Wim Loots Actuarial Consulting

c |+27 84 631 0005
e |wim@wlac.co.za
w |www.wlac.co.za

Actuarial Recalculations

Newsletter:
September/ October 2015

Introduction

Actuarial reports for delictual and maintenance claims often require revisions after the initial calculations were performed. This newsletter considers the various circumstances under which actuarial recalculations are required or recommended.

Recalculations can be required for a variety of reasons. Many of the reasons are obvious, but some of the reasons may not be immediately evident to practitioners. Some of the main reasons for recalculations include the following:

- The calculation is out of date.
- New judgments may impact on the calculation methodology.
- Changes in the financial environment.
- New or updated information becomes available.
- Contingency or remarriage deductions are to be applied.

Each of the above reasons is discussed in more detail in the rest of this newsletter.

Calculation is out of date

An actuarial calculation will typically be performed at an effective date that is either a month or two after the date the instruction is received. The loss from the date of accident to the calculation date is referred to as the past loss, and the loss from date of calculation up to date of retirement (or sometimes for the remainder of life) is referred to as the future loss.

Where a claim is not settled a number of months after the effective date of the original calculation, an updated calculation at a current date is often desirable. The following example illustrates the impact on quantum of an updated actuarial calculation, where the update is performed between 1 month and 2 years after the original calculation date.

Recalculation example: Loss of income

Accident date:	**January 2012**
Age at accident:	**30**
Earnings- Uninjured:	**R100 000 pa**
Earnings- Injured:	**Unemployable**
Expected retirement age:	**65**

c |+27 84 631 0005
e |wim@wlac.co.za
w |www.wlac.co.za

The following table illustrates the impact on the recalculated quantum, assuming the first calculation was performed at an effective date of **1 July 2013**.

Calculation date	Past loss (R)	Future loss (R)	Total loss (R)	Increase in loss (R)*	Increase in loss (%)*
01/07/2013	143,000	1,971,000	2,114,000	n/a	n/a
01/08/2013 (+1 month)	151,000	1,986,000	2,137,000	23,000	1.1%
01/10/2013 (+3 months)	168,000	1,992,000	2,160,000	46,000	2.2%
01/01/2014 (+6 months)	193,000	1,991,000	2,184,000	70,000	3.3%
01/07/2014 (+1 year)	245,000	2,054,000	2,298,000	184,000	8.7%
01/07/2015 (+2 years)	351,000	2,102,000	2,453,000	339,000	16.1%

*The increase is specified in relation to the original results calculated at 01/07/2013.

The table above illustrates that the quantum increases as the calculation date is updated. Furthermore, the longer the period between updates, the greater the increase in quantum. The reasons for this are twofold:

- The past period increases in duration and now includes more payments. The past loss therefore increases in value.
- The future loss also increases even though the future period decreases in duration. Although the future period now includes fewer payments, this is outweighed by the fact that these payments are on average nearer to the calculation date. The impact of actuarial discounting on the future payments is therefore reduced. For example, payments that are on average 5 years in the future have a higher current value than payments that are on average 7 years in the future.

A reasonable benchmark is to update a calculation once the original calculation is 6 months old or more. From the table above, it can be seen that it may even be sensible to update a calculation earlier, particularly if the claim is large.

It must be noted that the above table is based on a specific example and the above pattern may not be relevant for all calculations. As long as the future period is a reasonable length of time, say 10 years or more, the above table may be indicative. Exceptions to the above might include calculations where the following apply:

- The past period is much longer than the future period.
- The future period is relatively short e.g. when the claimant is close to retirement, or children with only a few years left to independence.
- Some large claims against the Road Accident Fund may not be impacted by a change in calculation date, due to the impact of capping.

Wim Loots
Actuarial Consulting

c |+27 84 631 0005
e |wim@wlac.co.za
w |www.wlac.co.za

New judgments

Occasionally a judgment is passed that impacts on an aspect of the actuarial calculation methodology. Any cases that have not yet been finalised, and have been calculated using the outdated methodology, should be considered for recalculation. Some examples include the following:

Coughlan N.O. v Road Accident Fund 2015 (CC):

The recent *Coughlan* ruling concluded that Foster Care and Child Support Grants should not be taken into account in the assessment of loss of support claims following the death of a breadwinner. Recalculations may therefore be required in respect of calculations performed prior to this ruling. Prior to the judgment, the value of the Child Support Grant was typically deducted from the calculated loss (and for a period the Foster Care Grant as well). If the grants were already in payment prior to the date of death, the actuarial calculations may have taken these grants into account as family income. The general agreement is that Foster Care and Child Support grants that were already in payment at the date of accident, or that came into payment following the date of accident, must now be excluded for calculation purposes.

