
GOVERNMENT NOTICE

Department of Employment and Labour

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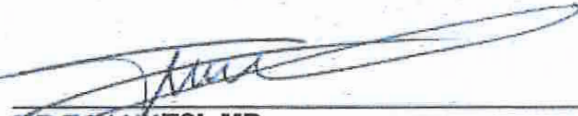
2023

**COMPENSATION FOR OCCUPATIONAL INJURIES AND
DISEASES ACT, 1993 (ACT NO 130 OF 1993)****REGULATIONS ON LUNG CANCER FOR THE COMPENSATION FUND MADE BY THE MINISTER
UNDER COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993**

I, Thembelani Waltermade Nxesi, Minister of Employment and Labour, after consultation with the Compensation Board, hereby make the following attached regulations in terms of Section 97 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No 130 of 1993) as amended. The regulations are attached as Schedule A.

EFFECTIVE DATE OF REGULATIONS

The regulations will come into effect on the date of publication hereof in the Gazette.



MR T W NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 03 May 2023

SCHEDULE A

REGULATIONS ON LUNG CANCER 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 lung cancer 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.

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1. DEFINITIONS

"Autopsy" means a post-mortem examination to discover the cause of death or the extent of disease.

"Biopsy" means an examination of tissue removed from a living body to discover the presence, cause, or extent of a disease.

"Cytology" means, the study of the microscopic appearance of cells, especially for the diagnosis of abnormalities and malignancies.

"Histology" means the study of microscopic structure of animal or plant tissues

"Lung cancer" means malignancy arising from within the lung tissue and the airways of the lungs.

"Occupational lung cancer" means malignancy arising out of exposures known to cause cancer within the workplace.

2. DIAGNOSIS

- (1) The diagnosis of lung cancer shall be made by a medical practitioner based on the biopsy or autopsies i.e. the positive histological results or tumor detectable at post mortem that confirms the diagnosis of lung cancer;
- (2) Alternatively, if the diagnosis is made based on positive cytology results, such diagnosis should be supported by clinical features and radiological investigations;
- (3) Radiological investigations should include the reports and films.; and
- (4) The Medical officers employed by the Compensation Fund shall determine if lung cancer is present and the diagnosis was made according to acceptable medical standards.

3. IMPAIRMENT

Whole Person Impairment shall be determined, in accordance with latest AMA Guide edition once Maximal Medical Improvement has been reached.

4. COMPENSATION BENEFITS

The compensation benefits payable according to the Act are:

- (1) Payment for temporary total or partial disablement shall be made for as long as such disablement continues, but not of a period exceeding 24 months.
- (2) Permanent disablement shall be assessed, where applicable, as and when the diagnosis of lung cancer is confirmed and final medical report is received
- (3) If total impairment score is zero to three (i.e. permanent disablement less than or equal to 30%), permanent disablement shall be determined and a lump sum shall be paid in terms of the Act.
- (4) If total impairment score is more than three (i.e. permanent disablement is higher than 30%), pension shall be paid in terms of the Act.

5. MEDICAL COSTS

- (1) 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 aid will reduce the degree of the disablement.
- (2) Medical costs shall cover diagnosis of lung cancer and any necessary treatment provided by any healthcare provider.
- (3) The Commissioner shall decide on the need for, the nature and sufficiency of medical costs to be supplied.

6. DEATH BENEFITS

Death benefits payable are:

- (1) Reasonable burial expenses shall be paid in terms of Burial Expenses Policy; and
- (2) Widow's and dependent's pensions shall be payable, where applicable, if the employee dies as a result of Lung Cancer.

7. REPORTING

The following documentation must be submitted to the compensation fund or the employer or Individually liable or the licensee concerned:

- (a) Employer's report of an Occupational Disease (W.CL.1). Lung cancer may occur many years after exposure to the carcinogenic industrial agent. The employee may no longer be in the employment of the same employer where carcinogenic industrial agent exposure occurred. The current employer should complete the W.CL.1 and no liability will be attributed to that employer.
- (b) Notice of Occupational Diseases and claim for compensation (W.C. L14)
- (c) An affidavit by the employee (W.CL.305) if an employer cannot be traced or the employer fails to timeously submit Employer's report of an Occupational Disease (W.CL.1).
- (d) Exposure history (W.C. L 110)

There should be a clear history of industrial carcinogenic agent or exposure in an occupation or industry where carcinogenic exposure is known to occur and length of exposure
- (e) Medical surveillance records where available
- (f) Occupational hygiene reports where available
- (g) First Medical Report detailing the employee's occupational disease (W.C.L 22)
- (h) Histology or Cytology report should contain the name of the claimant and the diagnosis of lung cancer of any type. The report should also detail the name of the Pathologist, contact and reference details that will enable telephonic validation of the report.
- (i) Radiology reports to confirm diagnosis. Radiological investigations report with films will only be required if cytology results are used to confirm the diagnosis.
- (j) Progress or Final medical report in respect of occupational disease (W.C.L 26)
- (k) In case of death, a death certificate and a BI1663 (notification of death) should be submitted. Alternatively, a death certificate accompanied by a detailed medical report on a practice letterhead on the cause of death should be submitted. Post mortem results where applicable