amagunya iimfanelo nemisebenzi yeNgxowa-mali yeCMVA.** - (1) (a) (i) iya kuthi, ngokulawulwa yimvume yoMphathiswa, yalathele iiarhente ezininzi kangangoko ibona kufanelekile, phantsi kwemiqathango ekuthe kwavunyelwana ngayo, ukuphanda okanye ukuhlawula, phantsi kwamalungiselelo ale migaqo, egameni layo ubizo-mbuyekazo ngelahluko okanye umonakalo ekubhekiselelwe kuwo kwicandelo 8 olubangelwe kukuqhutywa kwesithuthi esiyimoto kwimeko apho igama lomnini okanye umqhubi waso ethe waziwa okanye ukulahla amanyathelo asemthethweni ngokuphathelele nobizo-mbuyekazo olulolo hlobo; kwaye

(ii) iya kuthi, emva kokuphunyezwa nguMphathiswa, yenze ukuba amagama ezi arhente zixeliweyo kunye nobizo-mbuyekazo ekuya kuthi ngokubhekiselele kulo ezo arhente zibe nobutyala, zipapashwe kwiGazethi;

(b) iya kuthi, ngokulawulwa ngamalungiselelo ale migaqo, yenze uphando okanye ihlawule ubizo-mbuyekazo oluthe lwenziwa kuyo ngenxa yelahluko okanye umonakalo ekuthe kwabhekiselwa kuwo kwicandelo 8 olubangelwe kukuqhutywa kwesithuthi kwimeko apho umnini wesithuthi okanye umqhubi waso ongaziwayo okanye ukuqalisa, ukuqhuba, ukukhusela okanye ukulahla amanyathelo asemthethweni ngokuphathelele kubizo-mbuyekazo olulolo hlobo;

(c) inokuthi, ngokulawulwa yimvume yoMphathiswa kuzo zonke iimeko, ithenge okanye izuze ngenye indlela impahla, izixhobo, umhlaba, izakhiwo, izabelo, iidibhentsha, izibambiso zestokhwe kunye nazo zonke ezinye iintlobo zempahla ehambayo okanye engahambiyo;

(d) inokuthi, ngokulawulwa yimvume yoMphathiswa kuzo zonke iimeko, ithenge, iqeshe, imotgeje, ithwalise, ithengise, itshintshise, isebenze, iphuhlise, yakhele, iphucule okanye ngayo nayiphi na indlela isebenze ngepropathi yayo;

(e) inokuthi ityale naziphi na iimali ezingekafuneki ngokukhawuleza ekuqhutyweni komsebenzi wayo, ngendlela enokuthi amaxesha ngamaxesha iqingqwe nguMphathiswa;

(f) inokuthi, ngokulawulwa yimvume yoMphathiswa kuzo zonke iimeko, iboleke imali ize iqinisekise intlawulo yayo ngendlela enokuthi iyibone ifanelekile;

(g) inokuthi, ngokulawulwa yimvume yoMphathiswa, yenze izipho-mali zophando ngokuphathelele kuwo nawuphina umcimbi onxulumene neengozi ezithi zizuzwe kwiingozi zeemoto, phantsi kwemiqathango enokuthi iyibone ifanelekile;

(h) inokuthi itsale, iyile, yamkele, ikhuphe, yaphule, isayine kwaye ikhuphe amaphetshana aqinisekisa-intlawulo, iibhili kunye nezinye izixhobo zorhwebo okanye zotshintshiselwano ngaphandle kweziqinisekiso zezabelo;

(i) iya kuthi isebenzise iimali zayo ukwenza nayiphi na injongo enxulumene kunye okanye ezalwa kukusebenzisa kwayo amagunya ayo okanye ukwenza imisebenzi yayo;

(j) iya kuthi iwubuyekeze uMbuso ngamancedo athe anikwa kwiNgxowa-mali ye-CMVA ngabantu abakwinkonzo yoMbuso;

(k) inokuthi yenze zonke ezinye izinto ezithi zingqamane okanye zibe luncedo ekuqhubeni kwayo amagunya ayo okanye ekwenzeni kwayo imisebenzi yayo.

(2) Ingxowa-mali yeCMVA iya kuthi -

(a) igcine iirekhothi ezifanelekileyo zazo zonke iintengiselwano zemali, iiasethi zayo kunye namatyala ayo;

(b) Ngokukhawuleza kangangoko emva kwalo ngalunye uphicotho zintwadi ngokwecandelwana (3) ingenise kuMphathiswa amaxwebhu emali eselugcinweni aphicothiweyo kunye nengxelo yoMphicothi-ziNcwadi-Jikelele ngokuphathelele kolo phicotho zintwadi kunye nengxelo ngemisebenzi yengxowa-mali yeCMVA ngalo nyaka olu phicotho zintwadi lubhekiselele kuwo.

(3) Iiakhawunti zeNgxowa-mali yeCMVA ziya kuthi ziphicothwe minyaka le nguMphicothi-ziNcwadi Jikelele.

(4) UMphathiswa uya kuthi abeke iikopi zeengxelo ezithe zangeniswa kuye ngokwemigaqo yecandelwana (2) etafileni yeNdlu yeNdibano yeSizwe zingedlulanga iintsuku ezingamashumi amathathu emva kokuba zithe zazuzwa ukuba iNdlu yeNdibano yeSizwe ngelo thuba ikwiseshoni okanye, ukuba iNdlu yeNdibano yeSizwe ngelo thuba ayikho kwiSeshoni, zingedlulanga iintsuku ezingamashumi amathathu emva kokuqaliswa kweNdibanq yesiqhelo yayo elandelayo.

7. IKomiti ecebiso. - (1) UMphathiswa unokuthi emva kokucebisana neentloko zamasebe ezichaphazelekayo aseke ikomiti ecebiso ukumcebisa ngokuphathelele -

(a) kwimeko yemali yeNgxowa-mali yeCMVA;

(b) ubonelelo ngemali lweNgxowa-mali yeCMVA;

(c) utyalo lweemali zeNgxowa-mali yeCMVA; kunye

(d) nawo nawuphina umcimbi omiselweyo okanye ekuthe amaxesha ngamaxesha kwabhekiselelwa kwikomiti ecebiso nguMphathiswa.

(2) Amalungu ekomiti ecebiso aya kuthi abe ngala -

(a) igosa elinye leSebe loThutho, eliya kuthi libe nguSihlalo wale komiti;

(b) amagosa amabini eSebe leMali noPhuhliso loQoqosho;

(c) umntu omnye oza kumela iBhunga loKhuseleko eziNdloleni; kunye

(d) nomphathi weNgxowa-mali yeCMVA.

(3) Ilungu lale komiti icebisayo liya kuthi lalathelwe eli thuba kwaye nangaloo miqathango (kubandakanywa imiqathango ephathelele kwizibonelelo, ukuba zikho ezithi zihlawulwe kuye ngokuphathelele kwiinkonzo ezithi zinikwe nguye njengolungu elilolo hlobo) njengoko uMphathiswa enokuthi aqingqe evumelana kunye noNdyabo.

(4) Le komiti icebisayo inokuthi inyanzelise ukuba iboniswe iistatistiki, iincwadi, iiaakhawunti okanye amanye amaxwebhu eNgxowa-mali yeCMVA ngenjongo yokuba zixilongwe okanye kwenziwe izicatshulwa kuzo okanye iikopi zazo.

(5) Umlawuli-Jikelele uya kuthi ngokulawulwa yimithetho elawula inkonzo kaRhulumente awabonelele onke amagosa alolo hlobo kuya kuthi kube yimfuneko ukwenza wonke umsebenzi wobusosiba nowolawulo othi uvele ngenxa yokwenziwa kwemisebenzi yekomiti ecebisaayo.

8. Ubutyala beNgxowa-mali yeCMVA kunye nearhente eyalathelweyo. - (1) Ingxowa-mali yeCMVA okanye iarhente yayo eyalathelweyo, ngokwemeko leyo, iya kuthi ngokulawulwa ngamalungiselelo alo Mthetho nangemiqathango emiselweyo, inyanzeleke ukuba ibuyekeze nawuphi na umntu (apha kulo mthetho obizwa ngokuba ngumntu wesithathu) ngayo nayiphi na ilahleko okanye umonakalo ethe yabakho kumntu wesithathu ngenxa -

(a) yako nakuphina ukwenzakala emzimbeni kwakhe;

(b) yokufa okanye nakuphina ukwenzakala emzimbeni kuye nawuphi na umntu, kuyo nayiphi na imeko okuthe kwabangelwa okanye okuthe kwavela ngenxa yokuqhutywa kwesithuthi esiyimoto nguye nawuphi na umntu kuyo nayiphi na indawo apha kwiRiphabliki, ukuba oko kwenzakala okanye ukufa kubangelwe kukungabi nankathalo okanye esinye isenzo esingekho mthethweni saloo mntu uthe waqhuba eso sithuthi siyimoto (kulo Mthetho obizwa ngokuba ngumqhubi) okanye komnini wesithuthi esiyimoto okanye isicaka sakhe ekwenzeni kwakhe umsebenzi wakhe.

(2) Akukho nzala iya kuthi ihlawulwe ngesixa-mali sayo nayiphi na imbuyekezo ethi inkundla iyinike nawuphi na umntu wesithathu ngenxa yamalungiselelo ecandelwana (1) ngaphandle kokuba iintsuku ezilishumi elinesine zithe zedlula ukususela ngomhla womyalelo ofanelekileyo wenkundla.

