SCHEDULE A

REGULATIONS ON OCCUPATIONALLY ACQUIRED HIV/AIDS FOR THE COMPENSATION FUND MADE BY THE MINISTER UNDER COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993

1. DEFINITION OF REGULATION

In these regulations, "the regulations" means the regulations relating to HIV/AIDS under Compensation for Occupational Injuries and Diseases Act, 1993; and any word or expression to which a meaning has been assigned in the regulations shall have that meaning unless the context otherwise indicates.

TABLE OF CONTENTS:

1. DEFINITIONS

"AIDS" means Acquired Immune Deficiency Syndrome – a syndrome that results from infection with Human Immunodeficiency Virus;

"Antibodies" means substances produced by cells of human body's immune system in response to foreign substances that have entered the body;

"Confidentiality" means right of a person, or employee to have their medical information, including HIV status, kept private within the multi-disciplinary team;

"Counselling" means confidential dialogue between a client and a trained counsellor aimed at enabling the client to cope with stress and take personal decisions related to an illness, e.g. HIV / AIDS;

"HIV" means Human Immunodeficiency Virus – the name of the virus that weakens the immune system and may leads to AIDS;

"HIV infected source" means an HIV positive person's blood, body fluids or tissue or an object contaminated by HIV positive blood or body fluids that can expose another person to HIV infection;

"Immune system" means a complex system of cells and cell substances that protects the body from infection and disease;

"Informed consent to HIV testing" means the situation whereby the exposed employee has been provided with information, understands it, and based on that he/she agrees to undertake HIV test;

"Maximum medical improvement" mean when the treating medical practitioner considers that no further improvement is anticipated on available medical treatment;

"Occupational exposure" means exposure to blood and other body fluids, which may be infected by HIV during the course of carrying out working duties;

"Opportunistic infections" means infections that occur because a person's immune system is weak that it cannot fight infections;

"Occupationally acquired HIV infection" means an infection contracted as a result of exposure to an HIV infected source in a workplace, resulting in progressive weakening of the immune system of an individual which may lead to AIDS. The HIV infection must have arisen out of and in the course of employment; and

"Post exposure prophylaxis" means the antiretroviral medicine that can reduce the HIV seroconversion risk, which should be taken immediately after the exposure, (no later than 72hours).

2. DIAGNOSIS

The diagnosis of occupationally acquired HIV shall be made by the medical practitioner based on the following:

The diagnosis of occupationally acquired HIV infection must be confirmed by any test that is acceptable according to the Department of Health HIV Guidelines and the South African HIV Clinicians Society. For the purpose of diagnosing occupationally acquired HIV infection at any given time, the following criteria must be met:

(a) An occupational exposure to a known HIV infected source.

(b) Documented (proof of a reported) work – related incident or accident involving a potential HIV infected source.

(c) Laboratory blood test results (baseline HIV, hepatitis B and C and RPR test results) of the

exposed employee done within 72hours of the incident or accident, confirming the absence of HIV antibodies and the absence of HIV antigen/virus (PCR) including viral load.

(d) Confirmation that the source was HIV infected.

(e) Confirmatory laboratory blood test results of the exposed employee confirming HIV infection (seroconversion) at six and or twelve weeks or six months after the date of the work-related incident or accident.

3. IMPAIRMENT

(1) Assessment of impairment shall be determined after maximum medical improvement(MMI) has been reached i.e. when the treating medical practitioner considers that no further improvement is anticipated on available medical treatment.

(2) Permanent functional impairment due to residual and permanent sequelae of an HIV / AIDS related condition(s) shall be assessed according to the system and organ(s) affected.

(3) For functional scale which is consequently a component of the ratings for HIV disease.

(4) The class ratings for some of the processes considered reflect factors that have an impact on the ability of the individual with that disease to perform Activities of Daily Livings (ADLs). No separate functional scale is used for these.

(5) The functional class derived in the below tables.

