



# STAATSKOERANT

## VAN DIE REPUBLIEK VAN SUID-AFRIKA

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### REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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[No. 3970.]

DEPARTEMENT VAN DIE EERSTE MINISTER.

DEPARTMENT OF THE PRIME MINISTER.

No. 1170.

6 Julie 1973.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 78 van 1973: Wet op Bedryfsiektes in Myne en Bedrywe, 1973.

No. 1170.

6th July, 1973.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 78 of 1973: Occupational Diseases in Mines and Works Act, 1973.

Act No. 78, 1973. OCCUPATIONAL DISEASES IN MINES AND WORKS ACT, 1973.

# ACT

To consolidate and amend the law relating to the payment of compensation in respect of certain diseases contracted by persons employed in mines and works and matters incidental thereto.

*(English text signed by the State President.)  
(Assented to 19th June, 1973.)*

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

## Definitions.

1. (1) In this Act, unless the context otherwise indicates—
  - (i) "adopted child" does not include a child who has not been adopted in accordance with the laws relating to the adoption of children, but includes a child, whether or not adopted in accordance with the said laws, to or in respect of whom a pension or other benefit was awarded under the previous Act, and for the purposes of this definition any child maintained by any person for any period immediately prior to the date on which he actually adopted that child, shall be deemed to have been the adopted child of that person during the said period; (i)
  - (ii) "advisory committee" means the advisory committee established under section 59; (ii)
  - (iii) "Bantu affairs authority" means the Secretary for Bantu Administration and Development or any other officer in the Department of Bantu Administration and Development to whom the said Secretary has assigned the functions of the Bantu affairs authority; (vi)
  - (iv) "Bantu person" means any person belonging to one or other of the following groups, namely—
    - (a) aboriginal tribes or races of Africa, including Bushmen, Hottentots, Korannas and Natives; and
    - (b) persons upon whom is levied general or local tax in terms of the Bantu Taxation and Development Act, 1925 (Act No. 41 of 1925), or any tax substituted for any such tax,but does not include American Negroes, Eurafrians, Eurasians or persons commonly known as Cape Malays, Griquas, Mauritians or St. Helenians, and "Bantu female" and "Bantu male" have corresponding meanings; (v)
  - (v) "benefit" means money which has been awarded or which is required to be awarded or money which has been paid or which is required to be paid or the payment of money or a claim for the payment of money, as the context may require, to or in respect of a person or to or in respect of the dependants of a person, on the ground that such person was under the previous Act found to be suffering from pneumoconiosis or

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tuberculosis, or has under this Act been found to be suffering from a compensatable disease, but does not include money awarded under the previous Act or this Act to a person in the form of a special grant or in the form of assistance in connection with the training of any person; (xxxix)

- (vi) "bureau" means the Medical Bureau for Occupational Diseases established under section 2; (xii)
- (vii) "cardio-respiratory organs" means all or any one of the following organs, namely larynx, trachea, bronchial tree, lung parenchyma, pleurae, lymphatic system of the lungs, vascular system of the lungs, nerve supply of the lungs, diaphragm and nerve supply to diaphragm, heart, pericardium and large intrathoracic bloodvessels; (xx)
- (viii) "certificate of fitness" means a certificate of fitness issued to a person under this Act pursuant to a medical examination of such person; (xxxv)
- (ix) "certification committee" means the Medical Certification Committee for Occupational Diseases established under section 39; (xxxvi)
- (x) "child" means a person under the age of eighteen years; (xxi)
- (xi) "Coloured person" means any person who is not a White person or a Bantu person, and "Coloured male" has a corresponding meaning; (xxii)
- (xii) "Coloured female" means a female Coloured person who lawfully performs or has lawfully performed risk work at a mine or a works; (xxiii)
- (xiii) "commissioner" means the Compensation Commissioner for Occupational Diseases appointed under section 54 (a); (xxiv)
- (xiv) "compensatable disease" means—
  - (a) pneumoconiosis;
  - (b) the joint condition of pneumoconiosis and tuberculosis;
  - (c) tuberculosis which, in the opinion of the certification committee, was contracted while the person concerned was performing risk work, or with which the person concerned was in the opinion of the certification committee already affected at any time within the twelve months immediately following the date on which that person performed such work for the last time;
  - (d) permanent obstruction of the airways which, in the opinion of the certification committee, is attributable to the inhalation of dust in the course of the performance of risk work;
  - (e) any other permanent disease of the cardio-respiratory organs which in the opinion of the certification committee is attributable to the performance of risk work; or
  - (f) any other disease which in the opinion of the certification committee is attributable to the performance of risk work at a mine or works and which the Minister has, subject to the provisions of subsection (2), by notice in the *Gazette* declared to be a compensatable disease; (xxxviii)
- (xv) "contractor" means a person who employs persons in connection with the performance of risk work at a controlled mine or a controlled works, which he has undertaken to perform on behalf of the owner of that mine or works; (xxv)

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- (xvi) "controlled mine" means a mine which is a controlled mine in terms of section 9 or which has been declared a controlled mine under section 10; (ix)
- (xvii) "controlled works" means a works which is a controlled works in terms of section 9 or which has been declared a controlled works under section 10; (viii)
- (xviii) "dependant" means—
  - (a) in relation to a Bantu person, any person for whose maintenance the person concerned is, in the opinion of the Bantu affairs authority, wholly or partly responsible, or in relation to a deceased Bantu person, any person for whose maintenance the deceased would have been wholly or partly responsible had he not died;
  - (b) in relation to a deceased White male or deceased Coloured male—
    - (i) his widow; and
    - (ii) his dependent child; and
  - (c) in relation to a deceased Bantu female or deceased Coloured female, her dependent child; (iii)
- (xix) "dependent child" means—
  - (a) in relation to a White male or a Coloured male, a legitimate child, an adopted child or a step-child, but does not include a step-child for whose maintenance any other person is, in the opinion of the commissioner, responsible or for whose maintenance any other provision can, in the opinion of the commissioner, be made or who has sufficient means for his own maintenance;
  - (b) in relation to a deceased White male or deceased Coloured male, his legitimate or adopted child or legitimate posthumous child or step-child for whose maintenance the deceased was wholly or partly responsible before his death; and
  - (c) in relation to a deceased Bantu female or deceased Coloured female, her legitimate or adopted child or step-child for whose maintenance the deceased was wholly or partly responsible before her death; (iv)
- (xx) "director" means the Director of the Medical Bureau for Occupational Diseases appointed under section 3 (1) (a); (xiii)
- (xxi) "financial year" means the period from 1 April in any year to 31 March in the next ensuing year; (xi)
- (xxii) "medical adviser" means the medical adviser appointed under section 7 (1); (xvii)
- (xxiii) "medical practitioner" means a person who is registered as a medical practitioner under the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928); (xvi)
- (xxiv) "mine" means a mine as defined in section 1 of the Mines and Works Act, 1956 (Act No. 27 of 1956), or in section 1 of the Mines, Works and Minerals Ordinance, 1968 (Ordinance No. 20 of 1968), of the territory of South West Africa, as the case may be, according to whether the mine is situated in the Republic or in the said territory; (xxvii)
- (xxv) "Minister" means the Minister of Mines; (xxvi)
- (xxvi) "one-sum benefit" means a benefit other than a pension or monthly allowance awarded to a person or in respect of a person to any other person under the previous Act or this Act, but does not include a special grant or any assistance to a person in respect of the training of any person; (xv)



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- (xxvii) "owner", in relation to a mine or works, includes the lessee of the mine or works and any person who has the right, or has, by virtue of any law or any agreement with the owner of the mine or works, acquired the right, to exploit a mine for his own benefit or to operate a works for his own benefit; and if the question arises whether a person is, for the purposes of this Act, the owner of a mine or a works, the Minister's decision regarding such question shall be final; (xiv)
- (xxviii) "pneumoconiosis" means a permanent lesion of the cardio-respiratory organs caused by the inhalation of dust in the course of the performance of risk work; (xxviii)
- (xxix) "prescribe" or "prescribed" means prescribe or prescribed by regulation; (xl)
- (xxx) "previous Act" means the Pneumoconiosis Compensation Act, 1962 (Act No. 64 of 1962), including the other laws repealed by section 136 and any laws relating to the payment of compensation to or in respect of persons in respect of miner's phthisis or silicosis or pneumoconiosis or tuberculosis contracted in the employment of mines or as a result of employment at mines, which preceded the Pneumoconiosis Compensation Act, 1962; (xli)
- (xxxi) "regulation" means a regulation in force under this Act; (xxix)
- (xxxii) "Republic" includes the territory of South West Africa; (xxx)
- (xxxiii) "reviewing authority" means the Medical Reviewing Authority for Occupational Diseases established under section 40; (xviii)
- (xxxiv) "risk", in relation to a mine or a works, means the risk of contracting a compensatable disease, to which persons who perform risk work in or at or in connection with that mine or works are exposed, or the risk determined by the risk committee under section 20 or 21 in respect of that mine or works, as the context may require; (xxxi)
- (xxxv) "risk committee" means the Risk Committee for Mines and Works established under section 18; (xxxii)
- (xxxvi) "risk work" means any work declared or deemed to have been declared risk work under section 13; (xxxiii)
- (xxxvii) "secretary" means the Secretary for Mines; (xxxiv)
- (xxxviii) "this Act" includes any regulation; (xix)
- (xxxix) "tuberculosis" means tuberculosis of the cardio-respiratory organs, or any sequelae, complication or manifestation thereof, but does not include inactive or calcified foci; and a person shall be deemed to be or to have been suffering from tuberculosis if evidence of active tuberculosis has been found in such person; (xxxvii)
- (xl) "White person" means a person classified as a White person under the Population Registration Act, 1950 (Act No. 30 of 1950), and includes a person generally accepted as a White person, and "White male" has a corresponding meaning; (x)
- (xli) "works" means a works as defined in section 1 of the Mines and Works Act, 1956 (Act No. 27 of 1956), or in section 1 of the Mines, Works and Minerals Ordinance, 1968 (Ordinance No. 20 of 1968), of the territory of South West Africa, according to whether the works is situated in the Republic or in the said territory. (vii)

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- (2) (a) The Minister shall, before declaring a disease to be a compensatable disease in terms of paragraph (f) of the definition of "compensatable disease" in subsection (1), consider such representations (if any) as may have been submitted to him by owners of controlled mines or controlled works or by any organization acting on behalf of such owners or on behalf of persons who perform risk work at such mines or works.
- (b) The Minister shall not declare any disease which is compensatable under the provisions of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), to be a compensatable disease as contemplated in the said paragraph (f), except after consultation with the Minister of Labour.

## CHAPTER I.

## BUREAU, DIRECTOR AND STAFF.

Establishment  
of bureau.

2. (1) There shall be established a bureau, to be called the Medical Bureau for Occupational Diseases, for the performance under the supervision and control of the director of such functions as may be necessary for the purpose of giving effect to the provisions of this Act and such other functions as may from time to time be assigned to it by the Minister.

(2) The Minister may make such rules as he may consider necessary or desirable for the effective performance of the functions of the bureau.

Appointment of  
director, medical  
officers and  
other staff of  
bureau.

