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DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. R. 3365

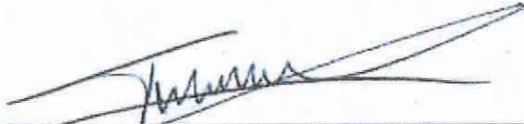
5 May 2023

**COMPENSATION FOR OCCUPATIONAL INJURIES AND
DISEASES ACT, 1993 (ACT NO 130 OF 1993)****REGULATIONS ON PULMONARY TUBERCULOSIS ASSOCIATED WITH SILICA DUST EXPOSURE
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: 03/04/2023

SCHEDULE A**REGULATIONS ON PULMONARY TUBERCULOSIS ASSOCIATED WITH SILICA DUST EXPOSURE 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 pulmonary tuberculosis associated with silica dust exposure 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

“Culture” means tissue cells, bacteria in a condition suitable for growth

“Gen XpertMTB/RIF” means test for rapid TB diagnosis; it detects mycobacterium Tuberculosis and resistance to Rifampicin in less than 2 hours

“Lung function tests (LFT)” means several tests used to test the functional ability of the lungs

“Mycobacterium Tuberculosis” means a certain type of bacteria

“Pulmonary Tuberculosis” means TB affecting the lungs

“Pulmonary” means lungs

“Rifampicin” means one of the drugs used to treat TB

“Radiology” means a science dealing with X-rays and other high energy radiation

“Pulmonary tuberculosis associated with crystalline silica dust exposure” means an occupational disease caused by Mycobacterium tuberculosis in employees who have been exposed to crystalline silica dust in the workplace.

2. DIAGNOSIS

- (1) The diagnosis of pulmonary tuberculosis shall be made by medical practitioner based on the following:
 - (a) Isolation of Mycobacterium tuberculosis by culture of sputum or body fluids or tissue, or
 - (b) A positive sputum smear and a relevant clinical/ radiological picture, or
 - (c) Two positive sputum smears, or a positive GeneXpert MTB/RIF
 - (d) Three negative sputum smears and a relevant clinical, radiological picture and a response to tuberculosis treatment.
 - (e) If it is impossible to isolate Mycobacterium tuberculosis using microscopy or bacterial culture, other acceptable diagnostic techniques may be used.
- (2) The Medical Officers employed by the Compensation Fund shall determine if diagnosis was made according to acceptable medical standards.
- (3) Pulmonary Tuberculosis associated with crystalline silica dust exposure shall be presumed to be work-related:
 - (a) if the affected employee has silicosis attributable to silica dust exposure (silico-tuberculosis);

- (b) If the affected employee has been exposed to free crystalline silica in the workplace for two years in the absence of radiological evidence of silicosis where silica dust exposure is inherent to his or her work process and or occupation.
- (c) The development of TB must be within 12 months from the last exposure.
- (d) If claimant had 15 years of silica exposure regardless of employment and radiological silicosis.

3. IMPAIRMENT

Pulmonary function impairment shall be determined based on the lung function test done in accordance with the Compensation Funds regulations on Pulmonary Tuberculosis. Impairment as a result of pulmonary TB, or complications arising from anti-TB medication administered to the employee, shall be assessed in accordance with best practices using the latest AMA Guide criteria for rating permanent impairment due to pulmonary dysfunction.

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, and when a final medical report is received. The final medical report and lung function test must be submitted at least 6 months and no later than 12 months after completion of treatment of tuberculosis or sooner if the treating medical practitioner considers no further improvement is anticipated. If the first lung function test post 6 months is abnormal, second LFT after 12 months of treatment will be used to determine permanent disablement.
- (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 costs will reduce the degree of the disablement.

- (2) Medical costs shall cover diagnosis of pulmonary tuberculosis associated with silica dust exposure 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.

7. 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 occupational tuberculosis related to silica exposure.

7. REPORTING

The following documentation must be submitted to the compensation commissioner or the employer or individually liable or the licensee concerned:

- (a) Employer's report of an Occupational Disease (W.CL.1).
- (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.CL.110) - there should be a clear history of occupational exposure or an appropriate employment history and risk assessments or results of environmental hygiene assessments.
- (e) First Medical Report detailing the employee's occupational disease (W.CL.22)
- (f) Medical report detailing the employee's symptoms and clinical features
- (g) The laboratory results demonstrating mycobacterium tuberculosis
- (h) Chest x-rays and radiological reports
- (i) Progress or Final medical report (W.CL.26) in respect of occupational disease and lung function test must be submitted at least 6 months and no later than 12 months after completion of treatment of tuberculosis or sooner if the treating medical practitioner considers no further improvement is anticipated.
- (j) 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.