(6) The latest AMA guides approach exposure to HIV and overt disease using four tables below:

Methodology for Determining the Grade in an Impairment Class

IMPAIRMENT CLASS	CLASS 0	CLASS 1					CLASS 2					CLASS 3					CLASS 4				
SEVERITY GRADE (%)		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
		(A	B	C	D	E)	(A	B	C	D	E)	(A	B	C	D	E)	(A	B	C	D	E)

		↑ Class 1 Default	↑ Class 2 Default	↑ Class 3 Default	↑ Class 4 Default

(a) In order to consistently determine the appropriate impairment grade for a given class, the following procedure is recommended:

(i) Determine the impairment class (IC) first, according to the "key factor" for that particular impairment grid

(ii) Default to the middle ("C") grade position for that IC

(iii) For the first remaining (non-key) factor, determine the most appropriate IC position and record the number difference to the key factor IC

(iv) Repeat step 3 for each remaining (non-key) factor

(v) Summate the IC column differences and add or subtract the final number from the default identified in step 1 to determine the final impairment grade

Table9. 1: Karnofsky Performance Status Scale (KPSS) Definitions Rating (%) Criteria	
100	Normal ; no complaints; no evidence of disease
90	Able to carry on normal activity; minor signs or symptoms of disease.
80	Normal activity with effort; some signs or symptoms of disease
70	Cares for self; unable to carry on normal activity or to do active work
60	Requires occasional assistant; but is able to care for most of his personal needs.
50	Requires considerable assistance and frequent medical care
40	Disabled; requires special care and assistance
30	Severely disabled; hospital admission is indicated, although death not imminent
20	Very sick; hospital admission necessary; active supportive treatment necessary
10	Moribund; fatal processes progressing rapidly
0	Dead

Table 9.2: Eastern Cooperative Oncology group Performance Status Scale (ECOG-PSS)

Class 0(none)	Fully active; able to carry on all predisease performance without restriction (Karnofsky 90% to 100%)
Class 1 (mild)	Restricted in physically strenuous activity but ambulatory and able to carry out work of a light or sedentary nature e.g. Light housework, office work (Karnofsky 70% to 80%)
Class 2 (moderate)	Ambulatory and capable of all self care but unable to carry out any work activities; up and about more than 50% of waking hours (Karnofsky 50% to 60%)
Class 3 (severe)	Capable of only limited self care, confined to bed or chair more than 50% of waking hours (Karnofsky 30% to 40%)
Class 4 (extreme)	Completely disabled; cannot carry out any self care; totally confined to bed or chair (Karnofsky 10% to 20%)

**KPSS is widely used to describe the functional ramification of both oncology disease and AIDS*

(7) In each class there are 5 different possible impairment grades

(8) The median grade is the default rating for initial impairment determination and may be adjusted on either side of the median but only in the same impairment class, based on the non-key factors according to history and physical exam

(9) The general steps for determining impairment class, and grade within class are outlined according to the example in the following table

(10) The differences in clinical implications regarding movement from one class to another are large. The difference in the choices for ratings in class 3 & 4 as opposed to lower classes reflects the difference between having signs and symptoms that are generally controlled by treatment versus those that are uncontrolled by treatment.

Table 9.8: Criteria for Rating Permanent Impairment due to HIV Disease

Class	Class 0	Class 1	Class 2	Class 3	Class 4
Whole person Impairment Rating (%)	0	3% - 15%	18% - 30%	35% - 55%	60% - 80%
Severity Grade (%)		3 6 9 12 15 (A B C D E)	18 21 24 27 30 (A B C D E)	35 40 45 50 55 (A B C D E)	60 65 70 75 80 (A B C D E)
History	Requires no treatment	Requires ARVs Therapy to control signs and symptoms Of disease.	Requires ARVs Therapy and Constant medical therapy to prevent opportunistic infections – history of prior infections.	Requires constant ARVs therapy and chronic suppressive therapy with at least 1 active opportunistic infection.	Requires constant medical therapy and chronic suppressive therapy with at least opportunistic infections and/or opportunistic infections require hospitalization at least once per year.

Objective Findings	CD4 count of > 800 or HIV by polymerase chain reaction (PCR) < 50	CD4 count of 500 to < 800 or HIV by PCR > 50 000	CD4 count of > 200 but < 500	CD4 count of < 200 but > 100	CD4 count of < 100
Functional class	Class 0	Class 1	Class 2	Class 3	Class 4

(11) Initial score based on CD4 count is adjusted to 75% if patient meets a history criterion for class and to 80% if also meets functional criteria. Objective findings are key factors. A key factor driving the impairment class assignment. The other factors determining at what grade (%) the ratings in a particular class.

(12) Impairment % may reflect severity of symptoms, physical and laboratory findings and estimated functional limitation resulting from Hematologic abnormality.

(13) The ratings of all classes, especially class 4, have been decreased as once one moves to higher levels of impairment, there is inevitably involvement of other organ systems or other hematologic process.

NB: These should be identified, rated and combined with the haematology oncology impairment ratings.