3. (1) The Minister shall appoint, subject to the laws governing the public service—

- (a) a Director of the Medical Bureau for Occupational Diseases, who shall be a medical practitioner and who shall exercise the powers and perform the functions conferred upon or assigned to him by this Act or by the Minister under this Act;
- (b) as many deputy directors of the bureau as the Minister may consider necessary, of whom at least one shall be a medical practitioner;
- (c) as many other officers, being medical practitioners, as the Minister may consider necessary for the performance of the medical examinations and other functions required to be performed by the bureau under this Act; and
- (d) such other officers and persons as the Minister may consider necessary for the performance of the functions of the bureau.

(2) The Minister may, after consultation with the director and the medical adviser (if any), appoint in part-time service, at such remuneration and on such other conditions of service as the Minister may determine in consultation with the Minister of Finance, any medical practitioner who in the opinion of the Minister is specially qualified to perform any function which a medical officer appointed under subsection (1) (c) may be required to perform.

(3) Whenever there is no director or the director is absent or for any other reason unable to perform his functions, the deputy-director appointed under subsection (1) (b) who is a medical practitioner, or, if there is more than one such deputy-director, such one of them as the Minister shall designate, shall act in the stead of the director.

Functions of  
director.

4. (1) The director shall be charged with the direction and control of all medical examinations provided for in this Act, and may on such conditions as he may deem fit authorize or

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direct any medical practitioner to perform any such examination.

(2) The director may in writing authorize any person appointed under section 3 (1) (b), (c) or (d) to issue or sign any certificate or other document which in terms of this Act is required to be issued or signed by the director.

Powers of director to enter upon places, perform tests and carry out inspections or investigations.

5. (1) The director or any medical practitioner authorized thereto in writing by him, may—

- (a) enter upon any place where a person who works or has worked or intends to work at a controlled mine or a controlled works is being or is to be medically examined in accordance with any provision of this Act, or where any person who works or has worked at a controlled mine or a controlled works is being nursed or medically treated;
- (b) attend any medical examination of such a person and with his consent examine him medically or cause him to be medically examined by any other medical practitioner; and
- (c) inspect any instrument or appliance which is being or has been used in connection with any medical examination or treatment of such a person and demand for inspection any book or document in which any information relating to any such examination or treatment has been recorded, and make copies of or extracts from it.

(2) The director or any person authorized thereto in writing by him may—

- (a) enter upon any place where persons who work or have worked or intend to work at a mine or works are being or are to be radiologically examined, and at such place carry out such tests, measurements and observations as he may deem desirable;
- (b) inspect, test or view any instrument, appliance or machine used in connection with any such examination; and
- (c) demand for inspection any X-ray photograph taken at such an examination.

(3) If the director has reason to suspect that the owner of a mine or works or any person employed at a mine or works contravenes or fails to comply with any provision of this Act, the director or any person authorized thereto in writing by the director, may conduct such investigation in connection with the matter as he may deem expedient or as the director may require.

(4) At the request of any person affected by the exercise of a power under this section, the director or the medical practitioner authorized under subsection (1) or person authorized under subsection (2) or (3), as the case may be, shall produce a certificate of his appointment as director or, in the case of a medical practitioner or person so authorized, his written authority to the person making the request.

Powers of director to demand information.

6. (1) The director may require any person to submit to him, periodically or otherwise, and at such times as he may direct, any information available to such person which the director considers necessary for the effective performance of his functions, or to submit to him or his nominee any book or document in the possession or under the control of such person which contains or is suspected to contain any such information, and may examine and make copies of or take extracts from any such book or document.

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(2) Information called for under subsection (1) may be required to be given in the form of a sworn declaration by the person furnishing such information.

(3) The director may, by notice in writing signed by him, require any person to appear before him at a time and place specified in the notice, to be interrogated or to produce any book or document referred to in subsection (1), and may administer an oath or affirmation to and question any person appearing before him; whether in pursuance of any such notice or otherwise.

(4) Nothing in this section contained shall be construed as empowering the director to require any person to furnish any information or produce any book or document which that person is by law prohibited from disclosing or producing or which is privileged in terms of any law, and the legal rules relating to privilege as applicable to a witness summoned to give evidence or produce any book or document in civil proceedings in a court of law, shall apply in connection with the interrogation of any person required to appear as contemplated in this section, and in connection with the production of any book, document or information which he is to produce in terms of such a requirement.

(5) The secretary may, from moneys appropriated by Parliament for that purpose, compensate any person who has appeared in response to a notice under subsection (3), for any loss sustained or expenses incurred by him in connection with his appearance, if such person has produced all books and documents which he was obliged to produce and has satisfactorily answered all questions which he was bound to answer: Provided that the total amount paid by way of compensation to any such person shall not exceed the amount which would in like circumstances have been payable to him had he been summoned to appear as a witness in a civil case before a magistrate's court.

Medical adviser  
and other  
advisers.

7. (1) The Minister may, if he deems it desirable, appoint, at such remuneration and on such other conditions of service as he may determine in consultation with the Minister of Finance, a medical practitioner to advise him in connection with matters of a medical nature arising under this Act: Provided that no person shall be appointed in full-time service under this subsection otherwise than in accordance with and subject to the laws governing the public service.

(2) The Minister may appoint in part-time service, at such remuneration and on such other conditions of service as he may determine in consultation with the Minister of Finance, as many medical practitioners and other persons as he may consider necessary to advise and assist the medical adviser in connection with matters on which he is required to advise the Minister.

(3) The Minister may refer any matter of a medical nature arising under this Act to the medical adviser for his advice or for investigation by him, and may direct the medical adviser to consult any medical practitioner or other person appointed under subsection (2), or a particular medical practitioner or other person indicated by the Minister, in connection with such matter before furnishing such advice or reporting on such investigation.

Annual report by  
director.

8. As soon as may be after the close of each financial year the director shall furnish the Minister with a report on the activities of the bureau, the certification committee and the reviewing authority.

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## CHAPTER II

CONTROL IN RESPECT OF MINES AND WORKS,  
AND DETERMINATION OF RISK.Existing control  
to continue.

9. Every mine or works which immediately before the commencement of this Act was a controlled mine or a controlled works under the previous Act, shall as from such commencement be a controlled mine or a controlled works for the purposes of this Act until such time as the mine or works in question is released from control under section 11.

Declaration as  
controlled mine or  
controlled works.

10. (1) Whenever it comes to the notice of the Minister that any persons are performing risk work at a mine or works which is not a controlled mine or a controlled works in terms of section 9 or a notice under this subsection, he shall, subject to the provisions of subsection (3) of this section, by notice in the *Gazette* declare the mine or works in question to be a controlled mine or a controlled works as from a date to be specified in the notice, not being a date earlier than thirty days after the day on which the notice is published in the *Gazette*.

(2) (a) A notice under subsection (1) shall contain the name and address of the owner of the mine or works in question and a true description of that mine or works in order that such mine or works may be readily identified.

(b) A copy of such notice shall be served on the owner of the mine or works in question not less than thirty days before the date on which that mine or works will become a controlled mine or a controlled works.

(3) A mine or works shall not under subsection (1) be declared to be a controlled mine or a controlled works so long as the Minister, after consultation with the Government Mining Engineer, is satisfied that on account of the limited scale or the temporary nature of the operations at the mine or works in question or on account of the fact that the number of persons performing risk work thereat is less than thirty, the declaration of that mine or works as a controlled mine or a controlled works is not practicable or justified.

(4) The commissioner shall maintain a register containing the name and a description of every controlled mine and every controlled works.

Cancellation  
of control.

11. (1) If the Minister is satisfied after consultation with the Government Mining Engineer—

(a) that operations at a controlled mine or a controlled works have ceased; or

(b) that persons employed at a controlled mine or a controlled works no longer perform any risk work thereat; or

(c) that the number of persons who perform risk work at a controlled mine or a controlled works has decreased to less than thirty,

he may, subject to the provisions of section 17 (2), by notice in the *Gazette* declare that the mine or works in question shall cease to be a controlled mine or a controlled works as from a date to be specified in the notice, not being a date earlier than thirty days after the day on which the notice appears in the *Gazette*.

(2) The provisions of section 10 (2) shall apply *mutatis mutandis* with reference to a notice under subsection (1) of this section.



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*Ad hoc*  
application of  
provision of Act.

12. (1) The Minister may by notice in the *Gazette* and on such conditions as he may deem desirable, declare that, as from a date to be specified in the notice, not being a date earlier than thirty days after the day on which the notice is published in the *Gazette*—

- (a) any provision of this Act specified in the notice, which is applicable with reference to a controlled mine or a controlled works, shall apply with reference to a mine or works so specified which is not a controlled mine or a controlled works;
- (b) subject to the provisions of section 10 (1), any provision of this Act specified in the notice, which is applicable with reference to persons employed at a controlled mine or a controlled works, shall apply with reference to persons performing risk work at a mine or works so specified which is not a controlled mine or a controlled works;
- (c) risk work at a mine or works specified in the notice which is not a controlled mine or a controlled works, shall be deemed to be risk work at a controlled mine or a controlled works.

(2) The provisions of section 10 (2) shall *mutatis mutandis* apply with reference to any notice under subsection (1) of this section.

Risk work.

13. (1) The Minister may by notice in the *Gazette* declare to be risk work any particular work or all work performed in or at or in connection with any mine or works or part of a mine or works, or at a particular place or under particular circumstances in or at or in connection with any mine or works.

(2) The Minister shall under subsection (1) declare any such work as is referred to in that subsection to be risk work if he is satisfied, after consultation with the risk committee and after consideration of such representations (if any) as may have been made to him by the owner of the mine or works in question or by any organization acting on behalf of such owner or on behalf of persons employed at that mine or works, that any person performing the work in question is exposed to—

- (a) dust of which the composition and concentration is such that it is in the opinion of the Minister harmful or potentially harmful; or
- (b) gases, vapours or chemical substances, or factors or working conditions, which, in the opinion of the Minister, are harmful or potentially harmful.

(3) In the exercise of his powers under this section the Minister may differentiate between mines and works or between mines and parts of a mine or between works and parts of a works or between different classes or groups of mines or works or between different occupations, trades or kinds of work or between different classes or groups of persons, as he may consider necessary or desirable.

(4) Any work performed at a mine referred to in section 9 at a place which immediately before the commencement of this Act was "dusty atmosphere" in terms of the definition of that expression in the previous Act, shall be deemed, until the Minister by notice in the *Gazette* declares otherwise, to have been declared risk work under this section.

(5) For the purpose of determining whether a person is entitled to a benefit under this Act—

- (a) work performed at a controlled mine or a controlled works before the date on which that mine or works became a controlled mine or a controlled works; or
- (b) work performed at a mine or works which, in the opinion of the Government Mining Engineer, would have been declared a controlled mine or a controlled works had it not closed down,

shall be deemed to be risk work performed at a controlled mine or a controlled works.



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(6) If the question arises whether a person has performed risk work at a controlled mine or a controlled works or at a mine or works which is deemed to be or to have been a controlled mine or a controlled works, or if the question arises whether a person so worked during any particular period or during particular periods, the decision of the Minister with reference to such question shall be final, and the commissioner shall act in accordance with the decision of the Minister in connection with the award of any benefit to which that person or his dependants may have or acquire a claim under this Act.

