

REPUBLIC OF SOUTH AFRICA

COUNCIL FOR MEDICAL SCHEMES LEVIES BILL

*(As introduced in the National Assembly as a money Bill) (The English text is the official
text of the Bill)*

(MINISTER OF FINANCE)

[B 61—2000]

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BILL

To provide for the imposition of levies by the Council for Medical Schemes; and to provide for matters incidental thereto.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless inconsistent with the context—
 - “Council” means the Council for Medical Schemes established by section 3(1) of the Medical Schemes Act, 1998 (Act No. 131 of 1998);
 - “levy” means the amount imposed under section 2;
 - “medical scheme” means a medical scheme registered under section 24(1) of the Medical Schemes Act, 1998;
 - “member” has the meaning ascribed to it in section 1 of the Medical Schemes Act, 1998;
 - “Minister” means the Minister of Health.

Imposition of levies

2. (1) The Council may by notice in the *Gazette*, subject to subsections (3), (6) and (7)—
 - (a) impose levies on medical schemes and specify the intervals and times when such levies are payable for the purpose of meeting the general administrative and other costs of the Council and the functions performed by the Registrar of Medical Schemes;
 - (b) vary the levies; or
 - (c) determine interest as contemplated in section 4.
- (2) The levies imposed in terms of subsection (1) must be based on the number of members of a medical scheme.
- (3) Before imposing levies, varying levies, or determining the rate of interest payable in terms of section 4, the Council must—
 - (a) publish the proposed levies, variation or determination in order to bring the proposed levies, variation or determination to the attention of the medical schemes in question and the members of medical schemes, together with a statement explaining the reason for the levy imposition, variation or determination, including a statement that representations may be made to the Council within a specified and reasonable time;
 - (b) have regard to any representation made to it in terms of paragraph (a);
 - (c) give the Minister notice in writing of the proposed imposition or variation of levies, or determination of the rate of interest, and specify the period for which such imposition, variation or determination is intended to operate;
 - (d) provide the Minister with reasons for the imposition, variation of levies or determination of the rate of interest;
 - (e) provide the Minister with evidence of consultation with medical schemes and of the degree of concurrence among medical schemes with regard to the imposition, variation or determination.

(4) The Minister must, with the concurrence of the Minister of Finance, within a period of 60 days after receiving a notice contemplated in subsection (3), give the Council written notice approving or disapproving the proposed imposition, variation of levies or determination of the rate of interest, and in the event of disapproving that imposition, variation or determination, also give reasons for the disapproval thereof. 5

(5) The Minister may, with the concurrence of the Minister of Finance, in the notice contemplated in subsection (4), recommend an alternative levy or rate of interest determination.

(6) The Council may impose the levies, or vary such levies, or determine the rate of interest under subsection (1), only after the Minister has approved that imposition, variation or determination. 10

(7) An imposition, variation or determination made in terms of subsection (1) must be published in the *Gazette* at least 30 days before its commencement.

(8) The levies imposed or varied or rate of interest determined under subsection (1) must be reviewed annually by the Council. 15

Distribution of levies

3. (1) The levies imposed or varied or rate of interest determined under section 2(1), forms part of the funds of the Council, subject to subsections (2) and (3), and must be dealt with in terms of section 12 of the Medical Schemes Act, 1998 (Act No. 131 of 1998). 20

(2) The levies and interest collected by the Council must be paid into a bank account designated for such purpose by the Council and approved by the National Treasury in terms of section 7(2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(3) At least six months before the start of the financial year of the Department of Health, or within another period agreed between the Minister and the Council, the Council must submit to the Minister— 25

- (a) a budget of estimated revenue and expenditure for the Council's next financial year in terms of section 53 of the Public Finance Management Act, 1999; and
- (b) a corporate plan in the prescribed format covering the affairs of the Council for the Council's following three financial years in terms of section 54(1) of the Public Finance Management Act, 1999, 30

for approval by the Minister, with the concurrence of the Minister of Finance.

