

THE GUIDELINES ON ODMWA

The Medical Bureau for Occupational Diseases hereafter referred to as MBOD, and the Occupational Diseases in Mines Act No 78 of 1973 as amended, hereafter referred to as ODMWA

- A. WHAT IS THE MEDICAL BUREAU FOR OCCUPATIONAL DISEASES?
It is a statutory body established in terms of Occupational Diseases in Mines and Works Act, administered by the Minister of Health. Performance of the MBOD is under the supervision of the Director.
- B. WHAT IS ODMWA?
It is an Act that governs the lifelong monitoring and surveillance of former miners and evaluation of both former and active miners for possible compensable occupational lung disease. The surveillance of an active miner is the responsibility of the employer as stipulated under the Mine Health and Safety Act, which came in effect in 1997.
- NB. The Minister of Health is responsible for the ODMWA
- C. WHO DOES THIS ACT COVER?
All the employees who are or were exposed to risk, while working in the mines or classified works.
- D. WHAT IS RISK WORK?
Underground working environment, and some works on surface, for an example, reduction plant, assay labs etc. All Asbestos mines are classified as risk work.
- E. WHAT ARE OCCUPATIONAL LUNG DISEASES?
 - 1. PNEUMOCONIOSIS (Silicosis, Asbestos, Coal workers Pneumoconiosis) is diagnosed only on chest X-rays.
 - 2. TUBERCULOSIS (contracted during service or within 12 months of last risk shift) this is diagnosed on chest X-rays, sputum, histology or any other documentation that the examining doctor can provide to the committee.
 - 3. JOINT PNEUMOCONIOSIS AND PULMONARY TUBERCULOSIS (is diagnosed as in 1 and 2)
 - 4. PERMANENT OBSTRUCTIVE AIRWAYS DISEASES (The person must have been exposed to high dust for more than 10 years and the last risk shift must not be longer than 10 years ago) is diagnosed on Lung Function test, chest X-rays and clinical examination.
 - 5. PLATINUM SENSITIVITY is confirmed by Skin Prick test and/ or Lung Function test.
 - 6. PROGRESSIVE SYSTEMIC SCLEROSIS is confirmed on clinical examination and specific tests.
 - 7. ASBESTOS RELATED LUNG CANCER OR MESOTHELIOMA is confirmed on histology.

F. WHAT DISEASES ARE NOT COMPENSABLE UNDER THE OCCUPATIONAL DISEASES IN MINES AND WORKS ACT?

Any other mine related injuries, e.g.

- i. Loss of hearing due to machine drilling. For this, please contact the employer if still existing, TEBA (011) 353-6058 or Rand Mutual Assurance Company at (011) 493-4300
- ii. Amputated limbs, blindness etc.
- iii. Medical conditions contracted during employment, e.g. pneumonia, hypertension, cardiac failure etc, even though these diseases resulted in miner being retrenched due to ill health.

G. NECESSARY INFORMATION FOR EVALUATION OF OCCUPATIONAL LUNG DISEASE?

- i. Labour history indicating where the person worked (see the definition of compensable disease), for how long, and the last time he/she worked.
- ii. Clinical history (what the person is complaining of) and physical history.
- iii. A 43x35 chest X-ray.
- iv. Lung Function Tests where indicated. In case of Obstructive Airways Diseases, see E.4 above for indication of Lung Function test, for others there should be clinical inspection.
- v. Sputum results if Pulmonary Tuberculosis is suspected.
- vi. Previous certifications by MBOD. This is important in order to avoid double payment by the Compensation Commissioner. Therefore providing this information reduces delays in processing compensation.
- vii. Skin Prick Test to confirm Platinum Salt Sensitivity and biopsy for diseases like Lung Cancers.
- viii. Histology of cardio respiratory organs (heart/lung) for deceased ex-mine workers. The organs are removed with the consent of the deceased's family, and are sent to the NIOH (011) 712 6465 or for procedural information to the MBOD at (011) 403-6322.

NB. A DEATH CERTIFICATE ONLY, IS NOT CONSIDERED MEDICAL INFORMATION THAT CAN ASSIST IN CERTIFICATION OF THE DECEASED. THE CERTIFICATION COMMITTEE CANNOT CERTIFY ANYBODY ON THE BASIS OF A DEATH CERTIFICATE.