(7) For the purpose of determining whether a Coloured female or a Bantu person is entitled to a benefit in respect of tuberculosis, or for the purpose of determining the amounts which shall be levied from the owners of controlled mines or controlled works under this Act, a shift during which a person was required to perform risk work for a period of not less than fifteen minutes in the course of or in connection with the performance of his normal duties or in pursuance of an instruction issued by a person who has the authority to issue such an instruction, shall be deemed to be a shift during which risk work was performed at or in connection with a controlled mine or a controlled works and shall be so recorded by the owner of the mine or works in question.

Prohibition of performance of risk work at controlled mine or works on ground of age and sex.

14. (1) Save as provided in subsection (2), no male under the age of sixteen years and no female shall perform risk work at a controlled mine or a controlled works, and no owner of such a mine or works or person in control of such a mine or works or any part thereof or contractor shall knowingly permit any male person under the age of sixteen years or any female to perform risk work at such mine or works.

(2) The Minister may, after consultation with the Government Mining Engineer and subject to such conditions as the Minister may determine, authorize an owner of a controlled mine or a controlled works to employ a female in risk work at that mine or works.

Prohibition of performance of risk work at controlled mine or works without a certificate of fitness.

15. (1) Save as provided in subsection (2), no White person and no Coloured person shall perform risk work at a controlled mine or a controlled works, unless he is in possession of a current certificate of fitness, or otherwise than in accordance with or subject to the terms of that certificate, and no owner of a controlled mine or a controlled works and no contractor shall permit any White person or Coloured person to perform risk work at such mine or works, except in so far as that person is authorized to perform such work by virtue of such a certificate: Provided that an initial or other certificate of fitness or a special certificate issued under the provisions of the previous Act and which was valid immediately before the commencement of this Act, shall be deemed to be a current certificate of fitness under this Act until the validity thereof expires or until it is cancelled or is replaced by a certificate of fitness under this Act.

(2) The Minister may, after consultation with the Government Mining Engineer and the director, and subject to such conditions as the Minister may determine, exempt the owner of a controlled mine or a controlled works or a contractor from the provisions of subsection (1) in respect of a particular person or group of persons in his service or in respect of a particular occupation, if the Minister is satisfied that special circumstances exist which make such exemption desirable or that the work performed by such person or group of persons is of a temporary nature or of short duration or that the risk to which such person or group of persons is exposed is negligible, and the Minister may at any time cancel such an exemption.

(3) The provisions of this section shall not be construed as prohibiting a person who is not in possession of a certificate as aforesaid, from performing at a mine or works which is not a

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controlled mine or a controlled works at the commencement of this Act, any work in which he is employed at that mine or works on the date on which it becomes a controlled mine or a controlled works, for a period not exceeding six months as from that date.

Register of persons performing risk work at controlled mine or works.

16. (1) The owner of a controlled mine or a controlled works shall keep a register in which shall be recorded—

- (a) the name of every White person or Coloured person employed by him in connection with risk work at such mine or works, and the number assigned to such person by the bureau;
- (b) the date of issue or renewal and the date of expiry of any certificate of fitness issued to such person;
- (c) any restriction subject to which any such certificate may have been issued or renewed; and
- (d) such other information as may be prescribed.

(2) Every contractor shall keep a register in which shall be recorded, in respect of every White person or Coloured person employed by him in connection with risk work at a controlled mine or a controlled works, the particulars mentioned in subsection (1), and shall upon completion of such work or when so requested by the owner of the mine or works in question, make such register or a copy thereof available to the said owner.

(3) A register kept in terms of the provisions of subsection (1) or (2), shall be available for inspection by the director or by any other person appointed under section 3 (1) who has been authorized in writing by the director to inspect it, and at the request of the director or such a person, a copy of such register shall be made available to the director or that person.

Closure of controlled mine or works or alienation of assets by owner.

17. (1) An owner of a controlled mine or a controlled works who owes the commissioner any amount under a provision of this Act, shall not discontinue the operations at his mine or works or sell or alienate his rights in connection with that mine or works unless—

- (a) such owner has given not less than thirty days' notice in writing to the commissioner of his intention to do so; and
- (b) the commissioner has issued to such owner a certificate to the effect that all amounts which he is required to pay to the commissioner under the provisions of this Act have been fully paid or, as the case may be, that he has made arrangements which have been accepted by the commissioner, for the payment of any amount due by him to the commissioner.

(2) After the date on which the notice mentioned in subsection (1) was given to the commissioner, such owner shall not sell or alienate any asset which he has acquired or created for use in connection with the operation of his mine or works except with the approval in writing of the commissioner or until the commissioner has issued to such owner a certificate referred to in subsection (1) (b).

(3) The Minister shall not under section 11 release a controlled mine or a controlled works from control, unless he is satisfied that the owner of the mine or works in question has fully paid all amounts which he is required to pay to the commissioner under the provisions of this Act, or that he has made arrangements, which have been accepted by the commissioner, for the payment of any amount which is due by him to the commissioner.

(4) For the purposes of subsection (2), the decision of the Minister, acting on the advice of the Government Mining Engineer, on any question as to whether an asset which is or was held by an owner of a controlled mine or a controlled works was acquired or created for use in connection with the operation of that mine or works, shall be final.

## Act No. 78, 1973. OCCUPATIONAL DISEASES IN MINES AND WORKS ACT, 1973.

Establishment  
and constitution  
of risk  
committee.

18. (1) There shall be established a committee, to be called the Risk Committee for Mines and Works, which shall exercise the powers and perform the functions conferred upon or assigned to it by this Act, and such other functions and duties as may from time to time be assigned to it by the Minister.

(2) (a) The risk committee shall, subject to the provisions of subsection (4), consist of the Government Mining Engineer, the director and not less than three or more than four other members to be appointed by the Minister, of whom one shall be a medical practitioner.

(b) In appointing members of the risk committee the Minister shall consider such representations (if any) as may have been made to him by owners of controlled mines or controlled works or by any organization acting on behalf of such owners or on behalf of persons who perform risk work at controlled mines or controlled works.

(3) The Minister may appoint in respect of any member of the risk committee appointed by him, an alternate or so many alternates as he may consider necessary.

(4) The Government Mining Engineer shall *ex officio* be the chairman of the risk committee, and when there is no Government Mining Engineer or the Government Mining Engineer is absent or is for any other reason unable to perform his functions as chairman of the risk committee, a Deputy Government Mining Engineer designated by the Minister for that purpose shall act as chairman of the risk committee.

(5) (a) The quorum for a meeting of the risk committee shall be a majority of its members including the chairman.

(b) The Minister may make such rules as he may consider necessary or desirable for the proper functioning of the risk committee.

(6) A member of the risk committee, and an alternate to such a member, who is not in the full-time service of the State, shall be appointed at such remuneration and on such other conditions of service and for such period not exceeding five years as the Minister may determine in consultation with the Minister of Finance.

(7) If the Minister is of the opinion that a member of the risk committee who has been appointed by him, or an alternate to such a member, is not competent to serve as a member of the risk committee or as such an alternate, the Minister may by notice in writing terminate the appointment of the member or alternate concerned.

Powers of  
chairman of risk  
committee to  
enter upon  
premises, conduct  
investigations  
or obtain  
information.

19. (1) The chairman of the risk committee or any person authorized thereto in writing by him may enter upon any place at a mine or works where any persons work or have worked or where it is intended to cause any persons to work, and carry out such observations, tests, experiments, measurements, investigations or surveys as he may consider necessary for the performance of the functions of the risk committee, and view any instrument, appliance or machinery used in connection with the operations at that mine or works or with which any observations, tests, experiments, measurements, investigations or surveys are carried out.

(2) The chairman of the risk committee shall have the same powers as those conferred upon the director by sections 5 (3) and 6, and the provisions of those sections relating to the exercise of such powers by the director shall *mutatis mutandis* apply with reference to the exercise of such powers by the said chairman.

Determination of  
risk of  
controlled mine or  
works.

20. (1) As soon as possible after the commencement of this Act, the risk committee shall, in respect of every mine or works which is in terms of section 9 a controlled mine or a controlled works, determine the risk of that mine or works: Provided that the pneumoconiosis risk which immediately before such commencement applied in respect of such a controlled mine under

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the previous Act, shall, for the purposes of this Act, be deemed to be the risk of that mine until the risk has been determined under this subsection.

(2) As soon as possible after the date on which a mine or works becomes a controlled mine or a controlled works in terms of section 10, but not later than sixty days after that date, the risk committee shall determine the risk of that mine or works.

(3) The risk committee shall determine the risk of any mine or works in accordance with the basis fixed by the Minister under subsection (5), or, if the Minister has not fixed any such basis, in such manner as the risk committee deems fit, and, in determining such risk, the risk committee shall consider such representations (if any) as may have been made to it by the owner of the mine or works in question or by any organization acting on behalf of persons performing risk work at that mine or works, and may—

- (a) determine different risks in respect of separate mines or works or parts of mines or works or working places in or at mines or works or categories or kinds or groups of mines or works, or different categories or classes or groups of workers, or different occupations in or at or in connection with mines or works;
- (b) take into consideration any factor which, in the opinion of the risk committee, may or is likely to affect the risk in any particular case or generally; and
- (c) consult any person who in its opinion has special knowledge of any matter before the risk committee for consideration or on which the risk committee is required to make a decision.

(4) The risk committee shall express any risk which it determines, as a percentage.

(5) (a) The Minister may, if he deems it expedient, determine the basis in accordance with which the risk of mines or works shall be determined by the risk committee.

(b) In determining such basis, the Minister shall consider such representations (if any) as may have been made to him by owners of controlled mines or controlled works or by any organization acting on behalf of such owners or on behalf of persons who perform risk work at controlled mines or controlled works.

(c) Any determination made by the Minister under paragraph (a) shall be published for general information in the *Gazette*.

Review and alteration or redetermination of risk.

21. The risk committee may at any time, of its own motion or on application by the owner of a controlled mine or a controlled works or by any organization acting on behalf of such owner or on behalf of persons who perform risk work at such controlled mine or such controlled works, review its determination of the risk of the mine or works in question and confirm or alter that determination or set it aside and redetermine the risk in question.

Notice of determination, alteration or redetermination of risk.

22. When the risk committee has determined the risk of a controlled mine or a controlled works under section 20 or has altered its determination of such risk or has set it aside and redetermined the risk under section 21, the chairman of the risk committee or any person authorized thereto by him, shall give notice thereof in writing to the director, the commissioner and the owner of the mine or works in question and, where the alteration or the setting aside resulted from a review on application by an organization acting on behalf of persons who perform risk work at such mine or works, to that organization.

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## CHAPTER III.

CERTIFICATES OF FITNESS, AND MEDICAL  
AND OTHER EXAMINATIONS.

Initial medical  
examination for  
certificate of  
fitness.

23. (1) Any White person or Coloured person who is not in possession of a certificate of fitness, may in writing on the prescribed form apply to the director for a medical examination with a view to the issue to him of a certificate of fitness, and upon receipt of such application and the amount prescribed by the Minister in consultation with the Minister of Finance, the director shall cause the applicant to be examined as soon as practicable.

(2) If such applicant is on such examination found to be fit for risk work at a controlled mine or a controlled works, the director shall issue to him a certificate of fitness which shall be in the prescribed form and shall contain such information as the director deems necessary.

