



# Government Gazette

**REPUBLIC OF SOUTH AFRICA**

**Vol. 448   Pretoria   1   October   2002   No. 23876**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

---

## GOVERNMENT NOTICES

---

### DEPARTMENT OF LABOUR

No. 1217

1 October 2002

#### **CIRCULAR INSTRUCTION REGARDING COMPENSATION FOR MESOTHELIOMA DUE TO OCCUPATIONAL ASBESTOS EXPOSURE**

#### **COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993 (COIDA) (No. 130 of 1993) AS AMENDED**

The following circular instruction is issued to clarify the position in regard to compensation of claims for mesothelioma and supersedes all previous instructions regarding compensation for mesothelioma:

#### **1. DEFINITION**

Mesothelioma is a malignancy arising from the pleura or peritoneum in persons with a history of occupational asbestos exposure. A claim for such malignancy shall clearly be set out as contemplated in and provided for in Section 65 of COIDA.

#### **2. DIAGNOSIS**

The diagnosis of mesothelioma may be confirmed by biopsy or autopsy i.e. the positive pleural or peritoneal histological results or disease detectable at post-mortem confirms 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. The Medical Officers in the Compensation Office will determine if mesothelioma is present and the diagnosis was made according to acceptable medical standards.

#### **3. IMPAIRMENT**

Confirmed diagnosis equates to 100% impairment (maximum) in all cases.

#### **4. BENEFITS**

The benefits payable according to the Act:

##### **4.1 Temporary total disablement**

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

#### **4.2 Permanent disablement**

Payment for permanent disablement shall be made, where applicable, as and when the diagnosis of mesothelioma is confirmed and a final medical report is received.

#### **4.3 Medical Aid**

Medical aid 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 Director General, further medical aid will reduce the extent of the disablement. Medical aid covers costs of diagnosis of mesothelioma and any necessary treatment provided by any health care provider. The Compensation Commissioner shall decide on the need for, the nature and sufficiency of medical aid supplied.

#### **4.4 Death benefits**

Reasonable burial expenses, widow's and dependant's pensions shall be payable, where applicable, if an employee dies as a result of mesothelioma.

### **5. REPORTING**

The following documentation should be submitted to the Compensation Commissioner or the employer individually liable or the mutual association concerned:

- Employer's Report of an Occupational Disease (W.CL. 1) – Mesothelioma may occur many years after asbestos exposure. The employee may no longer be in the employment of the same employer where asbestos exposure occurred. The current employer should complete W.CL. 1 and no liability will be attributed to that employer.
- Notice of an Occupational Disease and Claim for Compensation (W.CL. 14).
- An affidavit by the employee if an employer cannot be traced or the employer will not timeously supply a W.CL. 1.
- First Medical Report in respect of an Occupational Disease (W.CL. 22).
- Industrial History (W.CL.110) – There should be a clear history of occupational asbestos exposure or exposure in an occupation or industry where asbestos exposure is known to occur.

- Progress/Final Medical Report in respect of an Occupational Disease (W.CL. 26).
- Histology/Cytology Report – The report should contain the name of the claimant and a diagnosis of mesothelioma of any type. The report should also detail the name of the Pathologist, contact details and reference details that will enable telephonic validation of the report.
- Accompanying medical reports detailing the employee's illness and occupational exposure are optional if all of the above is satisfied.
- Radiological investigations and reports will only be required if cytology results are used to confirm diagnosis.

6. **CLAIMS PROCESSING**

The Office of the Compensation Commissioner shall consider and adjudicate upon the liability of all claims. The Medical Officers in the Compensation Commissioner's Office are responsible for medical assessment of a claim and for the confirmation of the acceptance or rejection of a claim.



**DIRECTOR-GENERAL: LABOUR**

**DATE: 17-09-2002**