**DRAFT COIDA BILL COMMITTEE DELIBERATIONS – CLAUSE 43 (4)**

1. Chairperson, the draft bill introduced by the Minister has been indeed an eye opener to the functions of the Compensation Fund, particularly the much-contested Clause 43 that sought to ban the practice of pre-funding.
2. Much has been said by both the Department, the Commissioner and almost all public submissions, both written and oral on Clause 43 (4). We must welcome the fact that in the last meeting when the Department responded to oral submissions the Department and the Minister said they had listened and heard the stakeholders’ submissions. Accordingly they agreed not to proceed with Clause 43(4) of the Bill as is but proposed amendment that seems to bridge the gap between Department and pre-funders.
3. The issue facing this Committee, Chairperson, is how the Compensation Fund will regulate these Third Parties given their shortcomings as presented by AGSA. It is therefore important to ensure that the new proposed regulation regime for Third Parties benefits the employee directly and that the Compensation Fund does not take advantage of such regime to indirectly ban or frustrate Third Parties to hide their incompetence. It is crucial that the proposed regulatory regime enables the worker injured on duty to receive timely and appropriate medical treatment at either public or private facilities without the current squabbling between Third Parties and the Compensation Fund.
4. Based on the public submissions and the Department’s proposed amendment, I propose that the Committee accepts the Department’s compromise proposal. To ensure employees who are injured on duty remain the main beneficiary of Third Parties services, I move that the following key elements be captured in the proposed Clause 43(4) of the Bill which seeks to add Section 73(4) of the Act to enable the Minister to issue regulations. As a minimum new Section 73(4) of the Act should contain the following:
   1. A clear definition of Third Parties, capturing all third parties who work with the Compensation Fund assisting either employee, employer, medical service provider, pensioner, etc.
   2. All Third Parties who wish to continue providing services to stakeholders of the Compensation Fund will be required to register with Compensation Fund.
   3. Existing Third Parties will be given a reasonable grace period to meet new registration requirements.
   4. Registered Third Parties would need to demonstrate capacity (by way of experience, qualification, financial soundness, systems and processes, BEE, compliance, etc) to provide quality and ethical service.
   5. Registered Third Parties must display their Registration Certificate prominently.
   6. If registration denied, then written reasons for refusal to be provided to the Applicant.
   7. Such regulations to meet full public participation including this Committee before the Minister issues them in a Gazette.
   8. To alleviate additional administration burden to the Compensation Fund, registration certificate should be renewed say every 3-5 years.
5. This is to ensure that there is adequate guidance in the main Act and that the process to make the regulations is transparent, consultative and meets the objective of the Act – to improve the experience of the injured worker who is the main stakeholder of the Compensation Fund.
6. Chairperson, furthermore, I want to move that the Bill must have a transition provision with clear timelines to ensure that the challenges raised regarding payment of claims by the Commission are addressed as soon as possible. But also, it will give those who made public submissions more certainty in terms of what is expected. In this way, we don’t find ourselves tomorrow with a legislation that has created a vacuum.
7. The Committee secretary and Parliament Legal Office must assist us to capture these amendments in a manner that meets drafting standard chairperson.