



THE ASSOCIATION FOR THE PROTECTION OF ROAD ACCIDENT VICTIMS

A VOLUNTARY ASSOCIATION NOT FOR GAIN INCORPORATED IN TERMS OF THE COMMON LAW

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To: The Minister of Cooperate Governance & Traditional Affairs Minister Nkosazana Dlamini-Zuma 87 Hamilton Str Arcadia Pretoria	To: The Minister of Transport Minister Fikile Mbalula Private Bag x193 Pretoria 0001
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15 April 2020

REQUEST TO DECLARE THE ROAD ACCIDENT FUND AS AN ESSENTIAL SERVICE

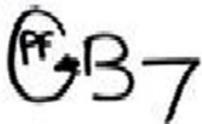
1. I refer to the 'lockdown regulations', in terms of Section 27(2) of the Disaster Management Act No. 57 of 2002, to specifically cater for the COVID-19 conditions of lockdown and pertinently Chapter 2, Section 11A and Annexure B: List of Essential Services.
2. The purpose of this letter is to substantiate the declaration of some of the activities of the Road Accident Fund an 'essential service'.

3. The Association for the Protection of Road Accident Victims ("APRAV") is a human rights organisation, concerned with the protection of the constitutional and other rights of road crash victims and road users in general and was established in June 2014.
4. APRAV fully supports the Government's endeavours, including the current lockdown, to manage the outbreak of the Covid-19 virus.
5. Our respectful request is based on the following:
 - 5.1. The Constitution of the Republic of South Africa, as adopted on 8 May 1996 (as amended) affords certain fundamental rights to the people of South Africa.
 - 5.2. In terms of Section 12 of the Bill of Rights, "Freedom and security of the person...(2) Everyone has the right to bodily and psychological integrity..." and Section 24: Environment: "Everyone has the right -(a) to an environment that is not harmful to their health or wellbeing;...".
 - 5.3. For road crash victims, these rights are embodied in the RAF Act of 1995 and the Amendment Act 19 of 2005 (hereinafter referred to as the "Amendment Act") which amended the Road Accident Fund Act 56 of 1996 ("the Act") and came into effect on 1 August 2008.
 - 5.4. South Africa is internationally one of the unsafe countries for road travel (see 'South African road deaths vs the world' <https://businesstech.co.za>, accessed 9-5-2018). Thirteen thousand of its citizens (about 36 per day) die on our roads and as many as an estimated 524 000 persons – based on annual hospitalisation figures and fatality rates – are annually injured in road crashes. The Road Safety Annual Report 2017 published by the International Traffic Safety Data and Analysis Group and the International Transport Forum states at p 16 that out of 40 countries SA has the highest fatality rate per 10 000 vehicles (see <http://dx.doi.org>, accessed 9-5-2018).
 - 5.5. The object of the Road Accident Fund is the payment of compensation in accordance with the Act for loss or damage wrongfully caused by the driving of motor vehicles.
 - 5.6. Tens of thousands of members of the public have been financially significantly disadvantaged by either sustaining injuries in a road crash (and are now unable to work and earn a living) or by the death of a breadwinner (and there is no longer any household income).

- 5.7. This is not a mere question of monetary RAF compensation, , but thousands of households are totally dependent on the RAF concluding their rightful claims lodged. It already takes about 55 months to finalise a claim and this process is now prolonged even further by the lockdown, to the disadvantage of thousands of destitute people.
 - 5.8. The vast majority of claimants are from rural and mostly disadvantaged areas, with very little support mechanisms to sustain them whilst waiting on the finalisation of their claims by the RAF. There are probably 10 000 claimants simply waiting for the RAF to process payment of their already finalised and agreed RAF claim. Lockdown makes finalisation of payments impossible.
 - 5.9. Thousands more may qualify for an interim payment, in terms of Section 17(6) of the RAF Act, but are precluded from applying or receiving previously arranged interim payment because the RAF is closed in terms of the lockdown regulations.
 - 5.10. Further, a few thousand claims have progressed (medico-legal evaluations) to near-finalisation and only require an administrative process to be settled and finalised.
 - 5.11. Finally, road crash victims have a limited period within which to lodge a claim. Many may now be disadvantaged by the loss of their claim should this period lapse. The RAF Act has no provision providing for condonation of lapsed claims. In addition the RAF regulations contain time provisions within which the claimant and the RAF have to act. The lockdown makes this impossible and this may lead to the incurring of costs adding to the annual R10,3 billion RAF legal bill.
6. Our request is in the context that of thousands of RAF claimants deprived of any income (a significant portion of claimants is part of the Gig Economy) or are disabled to do any work and are waiting for their compensation from the RAF.
 7. We fully acknowledge that safeguarding the health of all South Africans is now the primary objective and that 'flattening the curve' will only be achieved via 'the lockdown'.
 8. However, a partial functioning by the RAF to execute some essential services (such e.g. the processing of payments) will enable critically needed income to which tens of thousands of South African households are rightfully entitled. All protocols for social distancing can still be observed, since this is by and large, an administrative process.

9. In light of the above, we respectfully request that it be considered to allow the partial functioning of the RAF in order to:
- 9.1. Progress all existing required payments.
 - 9.2. Progress all claims already finalised/agreed to.
 - 9.3. Progress current matters capable of being settled via the block settlement programme.
 - 9.4. Progress and continue to implement the model and strategies as envisaged and explained in the recent matter of Mabunda Incorporated and Others v RAF.
10. The RAF CEO can prescribe the required staff protocols to still align with the 'lockdown' regulations.
11. We firmly believe that the intentions of the lockdown as well as progressing very needed claim payments to thousands of members of the public, can meaningfully be balanced.

Yours sincerely

A handwritten signature in black ink, appearing to read 'PFB-7'. The 'P' and 'F' are enclosed in a circle, and there is a small arrow pointing from the circle towards the 'B'.

Pieter FC de Bruyn

Chairperson