(3) Xa ikhupha nawuphi na umyalelo ngokuphathelele kwiindleko xa isenza loo ntlawulo, inkundla inokuthi iqwalasele nawuphi na umrhumo othe wabhalwa phantsi wokuhlawulwa ngokupheleleyo kobizo-mbuyekezo kwiNgxowa-mali yeCMVA ekubhekiselwe kulo, oluthe lwenziwa yiNgxowa-mali yeCMVA okanye iarhente yayo eyalathelweyo phambi kokuba isamana efanelekileyo ingeniswe kuyo.

(4) Apho ubizo-mbuyekezo phantsi kweli candelo -

(a) luthi lubandakanye ubizo-mbuyekezo ngeendleko zokuhlaliswa kwixa elizayo kwakhe nawuphi na umntu kwisibhedlele okanye ikhaya lokonga okanye unyango lwakhe okanye ukunikwa uncedo okanye ukubonelelwa kwakhe ngempahla, iNgxowa-mali yeCMVA okanye iarhente yayo eyalathelweyo iya kuthi ibe nelungelo, emva kokuba ithe yazisa lo mntu wesithathu kuthethwa ngaye kunye nesifungo esiphathelele koko, lokubuyekeza lo mntu wesithathu ngokuphathelele kwezi ndleko zixeliweyo emva kokuba ezi ndleko kuthe kwangenwa kuzo kunye naxa kuthe kwanikwa ubungqina boko;

(b) luthi lubandakanye ubizo-mbuyekezo ngelahleko yexa elizayo okanye ingeniso okanye inkxaso, iNgxowa-mali yeCMVA okanye iarhente yayo eyalathelweyo iya kuthi ibe nelungelo, emva kokuba ithe yanika igama lomntu wesithathu ekuthethwa ngaye kunye nesifungo esiphathelele koko okanye inkundla efanelekileyo ithe yayiyalela ukuba yenze eso sifungo, ukuhlawula esi sixa-mali sithi sihlawuleke ngokuphathelele kule lahleko ikhankanyiweyo, ngezavenge ekuthe kwavunyelwana ngazo okanye ezithe zawiswa yinkundla.

(5) Apho umntu wesithathu enelungelo lembuyekezo ngokwemigaqo yeli candelo kwaye ethe wangena ezindlekweni ngenxa yokuhlala kwakhe okanye nawuphi na omnye umntu esibhedlele okanye ikhaya lokonga okanye unyango okanye naluphi na uncedo oluthe lwanikwa okanye impahla athe wazinikwa okanye nawuphi na omnye umntu, lo mntu uthe wabonelela ngendawo yokuhlala okanye unyango okanye uthe wanika uncedo okanye wabonelela ngempahla (kule meko ebizwa ngokuba ngumboneleli ngempahla) unokuthi abize imbuyekezo yesi sixa-mali ngqo kwiNgxowa-mali yeCMVA okanye iarhente eyalathelweyo, ngokwemeko leyo, kwifomu emiselweyo, kwaye ubizo-mbuyekezo olulolo hlobo luya kuthi lulawulwe kunye neenguqulelo kumalungiselelo athi asebenze kubizo-mbuyekezo lomntu wesithathu ochaphazelekayo.

9. Ubutyala bunemida kwiimeko ezithile. - (1) Ubutyala beNgxowa-mali yeCMVA ngokuphathelele kuso nasiphi na isehlo esinye sokuba ibuyekeze umntu wesithathu ngayo nayiphi na ilahleko okanye umonakalo ekujongwe kuwo kwicandelo 8 esisiphumo sako nakuphi na ukwenzakala emzimbeni wakhe okanye ukufa kwakhe nawuphi na umntu othe, ngethuba lokwehla kwesi sehlo sithe sabangela oku kwenzakala okanye ukufa;

(a) wabe ebekhwelise kwesi sithuthi siyimoto kuthethwa ngaso;

(i) ngenjongo yokuzuza umvuzo; okanye

(ii) ngethuba lomsebenzi womnini wesi sithuthi siyimoto; okanye

(iii) kwimeko yomqeshwa womqhubi okanye umnini wesithuthi esiyimoto,

ekuthi kuphathelele kuye icandelwana (2) lingasebenzi, ngethuba lokuqeshwa kwakhe; okanye

(b) wabe ebesenza isenzo sokungena okanye ukukhwela kwesi sithuthi siyimoto kuthethwa ngaso ngenjongo yokuhanjiswa ngaso ngolo hlobo kubhekiswa kulo kumhlathi (a); okanye

(c) wabe ebesenza isenzo sokuhla kwisithuthi esiyimoto ekuthethwa ngaso emva kokuba ethe wahanjiswa ngendlela ekubhekiselelwe kuyo kumhlathi (a); okanye

(d) ubehanjiswa ngesi sithuthi siyimoto kuthethwa ngaso phantsi kweemeko ezingezizo ezi meko kubhekiselelwe kuzo kumhlathi (a) okanye ukukhwela kwesi sithuthi siyimoto kuthethwa ngaso ngenjongo yokuba ahanjiswa ngaloo ndlela okanye ubesenza isenzo sokwehla kwesi sithuthi siyimoto kuthethwa ngaso emva kokuba ethe wahanjiswa ngaloo ndlela, siya kuthi sibe nomda osisixa-mali seerandi ezingamawaka alishumi elinesibini ngokuphathelele kuko nakuphi na ukwenzakala emzimbeni, okanye kwisixa-mali seerandi ezingamawaka angamashumi amathandathu xa sisonke ngokuphathelele kuko nakuphi na ukwenzakala emzimbeni kwalo okanye ukufa kwalo, naliphi na inani labobantu (kodwa kwimeko nganye kungabandakanywa iindleko zokuphanda le mbuyekezo ikhankanyiweyo).

(2) Apho ilahleko okanye umonakalo ekujongwe kuyo kwicandelo 8 kuthe kwangenwa kuyo ngenxa yokwenzakala emzimbeni kwakhe okanye ukufa komqeshwa womqhubi okanye umnini wesi sithuthi siyimoto kwaye umntu wesithathu unelungelo lembuyekezo phantsi koMthetho weMbuyekezo yaBasebenzi 1982 (Umntetho 11 wowe-1982), ngokuphathelele kuloo ngozi okanye ukufa:

(a) ubutyala beNgxowa-mali yeCMVA kuloo mntu wesithathu buya kuthi bube nomda osisixa-mali esimele umahluko phakathi kwesixa-mali ebenokuthi loo mntu wesithathu, kodwa ngenxa yamalungiselelo alo mhlathi, ebenokuba ubize imbuyekezo ngayo kwiNgxowa-mali yeCMVA, okanye isixa-mali esingamawaka alishumi elinesibini eerandi (nokuba sisiphi na esincinane) kunye nasiphi na isixa-mali esinganeno loo mntu wesithathu anelungelo kuso ngendlela yembuyekezo phantsi kwalo Mthetho ukhankanyiweyo; kwaye

(b) ubutyala ngokupheleleyo beNgxowa-mali yeCMVA ngokuphathelele kuso nasiphi na isehlo bokuhlawula imbuyekezo ngokwemigaqo yomhlathi (a) kubantu besithathu abanelo lungelo buya kuthi bube nomda osisixa-mali seerandi ezingamawaka angamashumi amathandathu kungasiwaso kwinani labo baqeshwa bathe ukwenzakala kwabo emzimbeni okanye ukufa kwabo kuthe kwabangelwa siso okanye kuthe kwaveliswa seso sehlo; kwaye

(c) ingxowa-mali yeCMVA ayiyi kuba nobutyala phantsi kwalo Mthetho ukhankanyiweyo wesixa-mali sembuyekezo ekuthi kuso nawuphi na umntu wesithathu ololo hlobo abe nelungelo apho phantsi kwawo, kungabandakanywa noko kunjalo, nabuphi na ubutyala beNgxowa-mali yeCMVA bokuhlawula indleko ethe yangeniswa kuze kuwo nawuphi na amanyathelo asemthethweni athe athatyathwa ngokuphathelele kuyo nayiphina into equlethwe kweli candelwana.

10. Ubutyala abubandakanywa kwezinye iimeko ezithile. - Ingxowa-mali yeCMVA ayisayi kunyanzeleka ukuba imbuyekeze nawuphina umntu ngokwecandelo 19 ngayo nayiphina ilahleko okanye umonakalo:

(a) abengayi kuthi umqhubi okanye umnini wesithuthi esiyimoto esichaphazelekayo abe nobutyala ngawo ukuba icandelo 12 belingenziwanga; okanye

(b) ofunyenwe ngenxa yokwenzakala kwasemzimbeni okanye ukusweleka kwakhe nawuphina umntu othe ngexesha lokwenzeka kweso sehlo sibangele oko kwenzakala okanye ukusweleka:

(i) waba uthuthwa ngeenjongo zentlawulo ngesithuthi esiyimoto esisisithuthuthu;

(ii) waba ngumntu ekusingiselwe kuye kwicandelo 9 nelungu lomzi othile, okanye usingethe uxanduva ngokwasemthethweni lokondliwa, komqhubi wesithuthi esiyimoto esichaphazelekayo, okanye kanye ngelo xesha wayesihla kweso sithuthi siyimoto emva kokuba ethuthwe ngolo hlobo; okanye

(c) ofunyenwe ngenxa yokwenzakala kwasemzimbeni okwenzeke kuye nawuphina umntu othi:

(i) ngokungekho ngqiqweni ale okanye asilele ukuba aye ngokwesicelo seNgxowa-mali yeCMVA, kulo naluphina uxilongo lwezonyango okanye iintlobo ngeentlobo zoxilongo ngoogqirha abatyunjwe yiNgxowa-mali yeCMVA;

(ii) ale okanye asilele ukunika iNgxowa-mali yeCMVA ngesicelo neendleko zayo, iikopi zazo zonke iingxelo zonyango ezikuye, eziphathelele kubizo-mbuyekezo oluchaphazelekayo okanye;

(iii) ale okanye asilele ukuvumela iNgxowa-mali yeCMVA ngesicelo sayo ukuba ihole zonke iirekhodi ezisingisele kuye yaye eziselugcinweni lwaso nasiphina isibhedlele okanye ugqirha wakhe; okanye

(d) ukuba ubizo-mbuyekezo olo luchaphazelekayo alwenziwanga ngumtshini-mbuyekezo, nguye:

- (i) nawuphina umntu onelungelo lokusebenza njengegqwetha kwiNkundla ePhakamileyo yeCiskei; okanye
- (ii) nawuphina umntu okwinkonzo, okanye ongummeli wawo nawuphina umbuso okanye norhulumente okanye nebhunga likamasipala okanye elinye iziko lendawo elikwanjengelo.