H. WHO IS RESPONSIBLE FOR CERTIFYING MINEWORKERS FOR COMPENSABLE OCCUPATIONAL LUNG DISEASES AS DEFINED BY ODMWA?

- a) The Certification Committee convening at the MBOD. This is a tripartite committee approved by the Minister of Health. It comprises medical doctors representing:
 - i. Department of Health
 - ii. Organised Labour
 - iii. Employer organisations

iv. Nominations are sent to the Minister of Health for approval. The Chairperson of the committee is the Director of MBOD or her/his alternatives. A quorum of 3 members excluding the Chairperson to convene the certification committee is a prerequisite.

b) The Reviewing Authority (RA)

It comprises medical doctors representing employers and organised labour. This committee handles appeals on behalf of all the active and former miners. The committee can either confirm the finding of the Certification Committee or refer to the Joint Committee, for upgrading.

c). Joint meeting of the certification committee and the reviewing authority.

The Chairman of the certification committee (CC) convenes a joint meeting of the CC and RA to vote on any matter relating to the finding of the RA if it differs from that of the CC.

I. WHAT ARE THE DEGREES OF CERTIFIABLE OCCUPATIONAL LUNG DISEASES?

1. No Compensable Lung Diseases (NCD) is assessed as less than 10% cardio respiratory disability. A miner has to undergo benefit medical examinations every 2 years until death or till awarded maximum compensation.
2. First Degree: is defined as 10-40% cardio respiratory disability.
3. Second Degree: is of more than 40% disability. Maximum compensation is paid and the individual falls out of the surveillance system, and may not be exposed to high dust levels underground.

CERTIFICATION	PERCENTAGE OF DISABILITY	COMPENSATION	CONTINUOUS MONITORING
NCD (No Compensable Diseases)	10%	No	Every 2 years or when deterioration is picked up by his his/her medical doctor. NB. Monitoring is until death or second degree
First Degree	10-40%	Yes	Until death or second-degree
Second Degree	40%	Yes	No further monitoring by the MBOD. The person gets monitored through public health services. If diagnosed at the time of leaving the employer, the employer pays for the medical expenses for the first two (2) years

TABLE SHOWING WHAT CERTIFICATION CAN MEAN

NB. Only first and second-degree Occupational Lung diseases get compensated.

J. TUBERCULOSIS

TB is only compensable if there was a loss of earnings by the sufferer during treatment, or if it healed with complications that lead to moderate and severe impairment of lung functions and scarring of the lungs. Miners would then be certified as with first or second degree disability. Clinical history, examination, lung function tests and chest radiograph appearance confirm the disability after 12 months of completing treatment.

K. WHAT SHOULD BE DONE WHEN THE EX-MINER IS DECEASED?

A post mortem has to be done and the lungs and heart sent to NIOH, contact telephone number (011) 712 6465. Refer to section G (viii) for what is needed. If a person was certified second degree (maximum), there is no need to submit his heart and lungs as there will be no further assessment or payments, see section I (3).

L. WHO DOES BENEFIT MEDICAL EXAMINATIONS? (BME)

- a) Within the MBOD the medical unit is responsible for BME.
- b) In the Provinces
Designated Provincial Public Hospital, for more information, on hospitals that provide BME in the contact the MBOD. Contact number 011403 6322 request for enquiries unit.
- c) General Practitioners in areas with inaccessible services.
This will ultimately be phased out when there is sufficient capacity within public health facilities. The General Practitioners will only be reimbursed if their patients are confirmed to have compensable occupational lung diseases, and not as part of the programme of Occupational Public Health surveillance. The MBOD offers training to the provinces.

M. WHY SOME PEOPLE DO NOT DEVELOP AN OCCUPATIONAL LUNG DISEASE EVEN WHEN THEY ARE EXPOSED?

People respond differently to various causes of diseases. It is not something that can be answered simply as in arithmetic where $1+1=2$. Exposure to the mining dust does not always equal development of Occupational Lung Diseases.

