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THE PRESIDENCY

DIE PRESIDENSIE

No. 1356.

13 December 2000

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 58 of 2000: Council for Medical Schemes Levies Act, 2000.

No. 1356.

13 Desember 2000

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 58 van 2000: Wet op Heffings deur Raad vir Mediese Skemas, 2000.

(English text signed by the President.)
(Assented to 5 December 2000.)

ACT

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

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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*.