11. Iingqikelelo ngokuphathelele ekuqhutyweni kwesithuthi esiyimoto. - (1) Ukulungiselela iinjongo zalo Mthetho isithuthi esiyimoto asiqhutywa ngawo nawuphina amandla oomatshini, esilwanyana okanye awomntu okanye ngumbizane womhlaba okanye amandla okuzihambela siya kuthatyathwa ngokuba siqhutywa ngumntu oselulawulweni lweso sithuthi.

(2) Ukulungiselela iinjongo zalo Mthetho umntu obeke okanye oshiye isithuthi esiyimoto kuyo nayiphina indawo uya kuthatyathwa ngokuba uyasiqhuba eso sithuthi siyimoto ngethuba sisukayo kuloo ndawo ngenxa yombizane womhlaba, okanye ngethuba simileyo kuloo ndawo okanye kwindawo esisuke saya kuyo ukusuka kwindawo ekhankanywe kuqala ngenxa yombizane womhlaba.

(3) Naninina nasiphina isithuthi esiyimoto sibekiwe okanye sishiywe kuyo nayiphina indawo, kuya, ukulungiselela iinjongo zalo Mthetho, kuthatyathwa, de kubekho ubungqina obuchasene noko, ngokuba eso sithuthi sibekwe okanye sishiywe kuloo ndawo ngumnini weso sithuthi.

12. Ubizo-mbuyekezo kwiNgxowa-mali yeCMVA iphela. - Xa umntu wesithuthu enelungelo phantsi kwecandela 8 lokubanga kwiNgxowa-mali yeCMVA naluphina ubizo-mbuyekezo ngokuphathelele kuyo nayiphina ilahleko okanye umonakalo obangelwa kulo nakuphina ukulimala emzimbeni kuye okanye okuvale ngenxa yokuqhuba isithuthi esiyimoto esi-enshoriweyo phantsi kwalo Mthetho ngumnini okanye nguye nawuphina umntu ngemvume yomnini, loo mntu wesithuthu akayi kuba nelungelo lokwenza ubizo-mbuyekezo ngokumayela naloo lahleko okanye umonakalo kumnini okanye kuloo mntu ebeqhuba isithuthi njengokuba sekutshiwo ngaphambili, okanye ukuba loo mntu ubeqhuba isithuthi njengomqeshwa owenza umsebenzi wakhe, kumqeshi wakhe, ngaphandle kokuba iNgxowa-mali yeCMVA ayikwazi ukhulawula imbuyekezo.

13. Ukunikwa kwengcaciso yeCMVA kumntu wesithuthu. - (1) Xeshikweni kuthe, ngenxa yokuqhutywa kwesithuthi esiyimoto, nawuphina umntu ngaphandle komqhubi, weso sithuthi siyimoto wasweleka okanye wenzakala, umnini nomqhubi, ukuba akanguye umnini weso sithuthi siyimoto, uya kuthi (ukuba kunokwenzeka ngokufanelekileyo, zingaphelanga iintsuku ezilishumi elinesine emva kweso sehlo) anike iNgxowa-mali yeCMVA, kwifomu emiselweyo iinkcukacha ngeso sehlo ngokunjalo neengxelo ezimiselweyo.

(2) Nawuphina umntu osilelayo ukuthobela naluphina ilungiselelo lecandelwana (1) ngexesha elifanelekileyo emva kokuba ethe wazi ngesehlo esibange ukwenzakala okanye ukusweleka ekujongwe kulo kwelo candelwana uya kuba netyala lokwaphula umthetho aze abe sesichengeni akufunyaniswa enetyala sokuhlulwa ifayini engekho ngaphezulu kwamakhulu amabini eerandi ngaphandle kokuba akakwazi ukulithobela ilungiselelo elichaphazelekayo yaye ukungakwazi kwakhe akukho ngenxa yesenzo okanye utyeshelo lwakhe.

(3) Ingxowa-mali yeCMVA iya kuthi zingaphelanga iintsuku ezilishumi elinesine emva kokuba umntu wesithuthu ewathcibela amalungiselelo ecandelo 15(2)(b), inike umntu wesithuthu okanye iarhente yakhe ikopi yeenkcukacha neengxelo athe umnini okanye umqhubi oxeliweyo wazinikela ngokwecandelwana (1) leli candelo.

(4) Nawuphina umntu onika iinkcukacha ezingeyonyaniso ngokunxulumane nomqondiso wokwazisa okhutshwe ngokwecandelwana 2(1) waza wabe uncanyathelisilwe, ngexesha lesehlo ekwenziwa ngaso ubizo-mbuyekezo ngokwecandelo 8, kwisithuthi esiyimoto osingisele kuso nesichaphazelekayo kweso sehlo, uya kuba netyala lolwaphulo-mthetho aze abe sesichengeni akufunyaniswa enetyala sokuhlulwa ifayini engadlulanga kumakhulu amabini anamashumi amahlanu eerandi.

14. Ukuphelelwa lixesha kobizo-mbuyekezo. - (1) (a) Nakubeni ekho amalungiselelo awo nawuphina omnye umthetho ophathelela kumiselo lwexesha, kodwa ngokulawulwa ngamalungiselelo omhlathi (b) weli candelwana, ilungelo lokubiza imbuyekezo phantsi kwecandelo 8 kwiNgxowa-mali yeCMVA ngokumayela nobizo-mbuyekezo ekusingiselwe kulo kwicandelo 6(1)(a)(i) liya kuphelelwa lixesha ekupheleni kwethuba leminyaka emibini ukususela kumhla oluvela ngawo ubizo-mbuyekezo. Phantsi kwento ethi ukuphelelwa lixesha kuya kukhe kugunyaziswe ngethuba leentsuku ezingamashumi asithoba ekusingiselwe kulo kwicandelwana (2) leli candelo necandelo 15(2)(a).

(b) Ukuphelelwa lixesha kobizo-mbuyekezo phantsi kwecandelo 6(1)(a) nele 8 akusayi kusebenza:

- (i) kumntwana osephantsi kwabazali;
- (ii) kuye nawuphina umntu ogcinwe njengesigulane phantsi kwamalungiselelo oMthetho weMpilo yeNgqondo, 1973 (uMthetho No. 18 wowe-1973);
- (iii) kumntu ojongelwe ngomnye imicimbi yakhe.

(2) Ukuba iNgxowa-mali yeCMVA ayithi zingaphelanga iintsuku ezingamashumi amathandathu emva kokuba ifumene ubizo-mbuyekezo njengoko kuchazwe kwicandelo 15(1) ikuchase ukusebenza kwalo, ukuphelelwa lixesha kuya kugunyaziswa kwakhona, nakubeni ekho amalungiselelo ecandelwana (1), de kube semva kokuphela kwezinye iintsuku ezingamashumi asithoba ukususela kumhla iNgxowa-mali yeCMVA ngeposi eyirejista yathumela kumbizi-mbuyekezo okanye ummeli wakhe;

(a) ibukhanyela ubutyala; okanye

(b) ithumela ilizwi lokuqoshelisa ubizo-mbuyekezo kumbizi-mbuyekezo okanye ummeli wakhe.

(3) (a) Ukuba ubizo-mbuyekezo lomntu wesithathu luthe lwaphelelwa lixesha phantsi kwecandelwana (1) leli candelo yaye inkundla enolawulo kolo bizo-mbuyekezo yanelisekile, ekwenziweni kwesicelo ngumntu wesithathu ochaphazelekayo -

- (i) apho ubizo-mbuyekezo luthe lwaphelelwa lixesha phambi kokuthobela komntu wesithathu amalungiselelo ecandelo 15(1), ukuba ngenxa yeemeko ezizodwa yena okanye, ukuba athobele amalungiselelo lawo egameni lakhe, loo mntu ebengenakulindelwa ngokufanelekileyo ukuba athobele amalungiselelo axeliweyo phambi komhla oluthe ubizo-mbuyekezo lwaphelelwa lixesha ngawo; okanye
- (ii) apho ubizo-mbuyekezo luthe lwaphelelwa lixesha emva kokuthobela kwakhe amalungiselelo axeliweyo, ukuba ngenxa yeemeko ezizodwa yena okanye, ukuba ayalele nawuphina omnye umntu ukuba enze egameni lakhe ngokunxulumene noku, loo mntu ebengenakho ngokusengqiqweni ukulindelwa ukuba angenise nawaphina amaphepha omthetho, abanokuthi ngawo ukuphelelwa lixesha kuphazamiseke, kwiqhente eyalathelweyo phambi kwaloo mhla; yaye
- (iii) ukuba iqhente eyalathelweyo ayizimisela ukuliyeka ilungelo layo lokuphelisa ixesha, inkundla ingathi inike imvume umntu wesithathu ukuba athobele amalungiselelo axeliweyo angenise nawaphina amaphepha omthetho kuwo nawaphina amanyathelo okunyanzeliswa kobizo-mbuyekezo kwiqhente eyalathelweyo ngokwamalungiselelo ecandelo 15(2) phambi komhla omiselwe yinkundla, okanye ngokwemeko leyo, anike loo maphepha omthetho iqhente eyalathelweyo phambi komhla omiselwe ngolo hlobo.