(3) A certificate of fitness issued to any person under subsection (2) shall be valid for such period not exceeding twelve months from the date of its issue as the director may determine, either generally or in any particular case, and the director may, in his discretion, in respect of such certificate impose restrictions limiting the holder thereof—

- (a) to work at a particular controlled mine or controlled works; or
- (b) to work at a controlled mine or a controlled works of a particular kind or group or category; or
- (c) to work in a particular occupation at a controlled mine or a controlled works; or
- (d) to work for a fixed period or fixed periods in a particular controlled mine or controlled works, or in controlled mines or controlled works of a particular kind or group or category.

(4) (a) The decision of the director on any matter relating to the medical examination contemplated in subsection (1) of a person referred to in that subsection, or the issue of a certificate of fitness to such a person in terms of subsections (2) and (3), shall be final.

(b) Where any person has on such an examination been found permanently or temporarily unfit for risk work at a controlled mine or a controlled works, the director shall cause the finding to be communicated to such person in writing.

(c) A person who has been found temporarily unfit for such work, shall be entitled to a further medical examination free of charge if he presents himself for such an examination within ninety days from a date determined by the director and communicated in writing to such person.

(5) The director shall determine the standard of fitness for risk work at a controlled mine or a controlled works which shall be applied at the medical examination of a person examined for the first time with a view to the issue to him of a certificate of fitness, and for that purpose the director may—

- (a) determine different standards in respect of mines and works;
- (b) determine different standards in respect of different groups, kinds or categories of mines or works;
- (c) determine different standards in respect of different classes, groups or categories of persons, or different occupations at controlled mines or controlled works.



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Medical examination of White or Coloured person on mine or works becoming controlled mine or works.

24. (1) The director shall within six months after the date on which a mine or works becomes a controlled mine or a controlled works by virtue of a notice under section 10—

- (a) cause to be medically examined every White person or Coloured person who on that date is employed in risk work at that mine or works and who is not in possession of a current certificate of fitness; and
- (b) subject to the provisions of subsection (3), cause a certificate of fitness to be issued to any such person who is found to be free from any compensatable disease or who is found to be suffering from a compensatable disease which does not disqualify him from obtaining a certificate of fitness, irrespective of whether or not such person complies with the standard of fitness determined under section 23 (5).

(2) A certificate of fitness referred to in subsection (1) (b) may be issued subject to any restriction contemplated in section 23 (3).

(3) The director may refuse the issue of a certificate of fitness to any person referred to in subsection (1) if his health is in the opinion of the director such that he may in the performance of his work endanger his own health or safety or the health or safety of other persons employed at the mine or works in question.

(4) If, after a medical examination of any person under subsection (1), the issue to him of a certificate of fitness is refused, the director shall in writing inform such person of the reasons for the refusal.

(5) The director shall as soon as possible after any person has in terms of subsection (1) been medically examined, in writing inform the owner of the mine or works in question of the finding at the examination.

Periodical medical examination for renewal of certificate of fitness.

25. (1) Every White person or Coloured person who performs risk work at a controlled mine or a controlled works, shall be medically examined at such intervals as may be prescribed by the Minister.

(2) Regulations made under subsection (1) may—

- (a) differentiate between controlled mines and controlled works, or between different groups, kinds or categories of controlled mines or controlled works, or between different working places at controlled mines or controlled works, or between different classes, groups or categories of persons, or between different occupations at controlled mines or controlled works;
- (b) prescribe the nature of the examination to be carried out at any such examination; and
- (c) prescribe the period for which any person who has obtained a certificate of fitness for the first time, shall have performed risk work at a controlled mine or a controlled works in order to be entitled to the renewal of his certificate of fitness.

(3) If a person referred to in subsection (1) is at an examination in terms of that subsection found to be free from any compensatable disease in the second degree within the meaning of section 44 (2), the director shall, subject to the provisions of subsections (4) and (5) of this section, cause the certificate of fitness of such person to be renewed for such period as the director may determine but not exceeding the prescribed period.

(4) Any certificate of fitness may under subsection (3) of this section be renewed subject to any restriction contemplated in section 23 (3).

(5) The director may refuse the renewal of the certificate of fitness of a person referred to in subsection (1), and may cancel such certificate, if his health is in the opinion of the



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director such that he may in the performance of his work endanger his own health or safety or the health or safety of other persons employed at the mine or works in question.

(6) The decision of the director in regard to the renewal of a certificate of fitness shall be final, but where the renewal of a certificate of fitness has been refused under this section, the director shall immediately cause the reasons for the refusal to be communicated in writing to the person concerned and a copy of such communication to be sent to the owner of the mine or works where that person is employed.

Interim  
examination of  
holder of  
certificate of  
fitness.

26. (1) Whenever the director has reason to suspect—

- (a) that the health of the holder of a certificate of fitness has deteriorated substantially since his last medical examination; or
- (b) that the holder of a certificate of fitness is performing work which he is not in terms of that certificate permitted to perform; or
- (c) that the holder of a certificate of fitness is not complying with a restriction subject to which his certificate has been issued or renewed; or
- (d) that the health of the holder of a certificate of fitness is such that the performance by him of risk work at a controlled mine or controlled works is likely to endanger his own health or safety or the health or safety of other workers,

the director shall, by notice in writing to the holder concerned, declare his certificate of fitness to be cancelled, and direct him—

- (i) to surrender such certificate to a person and at a time and place specified in such notice; and
- (ii) to report at a time and place so specified, in order to undergo a medical examination.

(2) A copy of such notice shall forthwith be sent to the owner of the mine or works where the holder concerned is employed.

Procedure where  
presence of  
compensatable  
disease is  
suspected.

27. (1) The director shall within fourteen days after a medical examination of the holder of a certificate of fitness—

- (a) who has not previously been found to be suffering from a compensatable disease and who is considered or suspected to be suffering from such a disease; or
- (b) who has previously been found to be suffering from a compensatable disease and who is considered or suspected to be suffering from a more advanced degree of the disease in question,

submit to the certification committee a full report on the result of the examination.

(2) Subject to the provisions of subsection (3), the director shall not issue a certificate of fitness to a person referred to in subsection (1) until the certification committee has determined whether or not he is suffering from a compensatable disease, and, if he is found or has previously been found to be suffering from a compensatable disease, the degree of that disease.

(3) The director may issue to a person referred to in subsection (1)—

- (a) who is not considered or suspected to be suffering from tuberculosis or any other infectious disease; or
- (b) who is considered or suspected to be suffering from tuberculosis which in the opinion of the director is non-infectious and is not likely to become infectious; and
- (c) who is considered to be fit to perform risk work at a controlled mine or a controlled works,

a temporary certificate of fitness which shall be valid for a period not exceeding sixty days to be specified therein, in order

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to enable that person to continue working until the decision of the certification committee is made known.

(4) If the certification committee finds the person concerned—

(a) to be free from a compensatable disease; or

(b) to be suffering from a compensatable disease which does not disqualify him from obtaining a certificate of fitness,

the director shall forthwith issue a certificate of fitness to that person.

(5) A certificate of fitness may be issued under subsection (4) of this section subject to any restriction contemplated in section 23 (3).

Procedure where  
certificate of  
fitness has lapsed.

28. (1) The director shall on application by any person whose certificate of fitness has lapsed, issue to such person a fresh certificate of fitness if after examination it appears—

(a) that he is not suffering from a compensatable disease and that his health is such that he is fit to perform risk work at a controlled mine or a controlled works; or

(b) that he is suffering from a compensatable disease which does not disqualify him from obtaining a certificate of fitness and that his health otherwise is such that he is fit to perform risk work at a controlled mine or a controlled works.

(2) The director may issue a certificate of fitness under this section subject to any restriction contemplated in section 23 (3).

Limited  
certificate of  
fitness.

29. (1) On application by any White person or Coloured person, including any such person in the service of the State, who is not in possession of a current certificate of fitness and whose work or duties require him from time to time to perform risk work, or be in or at places where risk work is performed, at any controlled mine or controlled works for periods not exceeding in the aggregate four hours on any one day, the director shall cause the applicant to be medically examined.

(2) If after an examination in terms of subsection (1) of a person referred to in that subsection, he is found—

(a) not to be suffering from a compensatable disease, or to be suffering from a compensatable disease which does not disqualify him from obtaining a certificate of fitness; and

(b) to be fit to perform the work which he is from time to time required to perform, without endangering his own health or safety or the health or safety of other workers,

the director shall issue to him a certificate of fitness which shall be valid for such period not exceeding one year as the director may determine, and which may be restricted in any manner the director deems fit.

(3) The director may at any time by notice in writing to the holder of a certificate of fitness issued under subsection (2), cancel such certificate and require such holder to report at a time and place determined by the director and stated in the notice, for the purpose of undergoing a medical examination.

(4) The director shall cause a copy of a notice under subsection (3) to be sent forthwith to the owner of the mine or works in question and to the employer of the person concerned, or, if he is in the service of the State, to the head of the department in which he is employed.

Restrictions on  
issue of  
certificate of  
fitness in  
certain cases.

30. (1) Subject to the provisions of section 27 (3) and subsection (3) of this section, no certificate of fitness shall at any time be issued to any person—

(a) who according to a finding of the certification committee, is suffering from—

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- (i) tuberculosis; or
- (ii) tuberculosis and pneumoconiosis; or
- (iii) any compensatable disease in the second degree within the meaning of section 44; or
- (b) who, in the opinion of the director, is suffering from an infectious disease and has not been completely cured of such disease.

(2) A finding expressed under the provisions of the previous Act and by virtue of which a benefit was awarded to any person, shall for the purposes of subsection (1) be deemed—

- (a) in the case of such a finding of pneumoconiosis which impaired the cardio-respiratory functions of the person concerned by not less than twenty per cent but by not more than fifty per cent, not to be a finding of a compensatable disease in the second degree;
- (b) in the case of such a finding of pneumoconiosis which impaired the cardio-respiratory functions of the person concerned by more than fifty per cent, to be a finding of a compensatable disease in the second degree;
- (c) in the case of such a finding of pneumoconiosis and tuberculosis, to be a finding of a compensatable disease in the second degree; and
- (d) in the case of such a finding of tuberculosis, to be a finding of tuberculosis.

(3) If the certification committee is satisfied that any White male or Coloured male who has been found by that committee to be suffering from tuberculosis, has received treatment for tuberculosis and that the disease has been completely cured, the director may issue to such person a certificate of fitness restricting the holder thereof to the performance, at a controlled mine or a controlled works, of work of a nature and at a place specified in the certificate, and for a period or periods so specified but not exceeding in the aggregate one hundred hours in any period of thirty days.

(4) The director—

- (a) may issue a certificate of fitness referred to in subsection (3) subject to such other restrictions as he may consider necessary in addition to the restrictions contemplated in that subsection;
- (b) may at any time cancel such a certificate by written notice to the holder thereof;
- (c) shall cause a copy of any notice under paragraph (b) to be sent without delay to the owner of any controlled mine or controlled works where the said holder is employed.

Director may require certain persons to undergo medical examination.

31. (1) The director may by notice in writing require—

- (a) any White person or Coloured person who performs any work other than risk work at a controlled mine or a controlled works; or
- (b) any person who is employed at a mine or works which is not a controlled mine or a controlled works,

to report at a time and place, or from time to time at the times and places, determined by the director and specified in the notice, for the purpose of being medically examined.