Non-payment of levies

4. (1) Where a levy imposed or varied under section 2(1) is not paid by a medical scheme on the day the levy or the variation became due and payable, the medical scheme is liable for the payment of such levy to the Council, and in addition to the levy, of interest at a rate determined in terms of section 2, calculated upon the unpaid amount of the levy from the date on which the levy became due and payable, subject to subsections (2) and (3). 35

(2) The uniform interest rate applicable to a debt owing to the state, as determined by the Minister of Finance in terms of section 80(1)(b) of the Public Finance Management Act, 1999, must form the basis for the determination of the rate of interest payable to the Council. 40

(3) Levies and interest due, must be regarded as a debt due to the Council and may be recovered by the Council by a judicial process in any competent court. 45

Levy imposition to lapse after five years

5. (1) Any imposition of a levy in terms of section 2(1)(a), lapses five years after the day on which it was introduced.

(2) The Minister may, at least three months but not more than 12 months before the day on which the imposition in terms of section 2(1)(a) would otherwise lapse, on the written request of the Council and with the concurrence of the Minister of Finance, in writing give the Council notice approving or disapproving a re-imposition of the levy and in the event of disapproving the re-imposition, also give reasons for the disapproval thereof. 50

(3) An assessment of the performance of the Council, as set out in section 6, must be commissioned by the Minister and be considered before approving the re-imposition contemplated in subsection (2).

Assessment of performance of Council for Medical Schemes

6. (1) In this section, “performance” in relation to the Council for Medical Schemes includes— 5

- (a) the efficiency, economy and effectiveness of the Council’s management of the financial resources at its disposal;
- (b) the benefits derived from the Council’s work by those who bear the levies and other charges imposed by the Council; and 10
- (c) any other matter agreed upon between the Minister and the Minister of Finance.

(2) If the Minister is—

- (a) satisfied that there is sufficient concern among medical schemes and their members about the performance of the Council to justify an assessment of that performance; or 15
- (b) not satisfied that the performance of the Council is adequate,

the Minister may, after consultation with the Council, appoint any person to conduct an assessment of and report to the Minister and the Minister of Finance on that performance. 20

(3) Despite subsection (2), an assessment of the performance of the Council must be commissioned by the Minister and the findings reported to the Minister and the Minister of Finance at least once every five years, and be considered by the Minister and the Minister of Finance.

Short title and commencement 25

7. This Act is called the Council for Medical Schemes Levies Act, 2000, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE COUNCIL FOR MEDICAL SCHEMES LEVIES BILL, 2000

The Medical Schemes Act, 1998 (Act No. 131 of 1998), provides for the establishment of the Council for Medical Schemes as a corporate body.

The Council for Medical Schemes Levies Bill, 2000, provides that the Council for Medical Schemes may impose levies on medical schemes, based on the number of members of a medical scheme, to pay for the costs incurred in the exercise of oversight over medical schemes by the Council.

The Levies Bill empowers the Council for Medical Schemes to impose levies, vary the levies, and determine the rate of interest on unpaid levies by notice in the *Government Gazette*. The Council is mandated to consult medical schemes and their users, and provide evidence of such consultation and the extent of concurrence before requesting approval of implementation from the Minister of Health. The Minister of Finance must concur with the level of the levies, changes to the levies, and the determination of the rate of interest on unpaid levies. The Ministers of Finance and Health may recommend alternative levy or interest rate determinations to those proposed by the Council.

The Council for Medical Schemes must review its levy arrangements annually. In order to enable the Ministers of Finance and Health to make an informed decision about changes to the levies, a performance evaluation of the Council and its use of the levies must be done at least every five years to coincide with the automatic lapsing of levy impositions. This is also intended to ensure the regular evaluation of the use of public funds in the light of the fact that the resources available to the Council will not be scrutinised annually during the Budget process.

The Council for Medical Schemes Levies Bill was compiled jointly by the National Treasury and the Department of Health. Significant interaction ensured a balance between fiscal oversight over the Council for Medical Schemes, on the one hand, and the autonomy of the Council to regulate the medical schemes industry, on the other. The Levies Bill represents a compromise on both sides, ensuring a proper process of consultation with the medical schemes industry.

The Levies Bill holds no additional financial implications for the fiscus. The financing for the regulation of the medical schemes industry is currently on the budget of the Department of Health. The replacement of this current budgetary arrangement with levy financing will therefore result in a concomitant reduction in the budget of the Department of Health. As the Levies Bill facilitates a levy financing arrangement in the national sphere of government, there are also no financial implications for the provincial and local tiers of government.

The State Law Advisers are of the opinion that the Bill is a money Bill and should be dealt with in terms of section 77 of the Constitution because the Bill deals with the imposition of levies.