(4) Inkundla ayisayi kusivumela isicelo ekusingiselwe kuso kwicandelwana (3) ngaphandle kokuba:

(a) isicelo senziwe lingekapheli ithuba leentsuku ezingamashumi asithoba emva komhla lowathi ngawo ubizo-mbuyekezo lwaphelelwa lixesha ngokwecandelwana (1); yaye

(b) umntu wesithathu unike isibambiso esaneza inkundla seendleko zeNgxowa-mali yeCMVA ngokunxulumene nesicelo;

(5) Isibongozo sokuphelelwa lixesha asisayi kuvunyelwa kuwo nawaphina amanyathelo ekuthe kuwo amaphepha achaphazelekayo anikwa iqhente eyalathelweyo ngenxa yemvume enikwe phantsi kwecandelwana (3).

(6) Nakubeni ekho amalungiselelo ecandelo 8 oMthetho weMbuyekezo yaBasebenzi, 1982 (uMthetho 11 wowe-1982), naliphina ilungelo phantsi kwecandelwana (1)(b) lelo candelo lokufumana kwiNgxowa-mali yeCMVA isixa-mali ekufuneka phantsi kwaloo Mthetho sihlawulwe kumntu wesithathu kwiimeko ezingezizo ezo zikhankanyiweyo kwicandelo 9(2) lalo Mthetho, ukulungiselela iinjongo zecandelwana (1) (ngaphandle kwemeko yoxhomekeko) kunye necandelwana (3) leli candelo liya kuthatyathwa njengelungelo lokubiza imbuyekezo phantsi kwecandelo 8 lalo Mthetho elivele ngomhla omnye nowobizo-mbuyekezo lwalo mntu wesithathu phantsi kwecandelo elikhankanywe ekugqibeleni. Phantsi kwento ethi ukuba ukufunyanwa kwayo nayiphina imali enjalo kuye kwathintelwa phambi kweli candelwana, nayiphina imbuyekezo emva koko enikwe umntu wesithathu phantsi kwalo Mthetho iya kuthotywa ngaloo mali kuthethwa ngayo.

15. Inkqubo. - (1) Ubizo-mbuyekezo phantsi kwecandelo 8 luya kuthi -

(a) lwenziwe ngendlela emiselweyo kwifomu emiselweyo eya kuba nelungiselelo lengxelo, okanye iingxelo zonyango, ezizaliswe ngumntu okanye abantu abamiselweyo, ngokunxulumene nonobangela wokufa okanye uhlobo nonyango lokwenzakala kwasemzimbeni olwenzelwa lona ubizo-mbuyekezo kwakunye nobungqina neenkukacha ezixhasayo;

(b) luthunyelwe ngeposi eyirejista okanye lusiwe ngesandla, kwiNgxowa-mali yeCMVA kwifosi enkulu yayo okanye kwiarhente eyalathelweyo yayo eyakhupha umqondiso wokuzazisa oncanyathiselwe kwisithuthi esichaphazelekayo okanye iarhente eyalathelweyo ekufuneka ngokwemigaqo isebenze ngobizo-mbuyekezo neya kuthi, kwimeko yokuziswa ngesandla, ngelo xesha lokuziswa kwalo ingqine ukulufumana kwalo nomhla woko kulufumana kwayo ngokubhala.

(b) ukuba iNgxowa-mali yeCMVA okanye iarhente eyalathelweyo yayo ayithi, zingaphelanga iintsuku ezingamashumi amathandathu emva kokufumana ubizo-mbuyekezo olwenziwe njalo kwathunyelwa okanye kwasiwa kwiNgxowa-mali yeCMVA okanye iarhente eyalathelweyo yayo ngokomhlathi. (a) zingaphelanga iinyanga ezintandathu emva komhla wesihlo esabanga ukwenzakala emzimbeni okanye ukusweleka okuchaphazelekayo, ichase ubunyani nokusebenza kwalo, olo bizo-mbuyekezo luya kuthatyathwa ngokuba luyinyaniso yaye luyasebenza emthethweni ngeenxa zonke.

(2) Akukho bizo-mbuyekezo lunjalo luya kunyanzeliswa ngamanyathelo asemthethweni, aqaliswe ngesamani ethunyelwe kwiNgxowa-mali yeCMVA okanye iarhente eyalathelweyo yayo phambi komhla wokuphela kwethuba leentsuku ezingamashumi asithoba ukususela kumhla olwathunyelwa okanye lwanjaliswa ngawo ubizo-mbuyekezo, ngokwemeko leyo kwiNgxowa-mali yeCMVA okanye iarhente eyalathelweyo yayo ibuphike ngokubhala ubutyala bokuhlalula imbuyekezo angathi nangaliphina ixesha emva koko kuphila athumele isamani kwiNgxowa-mali yeCMVA okanye iarhente eyalathelweyo yayo.

(3) Amanyathelo okunyanzelisa ukuhlalulwa, kwaloo mbuyekezo angathatyathwa kuyo nayiphina inkundla efanelekileyo ngokwasemthethweni ngesihlo esihle kummandla wolawulo wayo isihlo esibange ukwenzakala okanye ukusweleka.

16. Ilungelo lokubonelela kwiNgxowa-mali yeCMVA. - (1) Xa iNgxowa-mali yeCMVA ihlawule nayiphina imbuyekezo phantsi kwecandelo 8 ingathi, ngokulawulwa ngamalungiselelo ecandelwana (2) nele (3) eli candelo, ingakhange ibe ifumene into yokuba ilinikezele ngendlela efanelekileyo ilungelo lokuthabatha inyathelo, ibize kumnini wesithuthi esiyimoto esi-inshoriweyo ekuthethwa ngaso, okanye kuye nawuphina omnye umntu okungakhathali kwakhe okanye osenzo sisesinye singekho mthethweni siye sabangela ilahleko okanye umonakalo, isixa-mali esihlawulwa ngendlela yembuyekezo esingangokuba umntu wesithuthu ochaphazelekayo abenakho, ukuba bekungengawo amalungiselelo ecandelo 12, ukusifumana kumnini okanye kumntu okungakhathali kwakhe okanye osenzo sisesinye singekho mthethweni siye sabangela ilahleko okanye umonakalo, ngokwemeko leyo, ukuba iNgxowa-mali yeCMVA ayithanga iyihlawule nayiphina imbuyekezo enjalo.

(2) Ingxowa-mali yeCMVA ayiyi kuba nalo naliphina ilungelo elinjalo lokungamboneleli umnini wesithuthi esiyimoto esi-inshoriweyo:

(a) kuyo nayiphina imeko, ngexesha lokwehla kwesihlo esibangele ukuba kuhlawulwe imbuyekezo, isithuthi esiyimoto sasiqhutywa ngumntu ongenguye umnini, ngaphandle kokuba:

- (i) umntu oxeliweyo wayephantsi kweempembelelo zotywala obunxilisa okanye isiyobisi kangokude imeko yakhe ibe yiyo kuphela ebangele eso sehlo aze abe nomnini umvumele ukuba aqhube isithuthi esiyimoto eso esazi ukuba uphantsi kweempembelelo zotywala okanye isiyobisi, okanye;
- (ii) umntu lowo wayesiqhuba isithuthi esiyimoto engenayo ilayisenisi ekhutshwe phantsi koMthetho ophathelele ekukhutshweni kwelayisenisi kubaqhubi bezithuthi ezizimoto ebekufuneka enayo, okanye umntu lowo, enelayisenisi yokufunda ukuqhuba okanye enye ilayisenisi esikelwe imida ekhutshwa phantsi kwaloo mthetho, uye wasilela, lo gama aqhuba isithuthi esiyimoto ukuhamba ngokweemfuneko okanye imiqathango yaloo layisenisi yokufunda ukuqhuba okanye isikelwe imida, yaye umnini uye wamvumela ukuba aqhube isithuthi esiyimoto esazi ukuba akanayo loo layisenisi okanye uye wasilela ukuhamba ngokweemfuneko okanye imiqathango yaloo layisenisi yokufunda ukuqhuba okanye esikelwe imida, ngokwemeko leyo; okanye

(b) kuyo nayiphina imeko apho, ngexesha lokuhla kwesehlo esixeliweyo, isithuthi esiyimoto esixeliweyo sasiqhutywa ngumnini, ngaphandle kokuba:

- (i) wayephantsi kweempembelelo zotywala obunxilisayo okanye isiyobisi kangangokude imeko yakhe ibe yiyo kuphela ebangele eso sehlo; okanye
- (ii) wayesiqhuba isithuthi esiyimoto engenayo ilayisenisi ekhutshwa phantsi komthetho ophathelele ekukhutshweni kweelayisenisi kubaqhubi bezithuthi ezizimoto okanye enelayisenisi yokufunda ukuqhuba okanye enye ilayisenisi esikelwe imida ekhutshwe phantsi kwaloo mthetho, uye wasilela, lo gama aqhuba isithuthi esiyimoto, ukuhamba ngokweemfuneko okanye imiqathango yaloo layisenisi yokufunda ukuqhuba okanye isikelwe imida; okanye

(c) kuyo nayiphina imeko apho kungasebenzi mhlathi (a) kananjalo nomhlathi (b), ngaphandle kokuba umnini uye wasilela ukuhamba ngokwayo nayiphina imfuneko yecandelo 13(1) ngokusingisele kwiseshlo esixeliweyo (uxanduva lokubonisa ukuba iNgxowa-mali yeCMVA ibingenako ngokufanelekileyo ukuba ngeentsuku ezilishumi elinesine emva kweseshlo yaziswe ngeseshlo eso nangendawo nexesha laso, iya kuba ngumnini ochaphazelekayo) okanye uthe esazi wanika iNgxowa-mali yeCMVA iinkcukacha ezibubuxoki eziphathelele kweso sehlo.

