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**CONTENTS • INHOUD***No.**Page  
No.      Gazette  
         No.***GENERAL NOTICE****Transport, Department of***General Notice*

708	Road Accident Fund Act (56/1996): Regulations regarding the Assessment of the Seriousness of Injuries.....	3	28886
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## GENERAL NOTICE

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### NOTICE 708 OF 2006

### DEPARTMENT OF TRANSPORT

### ROAD ACCIDENT FUND ACT, 1996 (ACT NO. 56 OF 1996)

### REGULATIONS REGARDING THE ASSESSMENT OF THE SERIOUSNESS OF INJURIES

The Minister of Transport intends, in terms of section 17 of the Road Accident Fund Act, 1996 (Act No. 56 of 1996), as amended, and subject to any law, to make the regulations in the schedule.

Interested persons are invited to submit substantiated comments on the proposed regulations, or any representations they may wish to make in regard thereto, to the Minister of Transport, Private Bag X193, or Forum Building, 157 c/o Struben and Bosman Streets, Pretoria, 0001 - for the attention of the Director-General, on or before the end of business of 28 July 2006.

### SCHEDULE

### CHAPTER 1

#### 1. DEFINITIONS

**“accreditation”** means the undergoing of training by a health care professional in order to be able to carry out a general or specialised assessment in terms of these regulations, and **“accredited”** has a corresponding meaning;

**“Fund”** means the Road Accident Fund established by section 2(1) of the Act;

**“health care professional”** means a person providing services in terms of any law, including in terms of the-

(a) Allied Health Professions Act, 1982 (Act no. 63 of 1982);

(b) Health Professions Act, 1974 (Act no. 56 of 1974), and includes a medical practitioner as referred to in the Act;

## REGULATIONS REGARDING A METHOD FOR ASSESSING THE SERIOUSNESS OF INJURIES DRAFT 2

- (c) Nursing Act, 1978 (Act no. 50 of 1978);
- (d) Pharmacy Act, 1974 (Act no. 53 of 1974); and
- (e) Dental Technicians Act, 1979 (Act no. 19 of 1979);

***“serious injury”*** means a moderate to severe limitation in a person’s ability to function or perform daily life activities as a result of a physical, sensory, communication, intellectual or mental impairment, and

***“serious injuries”*** has a corresponding meaning; and

***“the Act”*** means the Road Accident Fund Act, 1996 (Act 56 of 1996) as amended.

## **2. RESPONSIBILITIES OF THE FUND**

### **2(1) Instate Assessment Capacity**

The Fund is required to acquire the capacity to assess the seriousness of injuries in accordance with the provisions of s 17(1A)(b) of the Act.

### **2(2) Process**

- (a) The Fund must manage and oversee the process of assessment of injuries as set out below.
- (b) The Fund must ensure that there is equitable access to the process of assessing the seriousness of injuries of third parties without undue impediments for all victims, particularly those with limited physical mobility.
- (c) The Fund must provide an information system that links the evaluation of injuries to the assessment of the latter’s seriousness.

### **2(3) Accreditation Framework**

The Fund must provide an accreditation framework that allows for training and accreditation of health care professionals in injury evaluation and assessment.

### **2(4) Employment of appropriate method**

The Fund is responsible to ensure the adoption of an appropriate assessment method that is outlined below.

## **3. ASSESSMENT OF INJURIES**

### **Process of Assessment**

## REGULATIONS REGARDING A METHOD FOR ASSESSING THE SERIOUSNESS OF INJURIES DRAFT 2

- 3(1) A third party with a claim for non-pecuniary losses against the Fund must submit him-/herself for evaluation with the prescribed instruments, not earlier than six (6) months but not later than eighteen months (18) months from the date of the accident. Evaluations done after eighteen (18) months of the date of the accident, if legally motivated, may be accepted by the Fund.
- 3(2) The evaluation of a third party must be done by an accredited health care professional using a standardised and holistic general assessment method.
- 3(3) The results of the evaluation must thereafter be forwarded to and be assessed by the Fund, who may refer the third party for a specialist assessment if the results of the general assessment are found to be inconclusive, or for any other similar reason.
- 3(4) Should the conclusion of the general assessment be substantially different from the condition of an already evaluated third party, alternatively, should a third party be dissatisfied with the conclusion of an assessment, then
  - (a) the third party must bring this disparity to the attention of the Fund; and
  - (b) the Fund may amongst other things, refer the third party to an accredited health care professional for a specialist assessment.
- 3(5) The Fund will bear the costs of these assessments as set out in sub-regulations 3(2), (3) and (4) above. or a dispute may be declared by the assessor.

**4. METHOD OF EVALUATION AND ASSESSMENT**

- 4(1) The method is comprised of two (2) stages: the evaluation and assessment stage.
  - (a) The evaluation stage of the assessment is carried out by an accredited health care professional;
  - (b) The assessment is carried by an accredited health care professional registered in accordance with the provisions of the Health Professions Act, 1974.

## REGULATIONS REGARDING A METHOD FOR ASSESSING THE SERIOUSNESS OF INJURIES DRAFT 2

**General Assessment**

- 4(2) This assessment aims to
- (a) be holistic in measuring and classifying the functionality and disability of a person;
  - (b) take cognisance of South African contextual factors;
  - (c) place reliance on objective and normative criteria;
  - (d) employ internationally recognised systems of classifying disability;
  - (e) take cognisance of changes to body functions and structures in determining functionality;
  - (f) take into account activities and the measure of participation when determining capacity and performance with regard to functionality;
  - (g) environmental factors that act as barriers to functionality, leading to the conclusion of determining the seriousness of an injury.

**Specialist Assessment**

- 4(3) The specialized assessment will be based on discipline specific assessment methods as administered by accredited health care professional who are specialists in assessing disability, and are duly registered in accordance with the provisions of relevant legislation.

**MISCELLANEOUS**

- 5. All the information gathered by the Fund in the process of administering these regulations must be captured in a database to be used for benchmarking, reporting and trend analysis, in order to facilitate the management of healthcare compensation.
- 6. All healthcare professionals who render a service as regulated by the Act and its regulations must undergo training and be accredited in order to enable them to translate their assessment of a third party claimant, into

## REGULATIONS REGARDING A METHOD FOR ASSESSING THE SERIOUSNESS OF INJURIES DRAFT 2

objective scores in accordance with the process as followed in the general and specialist evaluations.

7. The costs of injury evaluation and assessment shall only be paid for by the Fund if all the requirements of the regulations have been complied with.

**JT RADEBE, MP**

**MINISTER OF TRANSPORT**

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