Dear All,

1.       NEDLAC released a provisional report on the RABS Bill on Friday, 04 March 2016.

2.       APRAV wants to applaud ‘Business’ for applying logic and good sense – keeping the rights of road users and the public front of mind in their NEDLAC discussions.  **Below** is a summary of the 28 issues that remain unresolved on the RABS Bill, as it currently stands: “**RED** or number **3** denotes areas of current non-agreement to Government’s proposals;”

3.       Attached please find the complete NEDLAC matrix on the RABS Bill.  As with the Portfolio Committee on Transport, The Department of Transport and the RAF need to ‘go back to the drawing board’ on the RABS Bill.

4.       We fully endorse meaningful change in the medico-legal industry but it must be well researched, properly planned, done in honest consultation with the public and the industry, and be practical, sustainable, fair and affordable.

Regards

Pieter FC de Bruyn

Chairman

**NEDLAC IN DISAGREEMENT ON 28 KEY ISSUESIN THE RABS BILL**

**CHAPTER 2**

**ROAD ACCIDENT BENEFIT SCHEME ADMINISTRATOR**

**Duties**

5.            The Administrator must—

(d)          determine appeals regarding the entitlement to or the provision of benefits;

**Part A: Health care services**

**Individual treatment and rehabilitation plan - new additional clause (d)**

**34.**          (1)           The Administrator may determine at any time that future health care services should be provided to a beneficiary in terms of an individual treatment and rehabilitation plan, provided that—

*(d)      “If the beneficiary is not able to provide informed consent to the plan due to a legal disability or other vulnerability or physical condition, the Administrator may make application for the appointment of a curator or curators to assist the beneficiary.”*

**Part B: Income support benefit**

**Liability of Administrator in respect of income support benefit**

**Temporary income support benefit**

(5) The amount and duration of the temporary income support benefit is to be determined as follows:

(c)           the period of entitlement to the temporary income support benefit is the period specified by the medical practitioner after the physical examination contemplated in subsection (4)(a) or (b), as the case may be, provided that the following periods are excluded:

(i)            the first 60 days after the date of the road accident;

(iii)         any period before the injured person reached the age of 18 years; and

(iv)        any period after the injured person has reached the age of 60 years;

(7)          A temporary income support beneficiary is not entitled to inflationary adjustments of the amount of the benefit paid by the Administrator but the Minister may, with the concurrence of the Minister of Finance, subject to affordability, from time to time, adjust the temporary income support benefit to take into account the effects of inflation.

**Long-term income support benefit**

37.          (1)          The Administrator shall be liable to pay a long-term income support benefit to an injured person provided that a claim must be submitted in the manner set out in the rules and must include—

(a)          details of income earned subsequent to the road accident and any representations or additional information which the injured person wishes to submit regarding his or her post-accident vocational ability;

(b)          in the case of an injured person who did not receive a temporary income support benefit—

(ii)          confirmation by the injured person that his or her inability to earn an income is due to a physical or psychological injury caused by or arising from a road accident, provided that, if the injured person is unable to provide such confirmation, it may be provided by any other person with knowledge of the reasons for the injured person’s inability to earn an income;

(5)          (a)          The Administrator must determine, with reference to all relevant information, including the availability of employment, other income generating opportunities, and passive income available to an injured person and the details of income received subsequent to the road accident, an amount which approximately represents the injured person’s annual post-accident earning capacity.

(7)          The amount and duration of the long-term income support benefit is to be determined as follows:

(c)           the period of entitlement to the long-term income support benefit must exclude—

(ii)          any period before the injured person reached the age of 18 years; and

(iii)          any period after the injured person has reached the age of 60 years;

(8)          The Administrator may accept a claim for a long-term income support benefit subject to conditions, including—

(c)           participation by the beneficiary in a vocational training programme.