(3) amalungiselelo ecandelwana (2)(b)(i) no (ii) kunye no (c) aya kusebenza *mutatis mutandis* ngokumayela nalo naliphina ilungelo lokubonelela elikwiNgxowa-mali yeCMVA phantsi kwecandelwana (1) kuye nawuphina umntu othe, ngexesha leseshlo esithe sabangela ukuhlawulwa kwembuyekezo, wabe ebeqhuba isithuthi esiyimoto esi-inshoriweyo ngemvume yomniniso.

17. Imigaqo. - (1) UMphathiswa angenza imigaqo -

(a) emisela amagunya nemisebenzi ngokunxulumene nokusebenza kwalo Mthetho, enokusetyenziswa okanye yenziwe nguye nawuphina umntu oligosa eligunyazisiweyo njengoko kuchazwe kwicandelo 1 loMthetho woLawulo loThutho eZindloleni, 1982;

(b) ngokuthethana noMphathiswa weNtlalontle yoLuntu neePenshini emisela iimeko ekuya kuthi phantsi kwazo imbuyekezo ehlawulwa nawuphina umntu phantsi kwecandelo 8 ihlawulwe yiNgxowa-mali yeCMVA kuMlawuli-Jikelele wesebe elixeliweyo, nendlela ekuya kuthi ngayo naziphina iimali ezihlawulwa njalo kuMlawuli-Jikelele oxeliweyo kusetyenzwe ngazo ngayo;

(c) emva kokuthethana noMlawuli-Jikelele weSebe leMpilo kunye nawuphina umbutho owaziwayo omele oogqirha kunye noogqirha bamazinyo eCiskei kunye noNdyabo, emisela iintlawulo zemirhumo ngokumayela nendawo yokuhlala yakhe nawuphina umntu kwisibhedlele okanye inkonzo eye yanikwa okanye impahla eye yafunyaniswa kuye nawuphina umntu, onokuthi kubizwe imbuyekezo ngayo phantsi kwecandelo 8 kwiNgxowa-mali yeCMVA.

(d) emisela imicimbi ekuthi ngayo kugcinwe iinkcukacha zamanani ziiarhente ezalathelweyo, indlela ezo nkcukacha zamanani ziya kuqokelelwa ngayo nexesha ekuya kuthi ngalo ezo nkcukacha zamanani ezigcinwe njalo kunye nezo ngombolo zoko anokuthi uMlawuli-Jikelele kumaxesha ngamaxesha azibize zenziwe zibe nokufumaneka kwiSebe.

(e) efakela igama okanye inkcazo yakhe nawuphina umntu, umbutho wabantu, isiphatha-mandla okanye iziko kumhlathi (a) wecandelwana (2) lecandelo 2 ngeenjongo zokumkhulula okanye ukulikhulula kumalungiselelo ecandelwana (1) lelo candelo.

(f) ngokunxulumene nentlawulo yembuyekezo yeNgxowa-mali yeCMVA kuye nawuphina umntu phantsi kwecandelo 6, kubandakanywa iimeko ekuya kuthi ngazo nayiphina imbambano ngokumayela noko kunyanzeleka ipheliswe ngayo okanye umqathango okanye iimfuneko zokuphathiswa naliphina ilungelo lokuyifaka ematyaleni iNgxowa-mali yeCMVA ngokumayela noko kunyanzeleka;

(g) emisela iifomu ekwenziwe amalungiselelo ngazo kulo Mthetho, okanye emisela okanye ngenye indlela esebenza ngawo nawuphina umcimbi oya kuthi ngokwalo naliphina ilungiselelo lalo Mthetho umiselwe okanye ngenye indlela kusetyenzwe ngawo ngomgaqo okanye, ngokoluvo loMphathiswa ekuyimfuneko okanye ekufanelekile ukuba umiselwe ukulungiselela iinjongo zalo Mthetho.

(2) Nawuphina umgaqo owenziwa phantsi kwecandelwana (1) ungenza amalungiselelo ezohlelwayo ezingedlulanga kwifayini yamakhulu amahlanu eerandi okanye ukuvalelwa entolongweni ithuba leenyanga ezintathu ngako nakuphina ukutyeshelwa kwawo okanye ukusilela ukuwuthobela wona okanye nawuphina umyalelo okanye isigunyaziso esinikwe phantsi kwawo.

18. **Ukunikwa kwamagunya.** - UMphathiswa angaphathisa naliphina igunya alinikiweyo ngulo Mthetho uMlawuli-Jikelele okanye uManejala weNgxowa-mali yeCMVA.

19. **Ukusetyenziswa kwemithetho ethile.** - Amalungiselelo awo nawuphina umthetho osebenzayo kwiRiphabliki ejongene nokuvezwa kwisiphatha-mandla esisiso, okanye ukukhohlisa, ukwenziwa ngobuqhinga, ukugugulwa, ukucinywa okanye ukusetyenziswa ngendlela engeyiyo, kwiRiphabliki, kweelayisenisi, izatifikethi, iziboniso okanye iimpawu ezinxulumene nezithuthi aya kusebenza *mutatis mutandis* ngokumayela nokuvezwa, ukukhohliswa, ukwenziwa ngobuxoki, ukugugulwa okanye isiboniso sokukhululelwa esikhutshwe phantsi kwalo Mthetho okanye isiboniso esikhutshwe ngokwawo nawuphina umgaqo, yaye ngaphandle kwalo elo lungiselelo, nawuphina umntu oncamathisela kwisithuthi esiyimoto, okanye oqhuba isithuthi esiyimoto ekuncanyathiselweyo kuso, nasiphina isiboniso esixelwe ngaphambili esingangqinelaniyo neso sithuthi siyimoto okanye isiboniso esibubuxoki okanye esiyinkohliso okanye esenziwe ngobuqhinga, uya kuba netyala lokwaphula umthetho aze abe sesichengeni *mutatis mutandis* sezohlwayo ezimiselwe kwicandelo 2(3).

20. **Ukutshitshiswa kwemithetho.** - Kulawula amalungiselelo ecandelo 21, imithetho ebekwe kwiShedyuli ukwenjenje iyatshitshiswa.

21. Kulawula amalungiselelo ecandelo 3(3):

(a) amalungiselelo alo Mthetho awayi kusebenza ngokusingisele kubizo-mbuyekezo olwavela phambi kokusebenza kwalo Mthetho phantsi koMthetho otshitshiswa licandelo 19, yaye naluphina olo bizo-mbuyekezo kuya-kusetyenzwa ngalo ngokungathi lo Mthetho zange ugqithiswe; yaye

(b) ubutyala ngazo zonke iimvumelwano nezigqibo ezenziwe yiNgxowa-mali yeCMVA ngokomthetho otshitshiswe licandelo 20 buya kuhlala busebenza ngokungathi lo Mthetho zange ugqithiswe.

22. **Intloko emfutshane.** - Lo Mthetho uya kubizwa ngokuba nguMthetho weNgozi zeZithuthi eziziiMoto, 1986 yaye uya kuthatyathwa ngokuba uqale ukusebenza ngowoku 1 kuMeyi 1986.

ISHEDYULI

IMITHETHO ETSHITSHISIWEYO

INo. Nonyaka woMthetho	Intloko emfutshane	Ubungakanani botshitshiso
UMthetho 2 wowe-1982 (RSA)	UMthetho OsiSihlomelo weInshorensi esiSinyanzelo yeZithuthi eziziiMoto, 1982	UWonke
UMthetho 4 wowe-1983 (RSA)	UMthetho osiSihlomelo weInshorensi esiSinyanzelo yeZithuthi eziziiMoto, 1983	UWonke
UMthetho 4 wowe-1983 (Ciskei)	UMthetho osiSihlomelo weInshorensi esiSinyanzelo yeZithuthi eziziiMoto, 1983	UWonke

MOTOR VEHICLE ACCIDENTS ACT, 1986

A C T

To provide for the payment of compensation for certain loss or damage unlawfully caused by the driving of certain motor vehicles, for the establishment of a Motor Vehicle Assurance Fund and the payment of compensation from such fund, and to provide for incidental matters.

(English text signed by the President. Assented to on 25 September 1986.)