N. HOW CAN A PERSON REMAIN FIRST DEGREE WITH SUCH A LONG SERVICE?

Progression of the diseases is also not determined by the MBOD, but by that person's response to inhaled dust. Some people with many years of exposure live their lives without developing Occupational Lung Diseases, and some remain in first degree. Some with a short exposure develop severe disease.

O. ENVIRONMENTAL EXPOSURE TO ASBESTOS

The MBOD deals only with occupational lung diseases. There is currently no compensation to environmental exposure to asbestos. However, there was an Asbestosis summit where environmental asbestos was discussed. There are as yet no conclusions from the Summit. This section may actually fall away in future when this has been resolved.

P. WHO PAYS FOR BENEFIT MEDICAL EXAMINATIONS?

The Dept of Health pays for these examinations in case of former mine workers. The MBOD gets appropriate monies annually from the Department of Health to perform this function. The Mine Health and Safety Act, which tasks the employer to perform this function, cover the active miner.

Q. COMPENSATION UNDER ODMWA

i. WHO IS RESPONSIBLE FOR THE COMPENSATION OF OCCUPATIONAL LUNG DISEASES UNDER ODMWA?

The office of the Compensation Commissioner carries out the compensation function for Occupational Diseases hereafter referred to as CCOD. This office reports to the Chief Finance Officer of the department of health.

ii. WHO QUALIFIES FOR COMPENSATION?

Only active and former mine workers who have contracted occupational lung diseases as a result of exposure to risk work while working in the mines and works, and have been certified by the MBOD to have a compensable Occupational Lung Diseases.

iii. WHERE DOES THE MONEY FOR COMPENSATION COMES FROM?

Mines and Works contribute monthly levies to the compensation fund, which is administered and controlled by the Compensation Commissioner. The compensation fund is divided into the Mines, Works and State Accounts. Mines and Works are funding the Mines and Works Accounts respectively, whilst the State Account is funded by the taxpayer monies appropriated by Parliament. The State Account covers compensation for active and former mine workers who worked at the mines that did not pay levies or which ceased operations before October 1973.

iv. WHICH DOCUMENTS DOES THE COMPENSATION COMMISSIONER REQUIRE BEFORE COMPENSATION IS PAID?

After the CCOD has received a certificate of finding from the MBOD indicating that a person has contracted a compensable lung disease. The following documents are requested by the CCOD from the applicant"

A) Completed application form GW24/78 in respect of a person certified as having Tuberculosis, refer to E.2

B) Completed application form GW24/80 in respect of a person certified in the First or Second degree.

A verification of mining service history, where necessary.

A certified copy of the applicant's identity document.

A set of the certified person's fingerprints where necessary on form GW24/17.

A salary advice in respect of the month of certificate/examination for a person certified in the first or second degree, to help with the calculation of compensation.

Banking details in order for the possible benefit to be deposited into the applicant's banking account.

v. HOW LONG DOES IT TAKE FOR COMPENSATION TO BE PAID OUT?

On receipt of all the necessary documents required by the CCOD, the payment is processed and effected within 4 weeks.

vi. WHAT HAPPENS IF A CERTIFIED PERSON DIES BEFORE COMPENSATION IS PAID OUT?

Compensation is paid out to the legal widow/er. If there is no legal widow/er, compensation is paid out to the dependants/children under the age of 18 years.

vii. HOW IS COMPENSATION CALCULATED?

For a person certified in the first or second degree, compensation is based on the salary in accordance with a formula predetermined in ODMWA. The minimum and maximum payment has been increased to R8 050.00 and R80 510.00 respectively with effect from 1 November 1998. For a person certified as suffering from tuberculosis, compensation is in

the form of reimbursement for loss of earnings incurred by the applicant during the period of TB treatment, which is 75% of the loss of earnings.

viii. WHAT HAPPENS IF A FORMER MINeworker DOES NOT HAVE PROOF OF MINING SERVICE AS A RESULT OF MINE EMPLOYERS WHO HAVE CLOSED DOWN OR VANISHED?