(2) A copy of any notice under subsection (1) shall be sent to the owner of the mine or works where the person to whom the notice is directed is employed.

Application for medical examination for compensatable disease.

32. (1) Any person who works or has worked at a mine or works, or any other person acting on behalf of such a person, may at any time apply to the director for a medical examination of such person for the purpose of determining whether such person is suffering from a compensatable disease, or, if he has previously been found to be suffering from such a disease, the degree of such disease.

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(2) Upon receipt of such application, the director shall, subject to the provisions of subsection (3)—

- (a) cause the person concerned to be medically examined as soon as possible;
- (b) submit to the certification committee a detailed report on the condition of the health of that person; and
- (c) cause such further examinations, tests and observations to be carried out as the director may deem necessary or as the certification committee may require.

(3) The director may in his discretion refuse such application if the person concerned was medically examined under this Act within the period of six months immediately preceding the date on which such application is received, unless the application is supported in writing by a medical practitioner.

Report by  
medical  
practitioner on  
person who has  
worked at mine or  
works.

33. (1) Whenever a medical practitioner in the Republic considers or suspects that any person medically examined or treated by him, who has to his knowledge worked at a mine or works, or who he believes on reasonable grounds to have so worked, is suffering from a compensatable disease, such practitioner shall forthwith communicate to the director his findings at the examination, and shall on demand by the director furnish such further information at his disposal in regard to the examination or the health of such person as the director may require.

(2) The director may in writing direct a medical practitioner who has communicated his findings at the examination of any person to the director as contemplated in subsection (1), to perform, with the consent of the person concerned, a further medical examination of that person or such an examination of a nature determined by the director, and a medical practitioner so directed who has performed an examination in accordance with the direction, shall forthwith submit to the director a detailed report on the result of the examination.

Duties of  
medical  
practitioner in  
regard to  
post-mortem  
examination or  
service.

34. (1) The director may authorize or in writing direct any medical practitioner in the Republic to perform a post-mortem examination or other post-mortem service under this Act of a nature determined by the director, and a medical practitioner so authorized or directed who has performed a post-mortem examination or other post-mortem service in accordance with such authorization or direction, shall forthwith submit to the director a detailed report on the result of the examination or service performed by him.

(2) A medical practitioner in the Republic who attended a deceased person at the time of or immediately before his death, or has opened the body of a deceased person, and who knows or has reason to believe that such person worked at a mine or works, shall remove the cardio-respiratory organs and any other prescribed organs or parts of the body of the deceased and shall send such organs and parts of the body to the prescribed place or, if no place has been prescribed, to the bureau or to any other place specified by the director, in accordance with the prescribed procedure or, if no procedure has been prescribed, in accordance with such instructions as may be issued by the director.

(3) Notwithstanding anything contained in subsection (1) or (2), a medical practitioner shall not perform a post-mortem examination on any deceased person or remove his cardio-respiratory organs or any other organs or parts of his body, without the consent of his widow (if any) or an adult near relative of the deceased, if the widow or such a relative can readily be consulted.

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Arrangements for post-mortem examinations and services.

35. The Minister may with the concurrence of the Minister of Finance enter into such agreement or make such other arrangements with any institution, hospital or organization as the Minister may consider necessary for the performance of any post-mortem examinations or post-mortem services required under this Act.

Cost of medical examinations.

36. (1) Subject to the provisions of subsection (3), the cost of any medical examination under this Act of any White male or Coloured male who works or has worked at a controlled mine or a controlled works, or at a mine or works in respect of which the Minister has under section 12 applied any provision of this Act, and the cost incurred to keep such person under observation in accordance with any provision of this Act, shall be paid by the secretary from moneys appropriated by Parliament for that purpose.

(2) An owner of a controlled mine or a controlled works who employs a female on risk work in terms of any authorization granted to him under section 14, shall be responsible for all medical examinations of such person under this Act, except a medical examination under section 32, and the cost of such examinations shall be paid by the owner concerned.

(3) An owner of a controlled mine or a controlled works shall bear the cost of any medical examination, for the purposes of this Act, of a White person or Coloured person in his service or whom he intends to employ, if such owner causes such examination to be performed by a medical practitioner in the service of such owner, under any arrangement made with the director with a view to obviating the necessity of such person absenting himself from duty or from the mine or works for the purpose of the examination: Provided that, if such examination has been performed to the satisfaction of the director and in accordance with his requirements, and the director thereafter desires any further examination or test in respect of the person concerned, the cost of such further examination or test shall be paid from moneys appropriated by Parliament for that purpose.

Medical practitioner and a person examined entitled to fee or costs under certain circumstances.

37. (1) If a medical practitioner who is not in the full-time service of the State or of an institution of which the maintenance costs are defrayed wholly from State funds or of an owner of a controlled mine or a controlled works—

- (a) has in terms of an authorization, request or direction by the director performed any medical or post-mortem examination or other post-mortem service under this Act; or
- (b) has removed the cardio-respiratory or other organs or parts of the body of a deceased person in terms of section 34 (2) to the satisfaction of the director,

he shall be entitled to payment, from moneys appropriated by Parliament for that purpose, of—

- (i) any cost reasonably and necessarily incurred by him in order to perform such examination or service; and
- (ii) the fee determined by the Minister in consultation with the Minister of Finance; or
- (iii) in the case of an examination or service performed elsewhere than in the Republic, the fee determined by agreement between the director and the medical practitioner concerned or the authority (if any) with which arrangements were made for the performance of the examination or service in question.

(2) If any person—

- (a) who is in possession of a current certificate of fitness and who is employed at a controlled mine or a controlled works; or



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- (b) who is not in possession of a current certificate of fitness and who performs any work other than risk work at a controlled mine or controlled works or is employed at a mine or works on the date on which it becomes a controlled mine or a controlled works by virtue of a notice under section 10,

necessarily incurs any costs, or necessarily absents himself from the service of the owner of the mine or works in question, in order to have his certificate of fitness renewed or to obtain a certificate of fitness in terms of any requirement of this Act or to undergo a medical examination pursuant to a direction by the director—

- (i) the director shall, subject to such conditions as the Minister may determine in consultation with the Minister of Finance, repay the said costs to that person from moneys appropriated by Parliament for that purpose;
- (ii) the said owner shall pay to that person his normal remuneration in respect of the period for which he so absents himself from the owner's service but not exceeding three days.

(3) Where an application under section 28 for the medical examination of any person has been granted, such person shall be entitled to repayment, from moneys appropriated by Parliament for that purpose, and in accordance with a scale prescribed by the Minister with the concurrence of the Minister of Finance, of costs incurred by him in order to undergo such examination—

- (a) if he is found for the first time, on the ground of such examination, to be suffering from a compensatable disease; or
- (b) where he has previously been found to be suffering from a compensatable disease, if he is found for the first time, on the ground of such examination, to be suffering from a compensatable disease in the second degree, within the meaning of section 44 (2); or
- (c) in any other case, if he has not received from the State a repayment of costs in respect of a medical examination which he underwent, during the year immediately preceding the day on which the said application reached the bureau, for the purpose of determining whether he is suffering from a compensatable disease.

Medical examination of Bantu persons in connection with work at controlled mines or works.

38. (1) Save as otherwise provided in this Act, the owner of a controlled mine or a controlled works or a contractor, as the case may be, shall be responsible for all medical examinations under this Act, and for the cost of such examinations, of Bantu persons who are in his service, or whom he intends to employ, at or in connection with his mine or works or, in the case of a contractor, who are in his service, or whom he intends to employ, for or in connection with work at a controlled mine or a controlled works.

(2) The Minister may make regulations prescribing or providing for any or all of the following matters, namely—

- (a) the medical examination of Bantu persons employed at or in connection with a controlled mine or a controlled works and Bantu persons whom it is intended to employ for service at or in connection with such a mine or works;
- (b) the medical examination of Bantu persons employed at or in connection with any mine or works on the date on which such mine or works becomes a controlled mine or a controlled works;
- (c) the nature of any such examination and the intervals at which and the persons by whom any such examination shall be performed;



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- (d) the standard of fitness which is to be complied with by Bantu persons employed at or in connection with a controlled mine or a controlled works, or in any particular part of such mine or works, or in any particular work at such mine or works, or whom the owner of such mine or works or any contractor intends so to employ;
- (e) the employment of medical practitioners by owners of controlled mines or controlled works;
- (f) the particulars to be recorded by the owner of a controlled mine or a controlled works or by any contractor in connection with Bantu persons employed by him at or in connection with such mine or works;
- (g) the information, particulars, documents or reports to be submitted or made available by the owner of a controlled mine or a controlled works with reference to any Bantu person in his service in connection with his mine or works, or in the service of any other person in connection with the mine or works of such owner, or with reference to any medical examination of such a Bantu person;
- (h) the powers of the director to require further medical examinations of, tests on or observation of any Bantu person, whether in connection with or in addition to any examination, test or observation prescribed or provided for under any other paragraph of this subsection, and the payment of the cost of such further examinations, tests or observation;
- (i) the medical examination of Bantu persons who were employed at or in connection with controlled mines or controlled works but who are no longer in the service of an owner of such a mine or works, and the payment of the cost in connection with such examinations;
- (j) the accommodation and maintenance of any Bantu person by the owner of a controlled mine or a controlled works pending a finding by the certification committee or pending the award of compensation to the Bantu person concerned, and the payment of the cost of such accommodation and maintenance;
- (k) the notice which the director or the owner of a controlled mine or a controlled works shall give of the result of any medical examination of a Bantu person under this Act, and the person to whom such notice shall be given;
- (l) the repatriation or return of Bantu persons recruited by the owner of a controlled mine or a controlled works, or by any organization acting for or on behalf of such owner, for employment at or in connection with the mine or works of such owner, and the payment of the cost of such repatriation or return;
- (m) the medical examination of Bantu persons who are recruited outside the Republic for work at or in connection with a controlled mine or a controlled works, and the payment of the cost of any such examination;
- (n) the medical treatment and care of any Bantu person who has been found to be suffering from a compensatable disease, and the payment of the cost of such treatment or care;
- (o) generally, all such matters as the Minister may deem necessary in connection with the medical examination, treatment or care of Bantu persons who are or have been employed at or in connection with controlled

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mines or controlled works, and all matters relating to such examination, treatment or care.

(3) Any regulation prescribing or providing for the payment of any cost or expense from the Consolidated Revenue Fund shall be made with the concurrence of the Minister of Finance.

(4) Different regulations may be made in respect of different areas, or in respect of different mines or works or classes, groups or categories of mines or works, or in respect of different classes, groups or categories of Bantu persons, or in respect of different occupations or work or places at mines or works.

(5) The regulations may provide for the granting of exemption from any provision thereof, and for the person by whom and the conditions on which and the circumstances under which such exemption may be granted or an exemption so granted may be cancelled.

(6) The regulations may provide for penalties for a contravention of or failure to comply with any provision thereof, not exceeding, in the case of an owner of a controlled mine or a controlled works or a contractor, a fine of four hundred rand and, in the case of any other person, a fine of two hundred rand.

## CHAPTER IV.

## CERTIFICATION OF COMPENSATABLE DISEASES.

Establishment and constitution of certification committee.