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:

1. **Definitions.** - In this Act, unless the context indicates otherwise - "appointed agent" means an agent appointed under section 6(1)(a);

"business" does not include any unlawful business;

"conveyed", in relation to the conveyance of a person in a motor vehicle, shall be deemed to include being in the act of entering or mounting the motor vehicle concerned for the purpose of being so conveyed or being in the act of alighting from the motor vehicle concerned after being so conveyed;

"CMVA Fund" means the Ciskeian Motor Vehicle Assurance Fund established by section 3;

"Director-General" means the Director-General: Transport;

"lift club" means any club of which -

(a) every member shall have a turn to convey or cause to be conveyed by means of a motor car the members of such club or other persons designated by such members to or from a specified place for a specified purpose; or

(b) every member is the owner of a motor car and of which one or some of its members shall by means of a motor car of which he is the owner or they are the owners, as the case may be, convey or cause to be conveyed the members of such club or other persons designated by such members to or from a specific place for a specific purpose;

"local authority" means the local authority as defined in the Ciskeian Road Traffic Act, 1977 (Act 10 of 1977);

"Minister" means the Minister of Transport;

"motor car" means a motor car as defined in section 1(1) of the Road Transportation Control Act, 1982 (Act 15 of 1982);

"motor vehicle" means any vehicle designed or adapted for propulsion or haulage on a road by means of fuel, and includes any trailer of such a vehicle;

"owner", in relation -

(a) to a motor vehicle which a motor dealer has in his possession during the course of his business and which may in terms of any law relating to the licensing of motor vehicles not be driven or used on a public road except under the authority of a motor dealer's licence of which the motor dealer concerned is the holder, means that motor dealer;

(b) to a motor vehicle which has been received for delivery by a motor transport licence holder in the course of his business of delivering new motor vehicles and which has not yet been delivered by him, means that motor transport licence holder;

(c) to a motor vehicle which is the subject of an instalment sale transaction, means the purchaser under such instalment sale transaction;

(d) to a motor vehicle under an agreement of lease for a period of at least twelve months, means the lessee concerned;

"prescribed" means prescribed by regulation;

"regulation" means a regulation made and in force under section 17;

"Republic" means the Republic of Ciskei;

"reward", with reference to the conveyance of any person in or upon a motor vehicle, does not include any reward rendering such conveyance illegal in terms of any provision of the Road Transportation Control Act, 1982;

"special circumstances" does not include any neglect, omission or ignorance;

"trailer" does not include an agricultural or any other implement not designed or adapted for the conveyance of persons or goods;

"Treasury" means the Minister of Finance and Economic Development or any officer acting under his authority.

MOTOR VEHICLE ACCIDENTS ACT, 1986

2. **Tokens of identification** - (1) (a) Subject to the provisions of subsection (2) no person shall drive a motor vehicle in any place unless a token of identification in the prescribed form is attached to that vehicle in the prescribed manner.

(b) Application for a token of identification referred to in paragraph (a) shall be made in the prescribed form to the appointed agent concerned who shall supply such token, duly completed, free of charge to the applicant.

(c) The cost of printing the said tokens of identification and the forms of application therefore shall be defrayed by the CMVA Fund.

(2) The provisions of subsection (1) shall not apply in relation to a motor vehicle -

(a) of which any state or government or the President is the owner; or

(b) which is registered at a place outside the Republic at that place, if the person who drives or permits another person to drive such motor vehicle has made such provision as may have been prescribed to ensure that compensation will be paid for any such loss or damage as is mentioned in section 8 which may be caused by or arises out of the driving of such motor vehicle in the Republic by its owner or by his servant or agent; or

(c) which is used in accordance with a motor dealer's licence or a motor transport licence, as defined in any law relating to the licensing of motor vehicles; or

(d) which is not required to be licensed in terms of any such law.

(3) Any person who contravenes subsection (1)(a) shall be guilty of an offence and on conviction liable to a fine not exceeding R 100.

3. **Establishment of CMVA Fund** - (1) There is hereby established a Fund to be known as the Ciskeian Motor Vehicle Accident Fund which shall be a body corporate.

(2) The income of the CMVA Fund, including income from investments, shall be exempt from income tax.

(3) As from the commencement of this Act the Ciskeian Motor Vehicle Assurance Fund mentioned in section 5 of the Compulsory Motor Vehicle Insurance Act, 1983 (Act 4 of 1983), shall cease to exist, all amounts credited to that fund immediately before such commencement shall vest in the CMVA Fund and all liabilities and rights, existing as well as accruing, of the said Ciskeian Motor Vehicle Assurance Fund shall devolve upon the CMVA Fund.

(4) The President may by proclamation in the *Gazette* apply to the CMVA Fund any provision of the Companies Act, 1973 (Act 61 of 1973) or of any other law relating to companies, not inconsistent with the provisions of this Act, with such modifications as may be specified in such proclamation, and he may amend or repeal any such proclamation.

(5) The Registrar of Companies shall for the purposes of Chapter IV of the said Companies Act, 1973 record the name and abbreviation "Ciskeian Motor Vehicle Assurance Fund" and "CMVA Fund", respectively, in the register of companies kept by him in terms of that Act.

4. **Manager and staff of CMVA Fund** - (1) (a) The Minister shall from time to time subject otherwise to the laws governing the public service appoint a person to be the manager of the CMVA Fund who, under the control and direction of the Director-General, shall manage the affairs of the CMVA Fund and, for that purpose, may exercise the powers and shall perform the duties of the CMVA Fund.

(b) When such manager is for any reason absent or unable to perform his functions, the Director-General may in writing designate a member of his staff to act in the place of the manager for a specified period not exceeding thirty working days at any one time.

(2) Subject to the laws governing the public service, the competent authority may appoint such officers or employees as are in the opinion of such authority necessary to enable the manager to manage the CMVA Fund: Provided that, instead of making any such appointment, the competent authority may acquire the services of any person on such conditions as may be determined by agreement with the person in question.

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5. Moneys in CMVA Fund. - (1) There shall be paid into the CMVA Fund all moneys received by that Fund by virtue of the provisions of section 1(2)(a)(ii) of the Central Energy Fund Act, 1977 (Act 38 of 1977), and section 14 of the Road Safety Act, 1984 (Act 21 of 1984).

(2) The moneys in the CMVA Fund shall, subject to the provisions of section 3(3) subsection (3) of this section and section 20, be utilized to defray the expenses incurred by the manager of that Fund in the exercise of his powers and the performance of his duties in terms of this Act, except in the case of claims for compensation contemplated in section 8 arising out of the driving in the Republic of motor vehicles registered outside the Republic in terms of a law in force at that place, and are insured under the provisions of any law relating to the compulsory insurance of motor vehicles in force at that place and in respect of which prescribed provision has been made for the payment of the said compensation.

The manager of the CMVA Fund shall cause the amount contemplated in section 14 of the Road Safety Act, 1984, to be paid over as regularly as circumstances may allow the CMVA Fund to the Road Safety Council established by section 2 of that Act.

6. Powers, duties and functions of CMVA Fund. - (1) The CMVA Fund -

- (a) (i) shall, subject to the Minister's approval, appoint as many agents as it deems advisable, on conditions agreed upon, to investigate or settle, subject to the provisions of the regulations, on its behalf claims for loss or damage referred to in section 8 arising from the driving of a motor vehicle in the case where the identity of the owner or driver thereof has been established or to commence, conduct, defend or abandon legal proceedings in connection with such claims; and
- (ii) shall, after approval by the Minister, cause the names of said agents and the claims in respect of which those agents shall be liable, to be published in the *Gazette*;

(b) shall, subject to the provisions of the regulations, investigate or settle claims made against it for loss or damage referred to in section 8 arising from the driving of a motor vehicle in the case where the identity of the owner or driver thereof cannot be established or to commence, conduct, defend or abandon legal proceedings in connection with such claims;

(c) may, subject to the Minister's approval in every case, purchase or otherwise acquire goods, equipment, land, buildings, shares, debentures, stock securities and all other kinds of movable or immovable property;

(d) may, subject to the Minister's approval in every case, sell, lease, mortgage, encumber, dispose of, exchange, work, develop, build upon, improve or in any other way deal with its property;

(e) may invest any moneys not immediately required for the conduct of its business, in such manner as may from time to time be determined by the Minister, and realize, alter or re-invest such investments or otherwise deal with such moneys or investments in such manner as may from time to time be determined by the Minister;

(f) may, subject to the Minister's approval, in every case, borrow money and secure the payment thereof in such manner as it may deem fit;

(g) may, subject to the Minister's approval, make donations for research in connection with any manner relating to injuries sustained in motor vehicle accidents, on such conditions as it may deem advisable;

(h) may draw, draft, accept, endorse, discount, sign and issue promissory notes, bills and other negotiable or transferable instruments with the exception of share certificates;

(i) shall utilize its funds for any purpose connected with or resulting from the exercise of its powers or the performance of its duties;

(j) shall reimburse the State for services rendered to the CMVA Fund by persons in the service of the State;

(k) may do all such other things as are incidental or conducive to the exercise of its powers or the performance of its duties.

(2) The CMVA Fund shall -

(a) keep proper records of all its financial transactions its assets and liabilities;

(b) as soon as may be after each audit in terms of subsection (3), submit to the Minister audited balance sheets and the report of the Auditor-General in respect of such audit together with a report on the CMVA Fund's activities during the year to which the audit relates.

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(3) The accounts of the CMVA Fund shall be audited annually by the Auditor-General.

(4) The Minister shall lay copies of the reports submitted to him in terms of subsection (2) on the Table of the National Assembly within thirty days after receipt thereof if the National Assembly is then in session or, if the National Assembly is not then in session, within thirty days after the commencement of its next ensuing ordinary session.