Vocational training programmes

38.          (1)          The Administrator may at any time require a temporary or long-term income support beneficiary to participate in a vocational training programme, provided that—

(a)          the Administrator must provide information to the beneficiary regarding the process to be followed, the beneficiary’s rights and the consequences of not participating in the programme;

(b)          the following persons must be given an opportunity to participate in the preparation and costing of the programme to the extent that they are willing and able to do so:

(i)            the beneficiary; and

(ii)           any employer or potential employer of the beneficiary; and

(c)           the Administrator must request the beneficiary to consent in writing to participate in the vocational training programme and may only require the beneficiary to participate in a programme without the written consent of the beneficiary if the consent is unreasonably withheld.

(2)          Once the Administrator requires a temporary or long-term income support beneficiary to participate in a vocational training programme -

(a)          the Administrator may direct that the programme be provided by a service provider contracted by the Administrator; and

(b)          the continuation of an income support benefit must be made conditional on the beneficiary participating in such a vocational training program.

(3)          The Minister may, with the concurrence of the Minister of Finance, prescribe limits on the provision of vocational training to beneficiaries, including a cap on the amount which the Administrator may spend per beneficiary.

**Part C: Family support benefits**

**Liability of Administrator in respect of family support benefits**

(9) A dependant who is a surviving spouse is entitled to a family support benefit for a period of 15 years calculated from the date of death of the breadwinner or until he or she reaches the age of 60, whichever period is the shortest.’

(14) A beneficiary of a family support benefit is not entitled to inflationary adjustments of the family support benefit paid by the Administrator but the Minister may, with the concurrence of the Minister of Finance, subject to affordability, from time to time by notice in the Gazette, adjust the family support benefit to take into account the effects of inflation.

**Part E: Benefit review**

**Termination, suspension and revision of benefits**

41.          (1)          Any benefit granted terminates upon the death of the beneficiary.

(b)          suspend the continued entitlement to any benefit if the beneficiary -

(i)            unreasonably refuses to provide further medical reports or to submit to further medical assessments or vocational ability assessments;

                                                (ii)           unreasonably refuses or fails to participate in an individual treatment or rehabilitation plan or a vocational training programme determined by the Administrator; or

**CHAPTER 7**

**CLAIMS PROCEDURE**

**Time periods for determination of claims**

48.          (1)          The Administrator shall accept or reject a claim within 180 days after the submission of the claim failing which the claimant may lodge an appeal in terms of section 49.     The Administrator shall accept or reject a claim within [180] 120 days after the submission of the claim failing which the claimant may lodge an appeal in terms of section 49.

(2)          A claim shall bear interest at the rate determined in terms of section 80(1)(b) of the Public Finance Management Act, 1999, (Act No. 1 of 1999), from expiry of 180 days after submission of a claim in compliance with this Act.      A claim shall bear interest at the rate determined in terms of section 80(1)(b) of the Public Finance Management Act, 1999, (Act No. 1 of 1999), from expiry of [180] 120 days after submission of a claim in compliance with this Act.

(4)          If the Administrator rejects a claim, the claimant must be informed in writing of the decision and of the claimant’s right to appeal against the decision of the Administrator. If the Administrator rejects a claim, the claimant must be informed in writing within 14 days of the decision and of the claimant’s right to appeal against the decision of the Administrator.

**CHAPTER 8**

**DISPUTE RESOLUTION**

**Appeals**

49.          (4)          The appeal body must determine the appeal within 180 days after the lodgement of the appeal and inform the appellant of the outcome in writing.

**CHAPTER 9**

**GENERAL PROVISIONS**

**Accident report by drivers and owners**

50.          The driver of a vehicle involved in a road accident and, if the driver is not the owner of the vehicle, the owner of the vehicle also, must provide the Administrator with the details of the road accident within 30 days from the date of the road accident, alternatively within 30 days of being in a position to so comply, in the manner set out in the rules.

**Liability for administrative decision-making**

52.          The Administrator or any official employed by the Administrator shall not be liable in respect of anything done or omitted to be done in the exercise of any power or performance of any duty conferred or imposed by or under this Act, unless intentional wrongdoing is proved.