

No. 1324

23 October 2002

Circular Instruction No. 174**CIRCULAR INSTRUCTION REGARDING COMPENSATION FOR
OCCUPATIONAL LUNG CANCER****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 lung cancer and supersedes all previous instructions regarding compensation for lung cancer:

1. DEFINITION

Lung cancer is a malignancy arising within the lung tissue and/or the airways of the lungs. A claim for lung cancer shall be clearly set out as contemplated in and provided for in Section 65 of COID Act.

2. DIAGNOSIS

The diagnosis of lung cancer may be confirmed by biopsy or autopsy i.e. the positive histological results or tumour detectable at post-mortem confirms the diagnosis of lung cancer. 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 lung cancer is present and 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 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 lung cancer 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 lung cancer and in respect of 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 lung cancer.

5. REPORTING

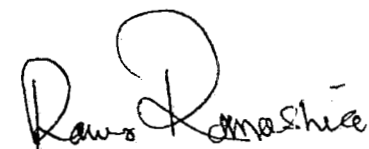
The following documentation should be submitted to the Compensation Commissioner or the employer individually liable or the mutual association concerned:

- Employer's Report of an Occupational Disease (W.CL.1) – 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 the risk factor 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 carcinogenic industrial agent exposure or exposure in an occupation or industry where a carcinogenic industrial agent 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 lung cancer 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.
- X-rays and reports 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