7. Advisory committee. - (1) The Minister may after consultation with the heads of the departments concerned establish an advisory committee to advise him, in regard to -

- (a) the financial position of the CMVA Fund;
- (b) the financing of the CMVA Fund;
- (c) the investment of the moneys of the CMVA Fund; and
- (d) any matter prescribed or from time to time referred to the advisory committee by the Minister.

(2) The members of the advisory committee shall consist of -

- (a) one officer of the Department of Transport, who shall be chairman of the committee.
- (b) two officers of the Department of Finance and Economic Development;
- (c) one person to represent the Road Safety Council; and
- (d) the manager of the CMVA Fund.

(3) A member of the advisory committee shall be appointed for such period and on such conditions (including conditions relating to the allowances, if any, payable to him in respect of services rendered by him as such a member) as the Minister may determine with the concurrence of the Treasury.

(4) The advisory committee may demand the production to it of statistics, books, accounts or other documents of the CMVA Fund for the purpose of examination or making extracts therefrom or copies thereof.

(5) The Director-General shall subject to the laws governing the public service provide all such officers as may be necessary to undertake all secretarial and administrative work arising out of the performance of the functions of the advisory committee.

8. Liability of CMVA Fund and appointed agent. - (1) The CMVA Fund or its appointed agent, as the case may be, shall subject to the provisions of this Act and on the prescribed conditions, be obliged to compensate any person whatsoever (in this Act called the third party) for any loss or damage which the third party has suffered as a result of -

- (a) any bodily injury to himself;
- (b) the death of or any bodily injury to any person, in either case caused by or arising out of the driving of a motor vehicle by any person whatsoever at any place in the Republic, if the injury or death is due to the negligence or other unlawful act of the person who drove the motor vehicle (in this Act called the driver) or of the owner of the motor vehicle or his servant in the execution of his duty.

(2) No interest shall be payable on the amount of any compensation which a court awards to any third party by virtue of the provisions of subsection (1), unless fourteen days have elapsed from the date of the relevant order of the court.

(3) In issuing any order as to costs on making such award, the court may take into consideration any written offer in settlement of the claim in question against the CMVA, made by the CMVA Fund or its appointed agent before the relevant summons was served on it.

(4) Where a claim for compensation under this section -

(a) includes a claim for the costs of the future accommodation of any person in a hospital or nursing home or treatment of or rendering of a service or supplying of goods to him, the CMVA Fund or its appointed agent shall be entitled, after furnishing the third party in question with an undertaking to that effect, to compensate the third party in respect of the said costs after the costs have been incurred and on proof thereof;

(b) includes a claim for future loss or income or support, the CMVA Fund or its appointed agent shall be entitled, after furnishing the third party in question with an undertaking to that effect or a competent court has directed it to furnish such undertaking,

(c) to pay the amount payable in respect of the said loss, by instalments as agreed upon or directed by the court.

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(5) - Where a third party is entitled to compensation in terms of this section and has incurred costs in respect of accommodation of himself or any other person in a hospital or nursing home or the treatment of or any service rendered or goods supplied to himself or any other person, the person who provided the accommodation or treatment or rendered the service or supplied the goods (in this case called the supplier) may claim the amount direct from the CMVA Fund or the appointed agent, as the case may be, in a prescribed form, and such a claim shall be subject, *mutatis mutandis*, to the provisions applicable to the claim of the third party concerned.

9. Liability limited in certain cases. - (1) The liability of the CMVA Fund in connection with one occurrence to compensate a third party for any loss or damage contemplated in section 8 which is the result of any bodily injury to or the death of any person who, at the time of the occurrence which caused that injury or death -

- (a) was being conveyed in the motor vehicle in question -
 - (i) for reward; or
 - (ii) in the course of the business of the owner of the motor vehicle; or
 - (iii) in the case of an employee of the driver or owner of the motor vehicle, in respect of whom subsection (2) does not apply, in the course of his employment; or
- (b) was in the act of entering or mounting the motor vehicle in question for the purpose of being conveyed as referred to in paragraph (a); or
- (c) was in the act of alighting from the motor vehicle in question after having been conveyed as referred to in paragraph (a); or
- (d) was being conveyed in the motor vehicle in question under circumstances other than the circumstances referred to in paragraph (a) or was in the act of entering or mounting the motor vehicle in question for the purpose of being so conveyed or was in the act of alighting from the motor vehicle in question after having been so conveyed, shall be limited to the sum of twelve thousand rand in respect of any bodily injury to, or the death of, any one such person or to the sum of sixty thousand rand in all in respect of any bodily injury to, or the death of, any number of such persons (but in either case exclusive of the cost of recovering the said compensation).

(2) Where the loss or damage contemplated in section 8 is suffered as a result of bodily injury to or the death of an employee of the driver or owner of the motor vehicle and the third party is entitled to compensation under the Workmen's Compensation Act, 1982 (Act 11 of 1982), in respect of such injury or death -

- (a) the liability of the CMVA Fund to that third party shall be limited to the sum representing the difference between the amount which that third party could, but for the provisions of this paragraph, have claimed from the CMVA Fund or the amount of twelve thousand rand (whichever is the lesser) and any lesser amount to which that third party is entitled by way of compensation under the said Act; and
- (b) the total liability of the CMVA Fund in connection with any one occurrence to pay compensation in terms of paragraph (a) to third parties so entitled shall be limited to the sum of sixty thousand rand irrespective of the number of such employees whose bodily injury or deaths were caused by or arose out of that occurrence; and
- (c) the CMVA Fund shall not be liable under the said Act for the amount of the compensation to which any such third party is entitled thereunder, without however, any liability of the CMVA Fund to pay costs awarded against it in any legal proceedings being affected by anything in this subsection contained.

10. Liability excluded in certain cases. - The CMVA Fund shall not be obliged to compensate any person in terms of section 19 for any loss or damage -

- (a) for which neither the driver nor the owner of the motor vehicle in question would have been liable if section 12 had not been enacted; or
- (b) suffered as a result of bodily injury to or the death of any person who at the time of the occurrence which caused that injury or death -
 - (i) was being conveyed for reward on a motor vehicle which is a motor cycle;
 - (ii) is a person referred to in section 9 and a member of the household, or responsible in law for the maintenance, of the driver of the motor vehicle in question, or was in the act of entering or mounting that vehicle for the purpose of being so conveyed, or was in the act of alighting from that vehicle after having being so conveyed; or

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- (c) suffered as a result of bodily injury to any person who -
 - (i) unreasonably refuses or fails to subject himself at the request of the CMVA Fund and at the cost of the CMVA Fund, to any medical examination or examinations by medical practitioners designated by the CMVA Fund;
 - (ii) refuses or fails to furnish the CMVA Fund at its request and cost with copies of all medical reports in his possession, relating to the relevant claim for compensation; or
 - (iii) refuses or fails to allow the CMVA Fund at its request to inspect all records relating to himself and in the possession of any hospital or his medical practitioner; or
- (d) if the claim in question has not been instituted by the claimant, by -
 - (i) any person entitled to practise as an attorney in the Supreme Court of Ciskei; or
 - (ii) any person who is in the service, or who is a representative, of any state or government or of a municipal council or other local institution of a similar nature.

11. Presumptions regarding driving of motor vehicle. - (1) For the purposes of this Act a motor vehicle which is being propelled by any mechanical, animal or human power or by gravity or momentum shall be deemed to be driven by the person in control of the vehicle.

(2) For the purpose of this Act a person who has placed or left a motor vehicle at any place shall be deemed to be driving that motor vehicle while it moves from that place as a result of gravity, or while it is stationary at that place or at a place to which it moved from the first-mentioned place as a result of gravity.

(3) Whenever any motor vehicle has been placed or left at any place, it shall, for the purposes of this Act, be presumed, until the contrary is proved, that such vehicle was placed or left at such place by the owner of such vehicle.

12. Claim for compensation lies against CMVA Fund only. - When a third party is entitled under section 8 to claim from the CMVA Fund any compensation in respect of any loss or damage resulting from any bodily injury to or the death of any person caused by or arising out of the driving of a motor vehicle insured under this Act by the owner thereof or by any other person with the consent of the owner, that third party shall not be entitled to claim compensation in respect of that loss or damage from the owner or from the person who drove the vehicle as aforesaid, or if that person drove the vehicle as a servant in the execution of his duty, from his employer, unless the CMVA Fund is unable to pay the compensation.

13. Submission of information to CMVA Fund and third party. - (1) When, as the result of the driving of a motor vehicle, any person other than the driver of that motor vehicle has been killed or injured, the owner and the driver, if he is not the owner, of the motor vehicle shall (if reasonably possible, within fourteen days after the occurrence) furnish the CMVA Fund, on the prescribed form with particulars of the occurrence and also the prescribed statements.

(2) Any person, who fails to comply with any provision of subsection (1) within a reasonable time after having become aware of the occurrence which caused the injury or death contemplated in that subsection shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand unless he is unable to comply with the provision in question and his inability is not due to his own action or default.

(3) The CMVA Fund shall within fourteen days after the third party has complied with the provisions of section 15(2)(b), furnish the third party or his agent with a copy of the information and statements which the said owner or driver furnished in terms of subsection (1) of this section.

(4) Any person who furnishes false information in connection with a token of identification issued in terms of section 2(1) and attached, at the time of an occurrence out of which a claim in terms of section 8 arises, to a motor vehicle to which it relates and which is involved in that occurrence, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred and fifty rands.

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14. Prescription of claim. - (1) (a) Notwithstanding the provisions of any other law relating to prescription, but subject to the provisions of paragraph (b) of this subsection, the right to claim compensation under section 8 from the CMVA Fund in respect of claims referred to in section 6(1)(a)(i) shall become prescribed upon the expiration of a period of two years from the date upon which the claim arose: Provided that prescription shall be suspended during the periods of ninety days referred to in subsection (2) of this section and section 15(2)(a).

