

**SUBMISSIONS BY THE LAW SOCIETY SOUTH AFRICA**  
**ON THE PROPOSED ROAD ACCIDENT FUND FIRST AMENDMENT REGULATIONS**

The Law Society of South Africa (LSSA) comments on the proposed amendments published on 8 June 2012 (Notice 489 of 2012) Government Gazette Number 35431 as follows:-

**PROPOSED AMENDMENT OF REGULATION 3**

**REGULATION 3(2)(a)**

The limitation on the cost of an assessment to **R2 500.00 plus VAT** is unreasonable having regard to the degree of skill and time required for a medical practitioner to complete a full AMA Guides 6 assessment and the impairment ratings and to express an opinion, if necessary, in terms of the narrative test.

If a limit is to be imposed, which is not supported, then such limit should be a realistic and market related one, particularly as a claimant is obliged in terms of the Regulations to submit this detailed report from a highly qualified expert in order to substantiate a claim for general damages.

Should a totally inadequate limit of re-imburement be prescribed, which is quite unrelated to the actual costs thereof, this will defeat the very purpose of the Act, namely the fair compensation of a seriously injured road accident victim and will be yet another barrier to settlements being achieved pre-litigation.

**REGULATION 3(3)(d)(ii)**

The introduction of the deeming provision is welcomed and accords with current case law. However, the period of 120 days is, in our view, excessive, particularly bearing in mind that the serious injury assessment report can and often will be lodged after the RAF 1 Form has already been lodged. Furthermore, it is at odds with the provisions of Section 24(5) which already affords the Fund 60 days within which to object to a lodgment.

In our view, a period of 60 days within which to object to a claim as provided for in Section 24(5) is not only sufficient and fair, but would also bring the proposed amendment within the ambit of the enabling Act.

## PROPOSED AMENDMENT OF REGULATION 6

### REGULATION 6(3)

The medical report contemplated in Section 24 (2) (a) of the Act is the same report as is contemplated in Section 24 (1) (a) as read with Regulation 7(1), namely the **RAF 1 FORM**, attached to the existing Regulations as annexure "A".

If the intention is to pay, direct, the person who prepared the serious injury assessment report (**RAF 4**), reference in the proposed Amended Regulations should be made specifically to that report by name and/or by reference to definition 1 (x) of the existing Regulations.