

21 July 2025

To : **The Chairperson**
Standing Committee On Public Accounts
SCOPA

c/o : **The Secretary of the Committee**

Email : RAFEnquiry@parliament.gov.za

Dear Honourable Chairperson,

Re: SUBMISSION IN RESPONSE TO THE STANDING COMMITTEE ON PUBLIC ACCOUNTS' INVITATION TO THE PUBLIC TO FURNISH INFORMATION TO THE OVERSIGHT ENQUIRY IN RESPECT OF THE ROAD ACCIDENT FUND

1. The Law Society of South Africa (LSSA) acknowledges, with appreciation, the invitation extended by the Standing Committee on Public Accounts (SCOPA) to the public to furnish information in relation to the oversight enquiry into the Road Accident Fund (RAF), as outlined in the adopted Terms of Reference dated 01 July 2025.
2. The LSSA is the national representative body for the attorneys' profession in South Africa, representing the Black Lawyers Association, National Association of Democratic Lawyers and the Independent Attorneys, which collectively make up the Law Society of South Africa (LSSA).

3. The LSSA is responsible for the representation of the legal profession, particularly the attorneys' profession. The LSSA's mandate includes promoting justice, protecting the rule of law and upholding the integrity of the legal profession and the rights of the public. The challenges which have besieged the RAF are continuous discussions in the legal expert structures of the LSSA.
4. We note that the purpose of the oversight enquiry, as set out in the Terms of Reference, is to investigate allegations of maladministration, financial impropriety and the misuse of public funds at the RAF. The enquiry seeks to ensure accountability, transparency and the protection of the public purse, particularly in light of the RAF's critical role in compensating victims of road accidents and its reliance on public funds collected through fuel levies.
5. In particular, Section 4 of the Terms of Reference outlines the parameters of the enquiry including:
 - 5.1 the examination of financial governance and oversight responsibility of the RAF Board and the Ministry of Transport;
 - 5.2 the scrutiny of the procurement practices, irregular expenditure, and legal costs;
 - 5.3 the assessment of the RAF's compliance with applicable financial legislation and regulations;
 - 5.4 the consideration of whistleblower accounts, adverse audit findings and court judgments; and
 - 5.5 The decision to publish, adopt and implement the new RAF 1 claim Form published in the Government Gazette on 4 June 2021.
6. In response to SCOPA's call for public submissions, the LSSA wishes to refer SCOPA, firstly, to the Joint Memorandum by the Legal

Profession, dated 20 July 2023. Secondly, the correspondence dated 15 August 2023 to the then Minister of Transport, Honourable Minister LS Chikunga.

7. Both correspondences address the “Crisis at the Road Accident Fund”. We wish to have these documents incorporated herein as the comments of the LSSA. For ease of reference, they are marked ***Annexure A*** and ***Annexure B***, respectively.
8. The LSSA wishes to further submit and emphasise on the following views and recommendations for consideration:

8.1 Financial Management and Compliance

In respect of the RAF’s cash flow management LSSA submits that the policy of rejecting claims in terms of Board Notice 271 and refusing to register the claims is materially affecting the financial statements of accounts of the RAF, because there is no provision being made for all those claims, as future liabilities. In amplification, it is our submission that an estimated 90 000 claims per year since 2022 to date may have been excluded and not registered and according to the RAF’s records, do not exist. This has financial and administrative implications pertaining to those claims not captured, namely materially understated potential future claims that will proceed to litigation regardless that they are “unregistered” as well as future potential liabilities.

The reference in 5.5 above relates to an earlier process that was preliminary to the publication of Board Notice 271 in Government Gazette No. 46322 of 6 May 2022 which came into effect with the publication by the Minister of Transport of the

“new” Form RAF 1 in terms of section 26 of the RAF Act in the Government Gazette on 4 July 2022. Both Board Notice 271 and the new RAF Form 1 unlawfully prescribed additional onerous requirements for the lodgement of a valid claim. All claims submitted after 4 July 2022 were scrutinised as against the provisions of Board Notice 271 and those considered non-compliant were rejected by refusing to accept the lodgement and where lodgement took place by registered post (as permitted in terms of the RAF Act), those claims were rejected and returned to sender. The rejected claims are regarded by the RAF as a nullity and were not captured as potential claims.

It is well noted that the intentions of the Ministry of Transport are to finalise the Road Accident Benefit Scheme Bill (RABS), which will introduce a no-fault system to make it easier for road accident victims to access the benefits without costly legal bills. We respectfully submit that consideration must be given not only to the multitude of submissions made to the Portfolio Committee on Transport, when RABS was first introduced, but also to the fact that now the unregistered or rejected claims may materially further complicate a reliable assessment of the RAF’s future liability in respect of the costs of running down the current system in parallel with the introduction of RABS.

8.2 Litigation costs incurred by RAF due to poor management

In respect of the allegations of deliberately failing to make payments of claims, as due, in contravention of valid and enforceable court judgements and settlement agreements, it is submitted that this is not only an act of contempt of court, but this refusal erodes the rule of law and the entire judicial system.

The RAF has organised its affairs so that writs of execution (the legal remedy for failure to pay a judgement) offer no financial relief, leaving these judgements unsatisfied and claimants destitute.

The current administrators of the RAF fail to recognise and respect the separation of powers enshrined in the Constitution and have attempted to usurp to themselves the role of parliament by issuing management directives in which they seek to change the existing law.

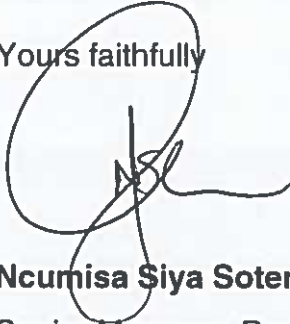
Although an examination of the refusal of the RAF to pay certain claims (i.e. those due to undocumented foreigners and expenses covered by medical aid) may be beyond the scope of this commission, it is submitted that this conduct is an example of the above ill-advised policy decision and it is small wonder that at the last count there were 41 adverse judgements against RAF in respect of these claims as against 3 in its favour, one of which was a split decision and is on appeal. In all the adverse judgements, significant legal costs would have been incurred by the RAF, some of which include attorney and client cost orders in favour of the claimants.

9. Further attached to these comments by the LSSA are the comments by the below listed legal practitioners, incorporated herein:

- 9.1 R.N. Collet Inc;
- 9.2 Rautenbach Attorneys; and
- 9.3 Tseisa I. Attorneys Inc.

10. We again thank SCOPA for the opportunity to participate in this process.

Yours faithfully

A handwritten signature in black ink, consisting of a large, stylized initial 'N' followed by a series of loops and a horizontal stroke extending to the right.

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