(b) Prescription of a claim for compensation under sections 6(1)(a) and 8 shall not run against -

- (i) a minor;
- (ii) any person detained as a patient in terms of the provisions of the Mental Health Act, 1973 (Act No. 18 of 1973); or
- (iii) a person under curatorship.

(2) If the CMVA Fund does not within sixty days after receipt of a claim as set out in section 15(1) object to the validity thereof, prescription shall be further suspended, notwithstanding the provisions of subsection (1), until after the expiration of a further period of ninety days from the date on which the CMVA Fund by registered post directed to the claimant or his representative -

(a) repudiates liability; or

(b) conveys an offer of settlement of the claim to the claimant or his representative.

(3) (a) If a third party's claim for compensation has become prescribed under section (1) of this section and a court having jurisdiction in respect of such claim is satisfied, upon application by the third party concerned -

- (i) where the claim became prescribed before compliance by the third party with the provisions of section 15(1), that by reason of special circumstances he or, if he instructed any other person to comply with those provisions on his behalf, such person could not reasonably have been expected to comply with the said provisions before the date on which the claim became prescribed; or
- (ii) where the claim became prescribed after compliance by him with the said provisions, that by reason of special circumstances he or, if he is instructed any other person to act on his behalf in this connection, such person could not reasonably have been expected to serve any process, by which the running of prescription could have been interrupted, on the appointed agent before that date; and
- (iii) that the appointed agent is not prepared to waive its right to invoke the prescription, the court may grant leave to the third party to comply with the said provisions and serve process in any action for enforcement of the claim on the appointed agent in accordance with the provisions of section 15(2) before a date determined by the court, or as the case may be, to serve such process on the appointed agent before a date so determined.

(4) The court shall not grant an application referred to in subsection (3) unless -

(a) the application is made within a period of ninety days after the date on which the claim became prescribed in terms of subsection (1); and

(b) the third party has given security to the satisfaction of the court for the costs of the CMVA Fund in connection with the application.

(5) A plea of prescription in terms of subsection (1) shall not be upheld in any action in which the relevant process was served on the appointed agent by virtue of leave granted under subsection (3).

(6) Notwithstanding the provisions of section 8 of the Workmen's Compensation Act, 1982 (Act 11 of 1982), any right under subsection (1)(b) of that section to recover from the CMVA Fund an amount which under that Act is required to be paid to a third party in circumstances other than those mentioned in section 9(2) of this Act, shall for the purposes of subsection (1) (excluding the proviso) and subsection (3) of this section be deemed to be a right to claim compensation under section 8 of this Act arising on the same date as the claim of such third party under the last-mentioned section: Provided that if the recovery of any such amount has been debarred under this subsection, any compensation thereafter awarded to the third party under this Act shall be reduced by the amount in question.

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15. Procedure. - (1) A claim for compensation under section 8 shall -

(a) be set out in the prescribed manner in the prescribed form which shall include provision for a medical report or reports, completed by the prescribed person or persons, in regard to the cause of the death or the nature and treatment of the bodily injury in connection with which the claim is instituted and for the prescribed supporting proof and particulars;

(b) be sent by registered post or delivered by hand, to the CMVA Fund at its principal office or to its appointed agent who issued the token of identification attached to the vehicle concerned or the appointed agent who in terms of the regulations must handle the claim and who shall, in the case of delivery by hand, at the time of the delivery acknowledge receipt thereof and of the date of such receipt in writing.

(c) If the CMVA Fund or its appointed agent does not, within sixty days after receipt of a claim so set out which was sent or delivered to the CMVA Fund or its appointed agent in terms of paragraph (a) within six months after the date of the occurrence causing the relevant bodily injury or death, object to the validity thereof, the claim shall be deemed to be valid in law in all respects.

(2) No such claim shall be enforceable by legal proceedings commenced by a summons served on the CMVA Fund or its appointed agent before the expiration of a period of ninety days as from the date on which the claim was sent or delivered by hand, as the case may be, to the CMVA Fund or as appointed agent as provided in subsection (1): Provided that, if the CMVA Fund or its appointed agent repudiated in writing liability for the claim before the expiration of the said period, the claimant may at any time after such repudiation serve summons on the CMVA Fund or its appointed agent.

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

16. Right of recourse by CMVA Fund. - (1) When the CMVA Fund has paid any compensation under section 8 it may, subject to the provisions of subsections (2) and (3) of this section, without having obtained a formal session 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, so much of the amount paid by way of compensation as the third party concerned could, but for the provisions of section 12, 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 CMVA Fund has not paid any such compensation.

(2) The CMVA Fund shall not have any such right of recourse against the owner of the motor vehicle -

(a) in any case where, 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 without holding a licence issued under the law relating to the licensing of drivers of motor vehicles, which he was required to hold, or the 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

(b) in any case where, 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 that occurrence; or

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(ii) 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

(c) in any case where neither paragraph (a) nor paragraph (b) applies, unless the owner has failed to comply with any requirement of section 13(1) with reference to the said occurrence (the onus of proving that the CMVA Fund could not reasonably within fourteen days after the occurrence have been informed of the occurrence and of the place and time thereof, shall be on the owner concerned) or has knowingly furnished the CMVA Fund with false information relating to that occurrence.

(3) the provisions of subsection (2)(b)(i) and (ii) and (c) shall apply *mutatis mutandis* in respect of any right of recourse by the CMVA Fund under subsection (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.

17. Regulations. - (1) The Minister may make regulations -

(a) prescribing the powers and duties in connection with the administration of this Act, which may be exercised or shall be performed by any person who is an authorised officer as defined in section 1 of the Road Transportation Control Act, 1982;

(b) in consultation with the Minister of Social Welfare and Pensions prescribing circumstances under which compensation payable to any person under section 8 shall be paid by the CMVA Fund to the Director-General of the said department, and the manner in which any moneys so paid to the said Director-General shall be dealt with by him;

(c) after consultation with the Director-General of the Department of Health and any recognised association representative of medical practitioners and dentists in Ciskei and with the Treasury, prescribing the tariff of fees in respect of the accommodation of any person in a hospital or nursing home or any treatment of or service rendered or goods supplied to any person, which may be claimed under section 8 from the CMVA Fund;

(d) prescribing matters in respect of which statistics are to be kept by appointed agents the manner in which statistics shall be compiled and the time when statistics so kept and such information therewith as the Director-General may call for from time to time shall be made available to the department;

(e) including the name or description of any person, body of persons authority or institution in paragraph (a) of subsection (2) of section 2 for the purpose of exempting him or it from the provisions of subsection (1) of that section;

(f) in connection with the payment of compensation by the CMVA Fund to any person under section 6, including regulations prescribing the circumstances under which, or the conditions or restrictions subject to which or the cases in which, the CMVA Fund shall be obliged to make a payment under that subsection, or the manner in which any dispute in regard to such an obligation shall be settled, or conditions or requirements for the vesting of any right to institute legal proceedings against the CMVA Fund in connection with such an obligation;

(g) prescribing the forms provided for in this Act, or prescribing or otherwise dealing with any matter which in terms of any provision of this Act be prescribed or otherwise dealt with by regulation or which, in the opinion of the Minister it is necessary or expedient to prescribe for the purposes of this Act.

(2) Any regulation made under subsection (1) may provide for penalties not exceeding a fine of five hundred rand or imprisonment for a period of three months for any contravention thereof or failure to comply therewith or with any order or direction given thereunder.

18. Delegation of powers. - The Minister may delegate any power conferred to him by this Act to the Director-General or to the Manager of the CMVA Fund.

19. Application of certain laws. - The provisions of any law in force in the Republic which deals with the production to a proper authority, or with the falsification, fabrication, alteration, defacement or improper use, in the Republic, of licence certificates, tokens or marks relating to motor vehicles, shall *mutatis mutandis* apply in connection with the production, falsification, fabrication, alteration, defacement or improper use of a token of identification or token of exemption issued under this Act or a token issued

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in terms of any regulation, and apart from any such provision, any person who attaches to a motor vehicle, or who drives a motor vehicle to which is attached, any such token as aforesaid which does not relate to that motor vehicle or a false or a fabricated or altered token, shall be guilty of an offence and liable *mutatis mutandis* to the penalties described in section 2(3).

20. Repeal of laws. - Subject to the provisions of section 21, the laws specified in the Schedule are hereby repealed.

21. Savings. - Subject to the provisions of section 3(3) -

(a) the provisions of this Act shall not apply with reference to a claim for compensation which arose prior to the commencement of this Act under a law repealed by section 19, and any such claim shall be dealt with as if this Act had not been passed; and

(b) The liability for all agreements and undertakings concluded by the CMVA Fund in terms of a law repealed by section 20 shall remain in force as if this Act had not been passed.

22. Short title and commencement. - This Act shall be called the Motor Vehicle Accidents Act, 1986, and shall be deemed to have come into operation on 1 May 1986.

SCHEDULE

LAWS REPEALED

No. and Year of Law	Short Title	Extent of Repeal
Act 2 of 1982 (RSA)	Compulsory Motor Vehicle Insurance Amendment Act, 1982	The whole
Act 4 of 1983 (RSA)	Compulsory Motor Vehicle Insurance Amendment Act, 1983	The whole
Act 4 of 1983 (Ciskei)	Compulsory Motor Vehicle Insurance Amendment Act, 1983	The whole

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