



**TRANSPORT MINISTRY
REPUBLIC OF SOUTH AFRICA**

**SPEAKING NOTES FOR THE MINISTER OF TRANSPORT,
MR FIKILE MBALULA, ON THE OCCASION OF A BRIEFING
TO THE STANDING COMMITTEE ON PUBLIC ACCOUNTS
(SCOPA) ON THE REVIEW OF 2019/2020 FINANCIAL
STATEMENTS, DEVIATIONS, EXPANSIONS, DEVIATIONS,
EXPANSIION, IRREGULAR, FRUITLESS AND WASTEFUL
EXPENDITURE REPORTS OF THE ROAD ACCIDENT FUND
(RAF) ON 17 AUGUST 2021 AT 09H30**

Honourable Chairperson, Mr Mkhuleko Hlengwa

Deputy Minister, Sindisiwe Chikunga

Members of SCOPA

Director-General, Mr Alec Moemi

Chairperson of the Board of the Road Accident Fund, Ms
Thembelihle Msibi

Chief Executive Officer of the RAF, Mr Collins Letsoalo

The Road Accident Fund has operated on a financially unsustainable model for a number of decades. In recent years, the fund has also experienced liquidity challenges as claims against the fund has outpaced the growth in the RAF levy.

The current system is inequitable as the payment of damages, loss of earnings and general damages per individual are assessed in relation to the persons earning capacity and potential earning capabilities is disproportionate to those that are deemed to have or be able to reach that earning capacity.

When we appointed the current Board towards the end of the 2019/20 financial year, we concluded a Shareholder Compact that outlined key priorities. These included reduction of legal costs, revisions to the operational model, implementation of an integrated claims assessment system and strengthening of the Supply Chain Management system.

For the longest time, there has not been a nexus between the fuel levy and the number of accidents that occur on public roads. However, to exacerbate this challenge is the ever-increasing administrative costs of the RAF scheme.

Of the revenue collected, approximately R17 billion (40%) of this goes to administrative costs, with only R26 billion (60%) received by claimants. Currently, the RAF's biggest cost driver is the number of road accidents that occur on public roads daily.

As at 31 March 2020 the RAF had accumulated an annual deficit of R5.3 billion and also had claims to the value of R14 billion that had been finalised, but could not be paid due to the financial cash flow challenges. Claimants had to wait on average 1 475 days for their claims to be settled. The average value of a claim also increased by 21%, from R 114 008 to R138 010.

Claims against the fund have increased at an average annual rate of 8.4 per cent, from R61.3 billion in 2017/2018 to R78.2 billion in 2020/2021, and are expected to increase to R102.9 billion by 2023/2024. As a result, the accumulated deficit is expected to increase to R518.7 billion in 2023/2024.

The other biggest cost drivers for the RAF are legal fees that the entity has to settle, both in terms of its own legal cost and those of the claimants.

Of the R43 billion fuel levy received, R10.6 billion goes towards legal costs. In the R 26 billion paid, there is a further “success fee” to the plaintiff attorneys as part of the contingency fees agreement entered into between the claimants and their legal representatives. In some instances, operations within the RAF are suspended due to the Attorneys attaching some of the RAFs assets.

Provision of medical attention is also a problem due to lack of harmonization and standardization of medical attention rendered to road accidents victims. In some cases victims approach specialist for injuries that do not warrant those types of services and should be dealt with in accordance with a structured medical assessment rates.

There is also a need to deal with monies spent on providing for medical attention to victims of car crashes. We have identified the need to prescribe set and standardised medical tariffs that victims of accidents submit to the fund as a result of motor vehicle accidents.

Inefficiencies in the claims administration process is attributed to disputes being declared by both the plaintiff and the RAF attorneys solely to drag and prolong the settlement of the claim. The tactic has the effect of the legal cost being incurred even when it was not necessary to incur those costs.

Where these legal costs are incurred, there is very little value added as more than 90% of these claims are settled at the “door step” of the court. This is as a result of an out of court settlement that would have been reached.

However, the attorney's fees for the work done are expected to be paid by the Fund. For the past 5 years an average of less than 5% of the RAF legal matters have ended up in front of a judge, whilst constituting more than 80% of the civil trial court rolls.

The lack of early investigations and settlement of claims has also resulted in the Fund receiving an average of just over 4 353 summonses per month, of which some of them may be fraudulent claims.

Bringing the RAF back to financial stability will require both a regulatory overhaul and operational improvement. Due to the liquidity challenges the RAF has experienced attachments of its bank accounts and moveable assets through the writs of execution. This has led to the RAF having half of its monthly levy income also attached.

The need for asset and liability matching where the RAF pays in instalments or periodically, rather than in lump sums cannot be overemphasised. As the RAF received its levy monthly and has no assets, this will assist the RAF to build reserves and build an asset base to match future liabilities.

In addition to the operational challenges, the RAF operated for the most part of the 2019/20 financial year with an interim Board and an Acting Chief Executive Officer.

Following the appointment of a permanent board and CEO, the RAF has since embarked on a new 2020-2025 strategic plan, which is a complete departure from the previous strategy.

One of the devastating effects of the litigation strategy was the constant writs of execution which the RAF was subjected to, by the plaintiff attorneys and the Sheriff. This was highly disruptive and threatened to shut down the operations of the Fund. In October 2019, the RAF had 1 688 bank attachments to the value of just over R 1 billion. This resulted in a high number of duplicate payments.

The current RAF Board and Management have since brought the writs of execution risk under control. This was achieved by changing the payment strategy and prioritizing older claims. The RAF also took an unprecedented step of approaching the courts seeking an order to suspend, for a period of 180 days, the execution of writs of execution issued against the Fund, pursuant to court orders.

The result has been an improved liquidity position for the Fund, recovery of over R400 million in duplicate payments and just over 100 plaintiff firms were reported to the Legal Practice Council.

During the period under review, the RAF achieved a performance of 57% against its annual performance plan. Although this was a drop in performance compared with the previous year, this coincided with the change in strategic focus by the new board and management.

The RAF obtained a clean audit outcome from the Auditor-General for the 2019/20 Financial Year. This is an improvement from three consecutive years of unqualified audit outcomes. The RAF has further strengthened internal control measures to prevent instances of fruitless, wasteful and irregular expenditure.

The Chairperson of the Board, Ms Thembelihle Msibi, will lead the detailed RAF presentation.

I thank you.