Applications of former mine workers without proof of mining service were previously accommodated between 1996-1998. MBOD and CCOD interviewed applicants on their mining service history and on the basis of their interview, compensation was paid out. Due to high level of corruption and exploitation by third parties, which was uncovered, the interviewing system has been discontinued. This necessitated the CCOD to involve stakeholders including other Provincial Government Departments to assist in the elimination of fraud.

The former mineworker is also responsible to provide all necessary honest information that will enable all departments (MBOD, CCOD and Provincial Health Departments) to assess compensation. The CCOD has made provision for former mineworkers mining services to be confirmed by TEBA in respect of closed gold mines, collieries and little platinum mines. On the other hand African Chrysotile Asbestos Mine (ACA) and GEFCO are confirming the mining services of closed Asbestos mines.

The CCOD also accepts documentation by applicants who are still in possession of their old reference books with mine employment endorsements as proof of mining service. In addition, any other original mine documents reflecting the particulars of an applicant are considered e.g. congratulation letters, certificates, dismissal letter, etc.

ix. WHY ARE FINGERPRINTS NECESSARY?

The fingerprints enable the CCOD to establish whether or not an applicant had previously been compensated. The office is a second quality control to MBOD. Over the years it has been documented that:

People changed their names or had their names misspelt on applying for compensation.

Identity documents were also changed over the years.

Applicants from neighbouring countries had their passport numbers changed upon expiry and re-issue of the old and new passport document respectively.

Applications, which were received completed prior to 1994, are not recorded on the current index card/computer system. As the index card/computer system is unable to identify cases prior 1994, the fingerprints processing system is able identify such cases.

THEREFORE IT IS ONLY THE FINGERPRINTS WHICH CANNOT BE CHANGED.

The other advantage of the fingerprints is that, by processing fingerprints of mine work workers who cannot provide proof of their mining service; their previous files/applicants with valid mining service can also be traced. It also enables the CCOD to pick up persons who may have forgotten that they were previously compensated. This can also result in the certification being upgraded to the second-degree.

x. CAN A PERSON BE COMPENSATED TWICE FOR THE SAME COMPENSABLE DISEASES?

If a person is currently first degree and was previously compensated for the first degree, he/she does not qualify for another compensation. When a person is certified second degree and was previously compensated for the first degree, he/she is entitled to further compensation. It should be noted that the compensation of second degree is the maximum

compensation and no further compensation is payable by CCOD. It is therefore not necessary to send through cardio respiratory organs of a deceased miner who has been compensated in the second degree during life.

- xi. IS THERE A TIME FRAME FOR LODGING COMPENSATION CLAIM?
All former miners who were exposed to risk work, are still alive, have never been compensated in the second degree and are found to have a compensable diseases by MBOD, shall be compensated after iv has been satisfied.
- xii. WHAT HAPPENED TO PEOPLE COMPENSATED PRIOR TO 1994?
Compensation, which was paid to a person prior to 1994, was determined and reviewed by Parliament.
If a person was certified with 2nd degree disability due to pneumoconiosis and TB (PN+TB), a compensation of R5 626.00 was awarded.
If a person who was certified with 2nd degree disability prior to 1994, and is certified second degree after 1994, he is not entitled to further compensation.
If they were equivalent to what is currently known as first degree?
Those who were equivalent to first degree prior to 1994, and are still first degree, are compensated, only if they progress to 2nd degree disability.
- xiii. BESIDES THE PAYMENT OF A ONE-SUM BENEFIT COMPENSATION, IS THERE ANY OTHER BENEFITS UNDER THE COMPENSATION SYSTEM OF ODMWA?
MEDICAL SURVEILLANCE
If a mineworker is still employed at the time he is certified to have an Occupational Lung Diseases, the employer is required to pay medical costs incurred for the treatment of the disease for a period of not more than two years. If further medical aid is required, the CCOD may assist with the payment of medical cost.
- xiv. ARE MINEWORKERS REPRESENTED IN THE COMPENSATION SYSTEM?
Mineworkers are represented in Advisory Committee within the CCOD. In terms of the ODMWA, the Advisory Committee is approved by the minister of Health and consists of:
Six employee representatives nominated by mineworkers
Six employer's representatives nominated by mine-owners
The chairperson of the Committee is the Compensation Commissioner or his/her deputy, employed by the Department of Health.