

The Showdown: RAF vs RABS

Love it or hate it, the proposal to change the Road Accident Fund to the new Road Accident Benefit Scheme is certainly ploughing forward. It would be difficult to disagree that the RAF is in need of an overhaul. As the Law Society points out, two years ago the RAF paid out R22.2bn, with up to R1.5bn spent in a single month. Clearly this is unsustainable!

Whilst the new proposals have lawyers across the country vigorously protesting, some bias towards big claim settlements would probably have to be admitted by the profession. That being said, tax payer's fuel levies falling into the general fiscus is almost certainly an invitation for misuse and inefficient allocation.

Whilst Praesidio does not have an opinion on the correct path forward, we felt that the proposed changes should be highlighted. Our table summarising the differences is below.



OLD

Road Accident Fund (RAF)

Insurance principles

Fault Based - only victim can claim (proving fault does exclude many)

Apportionment of fault determines the extent of compensation

Employing company (of driver) can be held liable

Often long and expensive litigation (half of all matters on the court roll are allegedly related to road accidents)

Claims are processed and lodged in a court by an attorney on the victim's behalf

Micro-economy of intermediaries sustained by the RAF

Medical Expenses: Lump sum for past & future medical costs

Loss of Income: Lump sum payment – max R228,430 pa

Loss of Income: Payment takes into account potential future incomes, or current absence of income (many continue to be excluded, especially those who had no income to lose)

General Damages (pain & suffering, disability, disfigurement and loss of amenities of life) covered

Funeral costs included for victims only

PROPOSED NEW

Road Accident Benefit Scheme (RABS)

Social Security Principles

Doesn't matter whose fault, anyone injured in road accident can claim

Defined benefits

Civil liability for certain road injuries now excluded (but criminal liability still a possibility – eg grossly negligent or reckless)

Simplified claims procedures with defined benefits as compensation

Claimants can no longer be represented by an attorney, claimants must prepare, lodge and champion their own claim

Attorneys may now lose out as laymen will now be forced to submit and self-finance their own claims

Medical Expenses: Network of contracted public and private healthcare service providers to be used and then paid directly. If non-contracted provider used, then compensation will be based on prescribed tariffs

Limited income support paid in structured manner - max R44,000 pa, ends after 15 years or at age 60, children can only lodge claim when turn 18

Students (irrespective of what they're studying), labourers, professionals or unemployed persons would equally be eligible for R44,000 pa

No cover for General Damages

R10,000 for funeral costs for everyone killed on SA roads

Anyone injured/killed on SA roads as a victim entitled to compensation

If not SA citizen, can only claim for emergency services. For deaths of SA citizens, income support only claimable if dependants live in SA

No power to review and suspend benefits

Ongoing monitoring with financial institutions, med schemes and healthcare providers, with power to suspend or cancel benefits if good reason exists

R1.54 of each litre of petrol or diesel paid for at the fuel station is contributed to the RAF fund

Fuel levies under RABS will fall in the general fiscus (no separate fund)

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