

COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT (COIDA)



INTRODUCTION

The Compensation for Occupational Injuries and Diseases Act (COIDA) established a compensation fund, under the control of the Director-General of the Department of Employment and Labour. In practice, the Director-General delegates his or her functions to the Compensation Commissioner. Any compensation claimed for occupational injuries or diseases that an employee might have had against an employer is replaced by insurance coverage, in order to guarantee reasonable remuneration or income for employees who have suffered a workplace injury or occupational disease. COIDA provides for coverage on a no-fault basis, meaning that the employee (or his or her dependant) will be compensated regardless, of whether the employer was at fault in causing the injury or disease. Employers are expected to register and pay assessments to the Compensation Fund. The unique, risky nature of the mining industry has resulted in a separate compensation system being developed. The Occupational Diseases in Mines and Works Act (ODMWA), 1973 covers lung diseases that have been deemed to have been contracted while a worker was performing "risk work" in the mines.

OVERVIEW

COIDA explains a range of matters, including:

- Who must contribute to the Compensation Fund.
- The amount of the contribution;
- Who is covered by the Fund.
- The type of injuries and diseases covered by the Fund.
- The extent of compensation to be paid.
- Procedures for compensation claims.

Employees are prevented from suing their employers for damages suffered as a result of an occupational accident or disease – they must claim from the Compensation Fund. Employees who are employed by labour brokers are, however, not prevented from suing the clients of the labour brokers if they are able to prove negligence. COIDA defines an "accident" to mean "an accident arising out of and in the course of an employee's employment and resulting in a personal injury, illness or the death of the employee".

COVERAGE

COIDA provides extensive coverage to most employees, including casual employees, domestic workers, labour broker employees and, in the case

of a deceased employee, his / her dependants. Independent contractors and self-employed workers are, however, excluded.

BENEFITS

Compensation Fund benefits are paid to three categories of claimants:

- employees who suffer a temporary disability (maximum period of 24 months);
- employees who are permanently disabled (a lump sum is paid if the percentage disability is 30% or less; otherwise a regular (pension payment) is made); and
- the dependants of employees who die as a result of injuries sustained in work-related accidents or as a result of an occupational disease.

Reasonable medical aid expenses arising out of an injury on duty are payable for a period of two years, or longer if further medical treatment will reduce the extent of the disablement.

DUTIES OF EMPLOYERS

COIDA places extensive obligations upon all employers in South Africa. These include:

- registration with the Commissioner;
- submitting annual wage returns;
- paying assessments; and
- reporting all accidents and occupational diseases to the Commissioner.

Employers must pay employees who are temporarily disabled their compensation for the first three months of absence from work (which will be reimbursed by the Fund).

The failure to perform any of these functions is a criminal offence and extensive penalties may be imposed in cases of non-compliance.

OCCUPATIONAL DISEASES

There is great difficulty in proving that an employee contracted a disease as a result of the type of work he or she was performing or from working in a particular workplace. Schedule 3 of COIDA lists the most common occupational diseases to address this issue. Employees who contract unlisted work-related diseases are required to prove that the disease is

related to their work in order to receive compensation. The calculation of compensation for a disease may be based on earnings at the time of the commencement (i.e. the diagnosis date) of the disease.

PROCEDURE WHEN REPORTING AN OCCUPATIONAL INJURY (ACCIDENT)

If an employee believes that he or she has been injured in the workplace or as a result of a working condition, a claim can be filed with the Compensation Commissioner who will evaluate the claim against a schedule of common workplace injuries and diseases. An employee must provide some documentation from approved medical practitioners to support his or her claim.

Various W.C.I. referral forms need to be completed and submitted to the Compensation Commissioner, depending upon whether the employee has experienced an occupational injury or disease.

If the claim proves successful, the employer is liable for the payment of compensation for the first three months from the date of the occupational injury.

FURTHER INFORMATION

For further information, please contact the Compensation Commissioner at:

Tel: 086 010 5350

Fax: (012) 326 1570 or (012) 357 1772

Compensation House

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PO Box 955 Pretoria, 0001

E-mail: cf-info@labour.gov.za

Website: <http://www.labour.gov.za>

RELEVANT LEGISLATION

- Compensation for Occupational Injuries and Disease Act 30 of 1993, as amended
- Occupational Diseases in Mines and Works Act 78 of 1973, as amended
- Basic Conditions of Employment Act 75 of 1997, as amended
- The Code of Good Practice: Dismissal