
GOVERNMENT NOTICE

Department of Employment and Labour

No.

2023

**COMPENSATION FOR OCCUPATIONAL INJURIES AND
DISEASES ACT, 1993 (ACT NO 130 OF 1993)****REGULATIONS ON MESOTHELIOMA DUE TO OCCUPATIONAL ASBESTOS 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 MESOTHELIOMA DUE TO OCCUPATIONAL ASBESTOS 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 to mesothelioma due to occupational asbestos 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

“Asbestos” means Amosite, Chrysotile, Crocidolite Fibrous actinolite, Fibrous anthophyllite and Fibrous tremolite types.

“Asbestos Exposure” means exposure or likely exposure to Asbestos dust whilst at the workplace.

“Asbestosis” means a condition caused by the exposure to asbestos

“Autopsy” or **“post-mortem examination”** means a surgical procedure that consists of a thorough examination of a corpse by dissection to determine the cause, mode and manner of death or to evaluate any disease or injury that may be present for research or educational purposes

“Cytology” means the examination of cells from the body under a microscope. The test commonly checks for infection, inflammatory disease of the urinary tract, cancer, or precancerous conditions.

“Histology” means a study of microscopic structure of animal or plant tissue.

“Medical Surveillance” means a planned programme or periodic examination, which may include clinical examinations, biological monitoring or medical tests of employees by an occupational health practitioner (OHP) or in prescribed cases, by an occupational medicine practitioner (OMP).

“Mesothelioma” means malignancy arising from the pleura and peritoneum in persons with a history of occupational asbestos exposure.

“Occupational hygiene report” means the findings of occupational hygiene exposure assessments are recorded in occupational hygiene reports

“Pleural biopsy” means a sample of tissue taken from the body in order to examine it more closely. A doctor should recommend a biopsy when an initial test suggests an area of tissue in the body isn't normal. Doctors may call an area of abnormal tissue a lesion, a tumor, or a mass.

2. DIAGNOSIS

- (1) The diagnosis of mesothelioma shall be made by medical practitioner, based on biopsy, cytology or autopsies i.e. the positive pleural or peritoneal histological results or disease detectable at post mortem to confirm the diagnosis of mesothelioma. Alternatively, if the diagnosis is made based on positive cytology results, such

diagnosis should be supported by clinical features and radiological investigations.

Radiological investigations should include the reports and films.

(2) Mesothelioma may occur many years (10 years or more after the initial exposure) of asbestos exposure. The employee may no longer be in the employment of the same employer where asbestos exposure occurred. The current employer should complete the W.CL.1 and no liability will be attributed to that employer.

(3) The Medical Officers employed by the Compensation Fund will determine if mesothelioma is present and the diagnosis was made according to acceptable medical standards.

3. IMPAIRMENT

Whole Person Impairment will 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 disablement shall be made for as long as such disablement continues, but not for a period exceeding 24 months.
- (2) Payment for permanent disablement shall be made, where applicable, as and when the diagnosis of mesothelioma 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.

- (j) First Medical Report detailing the employee's illness in respect of an occupational disease (W.C.L 22)
- (k) Histology of the pleural biopsy or Cytology report of peritoneal fluid should contain the name of the claimant and the diagnosis of mesothelioma 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.
- (l) Radiological investigations report with films will only be required if cytology results are used to confirm the diagnosis.
- (m) Progress or Final medical report in respect of occupational disease (W.C.L 26)
- (n) 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.

8. CLAIMS PROCESSING

The Commissioner shall consider and adjudicate upon the liability of all claims. The Medical Officers employed by the Compensation Fund are responsible for medical assessment of a claim and for the confirmation of the acceptance or rejection of a claim.



MR T. W. NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 03 10 2023