39. (1) There shall be established a committee, to be called the Medical Certification Committee for Occupational Diseases, which shall exercise the powers and perform the functions conferred upon or assigned to it by this Act.

(2) The certification committee shall consist of the director and not less than three or more than five other members to be appointed by the Minister, who shall be medical practitioners and of whom, subject to the provisions of subsection (4)—

(a) one shall be a medical practitioner whose name has been submitted to the Minister in terms of that subsection by the owners of controlled mines and controlled works or by an organization or organizations qualified, in the opinion of the Minister, to act on behalf of such owners; and

(b) one shall be a medical practitioner whose name has been so submitted by an organization or organizations qualified, in the opinion of the Minister, to act on behalf of persons who perform risk work at controlled mines or controlled works.

(3) The director shall *ex officio* be the chairman of the certification committee.

(4) (a) When a member of the certification committee is to be appointed under paragraph (a) or (b) of subsection (2), the Minister shall cause a written communication to be sent to the owners or the organization or organizations referred to in the said paragraph (a) or, as the case may be, to the organization or organizations referred to in the said paragraph (b), containing a request for the submission to him, for the purposes of the paragraph in question and within a period stated in the communication not being less than forty-five days, of the names of not less than three medical practitioners.

(b) If such request is not complied with, the Minister may appoint any medical practitioner as a member

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of the certification committee in the place of the member contemplated in the paragraph in question or, at his discretion and provided the certification committee already consists of not less than three members apart from the director, refrain from making any appointment.

(5) The Minister may appoint in respect of any member of the certification committee an alternate or so many alternates as he may consider necessary, who shall be a medical practitioner or medical practitioners and who, in the case of an alternate to a member appointed in terms of subsection (2) (a) or (b), shall be appointed in the same manner as such member.

(6) (a) The chairman and a majority of the other members of the certification committee shall constitute a quorum at any meeting thereof.

(b) The Minister may make such rules as he may consider necessary or desirable for the proper functioning of the certification committee.

Establishment and  
constitution of  
reviewing  
authority.

40. (1) There shall be established a body, to be called the Medical Reviewing Authority for Occupational Diseases, which shall exercise the powers and perform the functions conferred upon or assigned to it by this Act.

(2) (a) The reviewing authority shall consist of not less than three or more than four members to be appointed by the Minister and who shall be medical practitioners.

(b) In appointing the members of the reviewing authority the Minister shall consider such representations (if any) as may have been made to him by owners of controlled mines or controlled works or by any organization acting on behalf of such owners or on behalf of persons who perform risk work at controlled mines or controlled works.

(3) The Minister shall appoint a member of the reviewing authority as its chairman and shall designate another member to act as chairman when there is no chairman or the chairman is absent or is for any other reason unable to perform his functions.

(4) A member of the certification committee or an alternate to such a member or a medical practitioner in the employ of the bureau shall not be eligible for appointment as a member of the reviewing authority.

(5) The Minister may appoint in respect of any member of the reviewing authority an alternate or so many alternates as he may consider necessary, who shall be a medical practitioner or medical practitioners.

(6) (a) A majority of the members of the reviewing authority shall constitute a quorum at any meeting thereof.

(b) The Minister may make such rules as he may consider necessary or desirable for the proper functioning of the reviewing authority.

Conditions of  
service of  
member of  
certification  
committee or  
reviewing  
authority.

41. (1) A member of the certification committee or of the reviewing authority, and an alternate to such a member, who is not in the full-time service of the State shall be appointed at such remuneration and on such other conditions of service and for such period not exceeding five years as the Minister may determine in consultation with the Minister of Finance.

(2) A member of the certification committee or of the reviewing authority and an alternate to such a member shall vacate his office—

(a) if he becomes insolvent;

(b) if he becomes of unsound mind,

(c) if he is convicted of an offence and sentenced to imprisonment without the option of a fine; or

(d) in the case of a member, if he absents himself from five consecutive meetings of the certification committee or of the reviewing authority, as the case may be, without the leave of the certification committee or

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reviewing authority, which shall not be granted for any continuous period exceeding one hundred and eighty days.

(3) If the Minister is of the opinion that a member of the certification committee or of the reviewing authority or an alternate to such a member is not competent to serve as such a member or alternate, the Minister may by notice in writing remove the member or alternate concerned from office.

Powers of  
chairmen of  
certification  
committee and  
reviewing  
authority.

42. (1) The chairman of the certification committee and the chairman of the reviewing authority shall each have the same powers as those conferred upon the director by sections 5 (1) and 6, and the provisions of those sections relating to the exercise of such powers by the director shall *mutatis mutandis* apply with reference to the exercise of such powers by the chairman in question.

(2) The chairman of the certification committee may by notice in writing direct any medical practitioner who has performed a medical examination of a person who works or has worked at a controlled mine or a controlled works, to submit to that committee a full report on such examination, or to appear before that committee at a time and place specified in the notice, in order to answer such relevant questions as may be put to him by the said chairman or any other member of that committee.

(3) The chairman of the certification committee or the chairman of the reviewing authority may of his own motion or at the request of any person whose case is being dealt with by that committee or authority, as the case may be, by notice in writing direct such person to appear before that committee or authority at a time and place specified in the notice in order to answer such relevant questions as may be put to him by the chairman or any other member of that committee or authority, or in order to undergo a medical examination.

Standards for  
certification of  
compensatable  
diseases.

43. (1) The Minister may, if he deems it expedient, after consultation with the director and the medical adviser (if there is one), determine the standards to be applied in the certification of compensatable diseases in terms of this Act.

(2) In determining such standards, the Minister shall consider such representations (if any) as may have been made to him by owners of controlled mines or controlled works or by any organization acting on behalf of such owners or on behalf of persons who perform risk work at controlled mines or controlled works.

(3) Any determination made by the Minister under subsection (1) shall be published for general information in the *Gazette*.

Degrees of  
compensatable  
diseases.

44. (1) For the purposes of this Act a person shall be deemed to be suffering from a compensatable disease in the first degree—

- (a) in the case of pneumoconiosis, if the certification committee has found that he is suffering from pneumoconiosis whether or not it has impaired his cardio-respiratory functions, or which has permanently impaired such functions by not more than forty per cent;
- (b) in the case of a compensatable disease referred to in paragraph (d) of the definition of "compensatable disease" in section 1 (in this section referred to as "the definition"), if the certification committee has found that he is suffering from such a disease which has permanently impaired his cardio-respiratory functions by not more than forty per cent;
- (c) in the case of a compensatable disease referred to in paragraph (e) of the definition, if the certification committee has found that he is suffering from such a disease which has permanently impaired his ability to perform his ordinary work by not more than forty per cent;

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- (d) in the case of a compensatable disease referred to in paragraph (f) of the definition, if the certification committee has found that he is suffering from such a disease which has permanently impaired his ability to perform his ordinary work by not more than forty per cent.
- (2) For the purposes of this Act a person shall be deemed to be suffering from a compensatable disease in the second degree—
  - (a) if the certification committee has found that he is suffering from more than one compensatable disease simultaneously which together have permanently impaired his ability to perform his ordinary work by more than forty per cent, or that he is suffering from tuberculosis and another compensatable disease simultaneously;
  - (b) in the case of pneumoconiosis, if the certification committee has found that he is suffering from pneumoconiosis which has permanently impaired his cardio-respiratory functions by more than forty per cent;
  - (c) in the case of a compensatable disease referred to in paragraph (d) of the definition, if the certification committee has found that he is suffering from such a disease which has permanently impaired his cardio-respiratory functions by more than forty per cent;
  - (d) in the case of a compensatable disease referred to in paragraph (e) of the definition, if the certification committee has found that he is suffering from such a disease which has permanently impaired his ability to perform his ordinary work by more than forty per cent;
  - (e) in the case of a compensatable disease referred to in paragraph (f) of the definition, if the certification committee has found that he is suffering from such a disease which has permanently impaired his ability to perform his ordinary work by more than forty per cent.

Director to submit certain medical and post-mortem reports to certification committee.

45. When the director has obtained or has received from any medical practitioner any report or communication on the medical or post-mortem examination in terms of this Act of any person—

- (a) who has not previously been found by the committee to be suffering from a compensatable disease and who is on the ground of such examination considered or suspected to be suffering from such a disease or to have been suffering from such a disease at the time of his death; or
- (b) who has previously been found by the committee to be suffering from a compensatable disease and who is on the ground of such medical examination considered or suspected to be suffering from a compensatable disease in a more advanced degree,

the director shall as soon as practicable submit to the certification committee a full report on such examination, and, at the request of the said committee, cause such further examinations, tests or observation to be performed as that committee may require.

Certification committee to determine presence, nature and degree of compensatable disease.

46. When the certification committee has received from the director a report in terms of section 45 or has obtained or received in terms of any other provision of this Act a report on the medical or post-mortem examination of any such person as is referred to in that section, the certification committee shall determine, in any manner it deems fit but with due regard to the standards (if any) determined under section 43 and to the provisions of section 44—

- (a) in the case of a person who has not previously been found by the committee to be suffering from a compensatable disease, whether he is suffering from such



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a disease or, as the case may be, was suffering from such a disease at the time of his death, and, if so, the nature and degree of the disease;

- (b) in the case of a person who has previously been found by the certification committee to be suffering from a compensatable disease, the degree of the disease.

Certification committee may reconsider and alter own finding.

47. (1) The certification committee may, when it has expressed a finding under the provisions of this Act, of its own motion or on application by the person to whom such finding relates, or on application by any other person acting on behalf of that person or any organization so acting, or, in the case of a deceased person, on application by the dependants of such person or by any other person acting on behalf of such dependants or any organization so acting, at any time reconsider and, subject to the provisions of subsection (2), alter such finding or rescind it and express a fresh finding in its place.

(2) The certification committee may not alter or rescind any finding by virtue of which any benefit has been awarded to any person, irrespective of whether such finding was expressed before or after the commencement of this Act.

(3) Where a finding is altered or is rescinded and a fresh finding is expressed in its place under subsection (1), such altered or fresh finding shall be deemed to have been expressed on the date on which the original finding was expressed.

Notice of finding of certification committee.

48. (1) Whenever the certification committee has expressed a finding in accordance with the provisions of this Act, the chairman or a person authorized thereto in writing by him, shall issue a certificate in the prescribed form setting out such finding and containing such information as may be necessary for the purposes of this Act, and shall within ten days as from the date on which the finding was expressed, cause copies of such certificate to be sent—

- (a) to the commissioner;
- (b) if the person to whom the certificate relates is still employed at a mine or works, to the owner of such mine or works;
- (c) if the certificate relates to any person other than a Bantu person, to the person to whom it relates, or if it relates to a deceased person, to the dependants, if any, of the deceased;
- (d) if the certificate relates to a Bantu person, to the Bantu affairs authority; and
- (e) if it is a finding of tuberculosis, to the local authority in whose area the person is to whom the certificate relates.

(2) The chairman of the certification committee shall keep a register of all the findings of that committee.

Effective date of finding of certification committee.