Table 9.3: Burden of Treatment Compliance

Intervention	% Impairment
Chronic anticoagulant therapy	5%
Chronic oral corticosteroids (discretionary)	Up to 3%
Chronic other immunosuppressant therapy (discretionary)	Up to 3%
Iron chelation or other systemic therapy	Up to 3%

Chronic oral chemotherapy (discretionary)	Up to 5%
Intravenous chemotherapy: per cycle given over the prior 6 months*	1%
Radiotherapy : per week given over the prior 6 months	1%
Transfusion per unit per month	1%
Phlebotomy : per treatment per month	1%
Aphoresis: per treatment per month	3%
Bone marrow transplant	10%

4. COMPENSATION BENEFITS

Compensation benefits will be payable according to the Compensation of Occupational Injuries and Diseases Act. Eligibility for benefits will lapse if there is no seroconversion after 6 months from the date of the incident.

(a) Temporary total disablement

Payment for reasonable temporary total or partial disablement shall be made for as long as such a disablement continues but not for a period exceeding 24 months.

(b) Permanent disablement

Permanent disablement will be assessed:

(i) Once the treating doctor has furnished a comprehensive Final Medical Report (W Cl 5) to Compensation Commissioner.

(ii) A confirmed diagnosis of occupationally acquired HIV infection shall be determined according to the latest Edition of AMA Guide on permanent disablement.

(iii) Permanent disablement due to impairment as a result of permanent sequelae of an HIV/AIDS related condition(s) shall be assessed according to other relevant regulations or schedules to the Act.

(iv) A confirmed diagnosis with advanced AIDS and or treatment failure where all available HAART regimens have been exhausted shall be determined according to the latest AMA Guide for permanent disablement.

5. MEDICAL COSTS

(1) The medical costs shall cover the management of exposure, the diagnosis of HIV infection and any necessary treatment, including antiretroviral drugs (post exposure prophylaxis and chronic medication), provided by any health care provider. Medical costs for Post exposure prophylaxis will be covered until confirmation that the source is negative or after the 6 months' window period repeat test and the employee is negative.

(2) When a person has seroconverted medical costs shall be provided for a period of not more than 24 months from the date of diagnosis or longer, if in the opinion of the Commissioner, further medical cost will reduce the extent of the disablement.

(3) Medical costs shall cover the costs of diagnosis of HIV/AIDS and any necessary treatment provided by any health care provider.

(4) The Commissioner shall decide on the need for, the nature and sufficiency of medical costs to be supplied.

(5) The management of HIV/AIDS related opportunistic infections will be covered under COIDA for accepted claims.

(6) The Commissioner shall decide on the nature of and the sufficiency of the medical costs to be supplied.

(7) The employer should ensure that the employee has access to post exposure prophylaxis (PEP) and on treatment within 72hours after exposure.

6. DEATH BENEFITS

Death benefits payable are:

(a) Reasonable burial expenses shall be paid in terms of Burial Expenses Policy; and

(b) Widow's and dependent's pensions shall be payable, where applicable, if the employee dies as a result of occupationally acquired HIV/AIDS.

7. REPORTING

(1) The following documents must be submitted to the Office of the Compensation Fund immediately after the incident or accident:

(a) Initial report of occupational exposure to blood or other body fluid-borne pathogens (W CL 306). (Annexure A), and a copy of certified identity document.

(b) Further documents as may be required to be submitted to the Office of the Compensation Commissioner or the employer individually liable or licensee after seroconversion are listed below, and confidentiality should be respected at all times.

(c) Employer's Report of an Accident (W CL 2).

(d) Notice of Accident and Claim for Compensation (W CL 3)

(e) First Medical Report (W CL 4) and

(f) Laboratory blood test results (baseline HIV test results) of the exposed employee done within 72hours of the incident/ accident, confirming the absence of HIV antibodies and the absence of HIV antigen/virus (PCR).

(g) Confirmation that the source was HIV infected. Laboratory blood test of HIV test results of the source.

(h) Confirmatory laboratory blood test results of the exposed employee confirming HIV infection (seroconversion) at six and or twelve weeks or six months after the date of the work-related incident / accident.

(i) Progress Medical Report (to be submitted monthly to the Compensation Commissioner. (W CL 5P).

(j) All other reports that may be relevant to the diagnosis and treatment of the condition.

(k) Final Medical report (W CL 5F)

(l) In case of death, a death certificate and a BI1663 (notification of death) must be submitted. Alternatively, a death certificate accompanied by a detailed medical report on a practice letterhead on the cause of death must be submitted.