Road Accident Fund v Sweatman 2015 (SCA):

The recent *Sweatman* judgment in the Supreme Court, confirmed the method to be applied for capping of Road Accident Fund claims with accident dates on or after 1 August 2008. More details on the methodology, specifically comparing the *Sweatman* and *Jonosky* methods (including some complications) can be found in a prior newsletter. Calculations that have previously been based on a non-*Sweatman* method need to be recalculated.

Paixão v Road Accident Fund 2012 (SCA):

The *Paixão* judgment determined that a claim for loss of support may extend to a partner that was in a permanent heterosexual relationship with the Deceased prior to the death. Where such a partner was previously excluded, a recalculation may be required.

Road Accident Fund v Monani and Another 2009 (SCA):

The *Monani* ruling applies to the scenario where a child passed away with the breadwinner in the same accident. It was determined that the claim for the surviving dependants should be calculated by ignoring the deceased child altogether. Prior to the ruling the general methodology was to make an allowance for the child (who would have benefited from support but for the accident).

c |+27 84 631 0005
e |wim@wlac.co.za
w |www.wlac.co.za

***Mvumvu and Others v Minister of Transport and Another 2011 (CC)*:**

In the *Mvumvu* judgment, the R25 000 limit that applied to Claimants injured in public transport vehicles was successfully overturned. These claims had to be recalculated in terms of the Road Accident Fund (Transitional Provisions) Act 15 of 2012.

Changes in the financial environment

A number of changes in the financial or fiscal environment may call for an updated actuarial calculation. This could impact on a variety of factors underlying the actuarial calculations such as taxation, inflation, salaries etc. Some examples include the following:

- Changes in taxation, which could include the following:
    - Income tax brackets and tax rates are adjusted in the budget each year. The 2016 tax year saw a 1% tax increase for most tax brackets, which will impact on actuarial calculations.
    - The taxation of fringe benefits can change. An example is the move from tax deductible medical aid contributions to a tax credit (or rebate) on medical aid contributions during the 2013 tax year. In general, the proposed National Health Insurance system that will be phased in over a number of years, could have implications for actuarial calculations.
    - From March 2015, insured disability benefits are no longer taxed in the hands of the recipient but tax relief is no longer available on the corresponding premiums.
    - Taxation of pension benefits can change from time to time. This could relate to the relief on pension contributions, or the tax rates applicable to withdrawal benefits and retirement lump sums. In general, a significant overhaul of the retirement provision system is underway and will in future impact on actuarial calculations.
    - Changes in the Value Added Tax rate can impact on the expenses capitalised for maintenance or medical negligence calculations.
- Wage negotiations or minimum wage adjustments could impact on calculations:
    - Many industries (e.g. security guards, domestic workers etc.) are impacted by minimum wage legislation. Changes in the minimum wage rates could have an impact on calculations, in particular if the change is not in line with assumed inflation.
    - Government employees, miners etc. are all groups that are impacted by annual wage negotiations. For instance, recent wage negotiations for government employees resulted in a 7% increase in basic salary, an increase in the housing allowance which has been stable for a number of years, as well as a sizeable increase in the medical aid subsidy.

New or updated information

A variety of circumstances can lead to further information becoming available, after initial calculations have been performed. A few examples include the following:

- Joint minutes between experts become available.
- The Claimant's circumstances change or become clearer with time (e.g. for loss of income claims). This could include a change in post-accident earnings or employment, greater clarity on post-accident earnings potential or an improvement/deterioration in life expectancy (particularly of importance for some medical negligence cases).
- Dependant's circumstances change or more dependants come to light (e.g. loss of earnings or maintenance claims). Further examples include a spouse that remarries, that experiences a change in employment (including retrenchment) or passes away.
- Information on deductible collateral benefits may become available after the initial calculation. This could include Workmens' Compensation benefits, State Welfare benefits, accelerated benefits as a result of inheritance etc.

Contingency or remarriage deductions

Initial actuarial calculations are often prepared without applying contingency or remarriage deductions, which are left for negotiations or Court decision. Once the appropriate contingency and/or remarriage deductions have been established, these can usually be applied directly by practitioners without the need for a recalculation. One exception is for claims against the Road Accident Fund where capping is applicable. For such cases, contingency and/or remarriage deductions must be applied before the cap is applied, and therefore their application becomes an integral part of the actuarial calculations. It is recommended that recalculations be requested for such cases.

Wim Loots
Actuarial Consulting

c |+27 84 631 0005
e |wim@wlac.co.za
w |www.wlac.co.za