49. (1) A finding of the certification committee shall, save as is otherwise provided in this Act, be deemed to have been expressed—

- (a) where it is based wholly or partly on a medical examination or two or more medical examinations of the person concerned, on the date on which such examination or the first of such examinations commenced;
- (b) where it is based wholly or partly on a post-mortem examination, on the date on which the person concerned died;
- (c) where it is based wholly or partly on a medical examination or two or more medical examinations of the person concerned carried out or commenced before the commencement of this Act, on the date on which such examination or the first of such examinations commenced.



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(2) Notwithstanding the repeal of the previous Act, a finding referred to in subsection (1) (c) shall be expressed in accordance with the provisions of the previous Act and shall be deemed to be a finding of the Miners' Certification Committee (within the meaning of the previous Act) expressed before the commencement of this Act.

Review of  
finding by  
reviewing  
authority.

50. (1) The reviewing authority may review any finding expressed by the certification committee if an application for such review is lodged with the reviewing authority by the person to whom the finding relates or by any other person acting on his behalf or any organization so acting, or, in the case of a deceased person, by the dependants of the deceased or by any person or organization acting on behalf of such dependants, within ninety days as from the date on which notice of the finding was given by the certification committee.

(2) The reviewing authority may on such review confirm the finding in question or request the chairman of the certification committee to submit the case for review to a joint meeting of that committee and the reviewing authority.

Joint meeting  
of certification  
committee and  
reviewing  
authority.

51. (1) The chairman of the certification committee shall, within fourteen days after the receipt of a request under section 50 (2), convene a joint meeting of the certification committee and the reviewing authority, at which the chairman of the certification committee shall preside, and every member of the certification committee or the reviewing authority present thereat shall have a vote on any matter relating to the finding under review.

(2) The Minister shall determine the quorum for a joint meeting of the certification committee and the reviewing authority and may make such rules as he deems necessary for the conduct of the business of such joint meeting.

Review by  
joint meeting.

52. (1) A joint meeting of the certification committee and the reviewing authority may confirm any finding under review by such meeting or rescind it and substitute for it such meeting's own finding.

(2) Where a finding is rescinded as aforesaid, the finding substituted for it by the joint meeting shall be deemed to be a finding of the certification committee and to have been expressed on the date on which the rescinded finding was expressed.

(3) The provisions of section 48 shall *mutatis mutandis* apply in respect of a finding substituted by such a joint meeting for a finding of the certification committee.

Finality of  
findings.

53. A finding expressed by a joint meeting of the certification committee and the reviewing authority and, subject to the provisions of sections 47 and 52, a finding expressed by the certification committee, shall be final and no court of law shall have jurisdiction to set aside or vary any such finding, except on the ground that the joint meeting or the certification committee has exceeded its powers or has acted in an irregular manner.

## CHAPTER V.

## COMMISSIONER, ADVISORY COMMITTEE AND COMPENSATION FUND.

Appointment of  
commissioner and  
staff.

54. The Minister shall appoint, subject to the laws governing the public service—

- (a) an officer to be styled the Compensation Commissioner for Occupational Diseases, who shall exercise the powers and perform the functions conferred upon or assigned to him by this Act or by the Minister under this Act;

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- (b) an officer, to be styled the Deputy Compensation Commissioner for Occupational Diseases, to act in the place of the commissioner whenever there is no commissioner or the commissioner is absent or is for any other reason unable to perform his functions;
- (c) such other officers and persons as he may consider necessary, to assist the commissioner in the performance of the functions which in terms of this Act are required to be performed by him.

Powers of commissioner to enter upon premises and obtain information.

55. (1) The commissioner shall for the purpose of performing his functions have the same powers as those conferred on the director by sections 5 (3) and 6, and the provisions of those sections relating to the exercise of such powers by the director shall *mutatis mutandis* and subject to the provisions of subsection (2) of this section apply with reference to the exercise of such powers by the commissioner.

- (2) (a) Notwithstanding anything contained in section 6 (4) or any law relating to income tax, the Secretary for Inland Revenue shall convey to the commissioner at his request any information required by the commissioner in connection with the application of any provision of this Act.
- (b) The commissioner shall, except in the performance of his duties under this Act, preserve secrecy in regard to any information conveyed to him under paragraph (a).

Commissioner may delegate powers.

56. The commissioner may in writing delegate to the deputy commissioner or any other officer on his staff or, with the approval of the Minister, to any other person in the service of the State, any power conferred upon the commissioner by this Act, and may at any time vary or withdraw any such delegation.

Finality of decisions of commissioner.

57. No court of law shall have jurisdiction to set aside or vary a decision of the commissioner in the exercise of any power conferred upon him by this Act, except on the ground that the commissioner has exceeded his powers or has acted in an irregular manner.

Supreme Court rulings.

58. (1) The commissioner may with the consent of the Minister state a special case for the ruling of the Transvaal Provincial Division of the Supreme Court of the Republic of South Africa on any question of law which has arisen in connection with any matter in which the commissioner has given or is required to give a decision under this Act.

(2) Any person who has an interest in the decision in question, may appear in person or be represented by counsel at the hearing of any such case.

(3) Where any such ruling has been given, the commissioner shall in any future instance act in conformity with that ruling, and if the ruling is in conflict with any decision already given by the commissioner, such decision shall be modified so as to bring it into conformity with the ruling: Provided that any person affected by such ruling, and (with the consent of the Minister) the commissioner, may without obtaining leave to do so, appeal against such ruling to the Appellate Division.

(4) When a provincial or local division of the Supreme Court of the Republic of South Africa has given a decision or ruling which affects the administration of this Act, the Minister may submit that decision or ruling to the Appellate Division in order that it may determine the said question for the guidance of all courts.

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Establishment  
and constitution of  
advisory  
committee.

59. (1) There shall be established an advisory committee which shall perform the functions assigned to it by or under this Act and such other functions as may from time to time be assigned to it by the Minister.

(2) The advisory committee shall consist of the commissioner and four other members to be appointed by the Minister, of whom, subject to the provisions of subsection (3)—

(a) two shall be persons whose names have been submitted to the Minister in terms of that subsection by the owners of controlled mines and controlled works or by an organization or organizations qualified, in the opinion of the Minister, to act on behalf of such owners; and

(b) two shall be persons whose names have been so submitted by an organization or organizations qualified, in the opinion of the Minister, to act on behalf of persons who perform risk work at controlled mines or controlled works.

(3) (a) When the members contemplated in paragraph (a) or (b) of subsection (2) are to be appointed, the Minister shall cause a written communication to be sent to the owners or the organization or organizations referred to in the said paragraph (a), or, as the case may be, to the organization or organizations referred to in the said paragraph (b), containing a request for the submission to him, for the purposes of the paragraph in question and within a period stated in the communication not being less than forty-five days, of the names of not less than three persons.

(b) If such request is not complied with, the Minister may appoint any person as a member of the advisory committee in the place of a member contemplated in the paragraph in question.

(4) The commissioner shall *ex officio* be the chairman of the advisory committee.

(5) The Minister may appoint in respect of any member of the advisory committee who has been appointed by him, an alternate or so many alternates as he may consider necessary, in the same manner as that in which the member concerned has been appointed.

(6) A member of the advisory committee, and an alternate to such a member, who is not in the full-time service of the State, shall be appointed at such remuneration and on such other conditions of service and for such period not exceeding five years, as the Minister may determine in consultation with the Minister of Finance.

Consultation by  
commissioner.

60. (1) The commissioner may at his discretion consult the advisory committee and, with the approval of the Minister, any other person or organization on any matter which he is required to deal with, consider or decide in the exercise of his functions under this Act.

(2) Where consultation by the commissioner under subsection (1) involves the payment of remuneration to any person or organization, such remuneration shall be paid from moneys appropriated by Parliament for that purpose, on a scale determined by the Minister in consultation with the Minister of Finance.

Establishment and  
management of  
compensation  
fund.

61. (1) There is hereby established a fund to be called the Mines and Works Compensation Fund.

(2) The compensation fund shall subject to the provisions of this Act be controlled and managed by the commissioner.

(3) There shall be transferred to the compensation fund—

(a) all assets and moneys which immediately before the commencement of this Act were the property or stood to the credit of the General Council for Pneumoconiosis Compensation, or the Pneumoconiosis Compensation Fund, which existed under the previous Act; and

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(b) all liabilities which immediately before such commencement were liabilities of the said council.

(4) The commissioner shall receive all moneys payable to or for the benefit of the compensation fund in terms of this Act and shall credit to the compensation fund, in accordance with the provisions of this Act, all such moneys and all moneys which in terms of this Act are to be paid to and are received by the commissioner.

(5) The commissioner shall deposit the moneys of the compensation fund in a bank approved by the Minister for that purpose, and no money so deposited shall be paid out by the commissioner otherwise than by means of an order signed by two persons approved by the secretary in consultation with the Secretary to the Treasury, directing payment on behalf of the commissioner.

Amounts payable  
by owner of  
controlled mine or  
works.

62. (1) The commissioner shall determine in respect of each controlled mine or controlled works, in such manner as he deems fit after consultation with an actuary designated by the Minister, and on the basis of the risk of the mine or works in question as determined under section 20 or 21, an amount payable by the owner of that mine or works to the commissioner, for the benefit of the compensation fund, in respect of each shift worked by any person at or in connection with that mine or works during which such person performed risk work, in order to enable the commissioner to pay to or in respect of every person who performs risk work at or in connection with that mine or works and who is after the commencement of this Act found to be suffering from a compensatable disease, such amounts as may be or are likely to become payable under this Act.

(2) The commissioner may determine different amounts in respect of—

- (a) controlled mines and controlled works;
- (b) different categories, groups or classes of controlled mines or controlled works;
- (c) different categories, groups or classes of persons;
- (d) different trades, occupations or work at or in connection with controlled mines or controlled works;
- (e) different sections of controlled mines or controlled works, or different working places at controlled mines or controlled works;
- (f) different compensatable diseases.

(3) Whenever the commissioner has made a determination under subsection (1), he shall in writing notify the owner of the mine or works in question thereof, and in such notice the commissioner shall set out such details and information as he may consider adequate for the purpose of explaining the determination, and specify the date as from which the determination takes effect.

(4) The owner of a controlled mine or a controlled works shall pay to the commissioner, not later than the twentieth day of each month, the amounts which, by virtue of a determination under subsection (1), such owner owes in respect of persons who performed risk work at or in connection with his mine or works in the preceding month, and when any such payment is made the owner concerned shall furnish full details of the composition of the amount of his payment and, in the prescribed form, such other details as may be required by the commissioner: Provided that the commissioner may, on application by an owner of a controlled mine or a controlled works, authorize the owner concerned to pay any amounts which are due by that owner at longer intervals but not exceeding three-monthly intervals.

(5) When the commissioner has under subsection (1) determined the amount which the owner of a controlled mine or a controlled works is to pay as contemplated in this section, the commissioner may, of his own motion or on application by that

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owner, and the commissioner shall when the risk of the mine or works in question has been altered by the risk committee under section 21, review and, if he deems it necessary, alter the amount so determined, and if the commissioner has altered such amount he shall forthwith in writing notify the owner concerned.

Amounts payable by owner of controlled mine or works for research.

63. (1) The owner of a controlled mine or a controlled works shall pay to the commissioner for the benefit of the compensation fund, in respect of each shift worked by a person at or in connection with the mine or works in question during which such person performed risk work, such amount for purposes of research contemplated in section 120 as the Minister may determine.

(2) The amount so determined shall not exceed—

- (a) in the case of a White person, one cent per shift; and
- (b) in the case of any person other than a White person, one-half cent per shift.

(3) The provisions of subsection (2) of section 62 shall *mutatis mutandis* apply in connection with the determination of an amount by the Minister under subsection (1) of this section, and the provisions of subsections (3) and (4) of the first-mentioned section shall *mutatis mutandis* apply with reference to any amount so determined.

Interest on amount in arrear.

64. An owner of a controlled mine or a controlled works shall pay interest to the commissioner, at a rate determined by the commissioner and approved by the Minister, on any amount due to the commissioner under the provisions of section 62 or 63 which was not paid on the day on which it became payable, and such interest shall be calculated from the said day to the day preceding the day on which the amount in question is paid.

Penalty for failure to pay amount due.

65. (1) The commissioner may impose on an owner of a controlled mine or a controlled works who fails to pay any amount which he is required to pay to the commissioner under section 62 or 63 in respect of any shift during which any person performed risk work at or in connection with such mine or works, a penalty not exceeding ten rand for each such shift in respect of which the amount has not been paid.

(2) The commissioner shall credit any penalty recovered under subsection (1) to the Mines Account or the Works Account or the Research Account, as the case may be, and the provisions of section 64 shall *mutatis mutandis* apply with reference to any such penalty.

Recovery of amount due.

66. Whenever any amount is due to the commissioner under any provision of this Act by an owner of a mine or works, the commissioner may take such steps as he deems fit or as the Minister has directed him to take to recover the amount due, and any such amount may be recovered together with interest thereon from the due date at a rate determined by the commissioner and approved by the Minister, and any costs incurred in connection with such recovery.

Commissioner to keep certain separate accounts.

67. The commissioner shall maintain separate accounts for the purposes of the compensation fund, to be called the State Account, the Mines Account, the Works Account and the Research Account, respectively, to which shall be credited the amounts and to which shall be debited the payments provided for in the applicable provisions of this Act.

Commissioner to make certain adjustment between accounts.

68. (1) As soon as practicable after the commencement of this Act, the commissioner shall, in consultation with an actuary approved by the Minister for that purpose, determine the amounts which would have been payable, had the previous Act not been repealed, respectively out of the A-account and



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B-account which were established under the previous Act, in respect of every person who was found for the first time before the commencement of this Act to be suffering from pneumoconiosis or tuberculosis.

(2) The commissioner shall credit the Mines Account and debit the State Account with the difference between the amounts which, immediately before the commencement of this Act, stood to the credit of the accounts referred to in subsection (1) and the amounts determined by him under that subsection.

## State Account.

69. (1) The commissioner shall credit to the State Account all the assets and moneys transferred to the compensation fund under section 61 (3).

(2) The Minister shall from time to time, in consultation with the Minister of Finance, pay to the commissioner for the credit of the State Account, from moneys appropriated by Parliament for that purpose, such amounts as the Minister may deem necessary in order to enable the commissioner to meet the obligations payable from that account.

(3) The commissioner shall debit the State Account with every payment under a provision of this Act—

- (a) to or in respect of any person who was found for the first time, before the commencement of this Act, to be suffering from pneumoconiosis or tuberculosis;
- (b) to or in respect of any person on the ground of a finding that he is or was suffering from a compensatable disease which he contracted as the result of work performed by him in the service of the State in or at or in connection with any mine or works;
- (c) in respect of service rendered at a mine which ceased, before the commencement of this Act, to be a controlled mine in terms of the provisions of the previous Act.

(4) Any credit balance in the State Account after all the obligations payable from it have been extinguished, shall be paid into the Consolidated Revenue Fund.

## Mines Account.

70. (1) The commissioner shall credit to the Mines Account all amounts paid to him by the owners of controlled mines in terms of the provisions of this Act, except any such amounts so paid as are referred to in section 73 (1).

(2) The commissioner shall, subject to the provisions of section 69 (3) (b) and (c) and section 72, debit the Mines Account with every payment in terms of a provision of this Act to or in respect of any person who, after the commencement of this Act, was found for the first time to be suffering or to have suffered from a compensatable disease which, in the opinion of the certification committee, he contracted as a result of work at or in connection with a controlled mine.

## Works Account.

71. (1) The commissioner shall credit the Works Account with all amounts paid to him by the owners of controlled works in terms of the provisions of this Act, except any such amounts so paid as are referred to in section 73 (1).

(2) The commissioner shall, subject to the provisions of section 69 (3) (b) and (c) and section 72, debit the Works Account with every payment in terms of a provision of this Act to or in respect of any person who, after the commencement of this Act, was found for the first time to be suffering or to have suffered from a compensatable disease which, in the opinion of the certification committee, he contracted as a result of work at or in connection with a controlled works.

Payments from  
State Account,  
Mines Account or  
Works Account  
according to  
circumstances.

72. (1) Every payment in terms of a provision of this Act to or in respect of any person other than a person referred to in section 69 (3) (b), on the ground of work performed at or in connection with a mine or works, not being a controlled mine or a controlled works, and in respect of which the Minister

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has under section 12 declared that it shall be deemed to be risk work at a controlled mine or a controlled works, shall be made—

- (a) if no amounts were payable under section 62 by the owner of the mine or works in question in respect of such work, from the State Account;
- (b) if any amounts were payable under section 62 by that owner in respect of such work, from the Mines Account or the Works Account, according to the circumstances.

(2) Subject to the provisions of subsections (1) and (3) of this section and section 69 (3) (b) and (c), any payments in terms of a provision of this Act to or in respect of a person who was employed at a controlled mine and at a controlled works and who, after the commencement of this Act, was found for the first time to be suffering or to have suffered from a compensatable disease, shall be paid partly from the Mines Account and partly from the Works Account in such proportion as the commissioner at his discretion may determine on the basis of the respective periods for which that person was employed as aforesaid.

(3) If the commissioner is of the opinion that a person referred to in subsection (2) was employed mainly at a controlled mine or mainly at a controlled works, the commissioner may at his discretion debit the payments referred to in that subsection entirely against the Mines Account or the Works Account, according to the circumstances.

**Research Account.** 73. (1) The commissioner shall credit to the Research Account all amounts paid to him in terms of the provisions of section 63, and all amounts paid under section 64, 65 or 66 by way of interest, penalty or cost in respect of any amount or the recovery of any amount which is to be credited to the Research Account.

(2) The commissioner shall not pay any moneys from the Research Account except on a written direction by the Minister for the purposes of section 120.

Minister to make good certain losses in and payments from the compensation fund.

74. The Minister shall pay, from moneys appropriated by Parliament for that purpose, to the commissioner for the credit of the relevant account of the compensation fund—

- (a) any amount which is due to the commissioner by an owner of a controlled mine or a controlled works under any provision of this Act and which the commissioner is unable to recover from that owner, but excluding any interest due under section 64 or 66 or any penalty imposed under section 65;
- (b) any amount paid from the compensation fund to any person who was not entitled to receive such amount, and which the commissioner is unable to recover from such person;
- (c) any loss suffered by the compensation fund through the negligence, dishonesty or other act or omission of any person in the service of the State, or any person, institution, organization or authority who or which has acted on behalf of the commissioner in terms of any provision of this Act, and which the commissioner is unable to recover from the person, institution, organization or authority concerned;
- (d) any amount paid from the compensation fund under a provision of this Act to or in respect of a person who contracted a compensatable disease wholly or partly as a result of his duties at or in connection with mines or works while he was in the service of the State or while he performed a service on behalf of the State;

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- (e) any amount paid from the compensation fund under a provision of this Act to or in respect of a person in connection with work performed at a mine or works which at the time of the performance of such work was not a controlled mine or a controlled works.

Investment of  
moneys by  
commissioner.

75. (1) The commissioner shall invest with the Public Debt Commissioners any moneys in the State Account or Research Account which are available for investment.

(2) The commissioner may after consultation with the advisory committee—

- (a) invest any moneys in the Mines Account or the Works Account which are available for investment, in Government stock, Treasury bills, any stock guaranteed by the Government or any stock of a municipal or divisional council or public utility company, or with any commercial bank, building society or other financial institution approved by the Minister in consultation with the Minister of Finance;
- (b) invest such moneys with the Public Debt Commissioners.

(3) Any profit or loss on realization of moneys deposited with the Public Debt Commissioners shall accrue to or be borne by the account from which the deposit was made.

(4) Where the commissioner has lent any money on the security of a pledge or mortgage bond, he may, when enforcing his claim for repayment of the loan, with the approval of the advisory committee buy in the pledged or mortgaged property and thereafter sell that property.

Records and  
accounts of  
compensation  
fund.

76. (1) The commissioner shall keep full and true records of the transactions of the compensation fund, and shall cause the books and accounts relating to such transactions to be balanced as at the thirty-first day of March in each year and thereafter prepare a statement showing in all necessary detail the income and expenditure of the compensation fund during the preceding financial year, and a balance sheet showing the assets and liabilities of the compensation fund as at the end of that financial year.

(2) The accounts and balance sheet of the commissioner shall be audited by the Controller and Auditor-General.

(3) As soon as may be after the accounts and balance sheet for any financial year have been audited, the commissioner shall submit copies to the Minister and to the advisory committee.

Records and  
annual report of  
commissioner.

77. (1) The commissioner shall compile such statistical records as may be necessary to enable him to carry out his duties under this Act, and such other records as he may deem necessary or as the Minister may direct.

(2) As soon as may be after the close of each financial year the commissioner shall furnish the Minister with a report on his activities which shall contain all the necessary information in connection with the compensation fund.

## CHAPTER VI.

COMPENSATION TO WHITE AND COLOURED PERSONS,  
AND GENERALLY.

Application for  
and award of  
benefits.

78. (1) No right to a benefit to which a person became entitled under the previous Act, but which was not awarded to that person before the commencement of this Act, and no right to a benefit in respect of a compensatable disease under this Act, shall become effective until such benefit has been awarded by the commissioner.

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(2) No benefit shall be awarded by the commissioner except on an application made by or on behalf of the person concerned on a form provided for that purpose by the commissioner, which shall be accompanied by such information and documents as the commissioner may require: Provided that—

- (a) no application shall be required in respect of a right to a pension which supersedes a pension awarded under the previous Act, and any such right shall take effect at the commencement of this Act; and
- (b) the commissioner may in his discretion award any benefit even though application for it has not been made, and give effect to the award from a date determined by him but not preceding the date upon which the beneficiary became entitled to the benefit.

(3) An application under subsection (2) for a benefit to which a Bantu person is entitled, shall be made to the Bantu affairs authority, which shall submit the application to the commissioner.

(4) The Secretary for Coloured Relations and Rehoboth Affairs shall at the request of the commissioner render such assistance as may be necessary to enable any Coloured person to apply for any benefit to which such person may be entitled, or in connection with the payment to or on behalf of any Coloured person of any benefit or other amount to which such person became entitled.

(5) Any application for a benefit under the previous Act, which was not disposed of before the commencement of this Act, shall be deemed to be an application under this section and the commissioner shall deal with it in accordance with the provisions of this Act.

Benefits to  
White person  
(excluding widow  
and dependent  
child) who  
received pension  
under previous  
Act.

79. (1) A White person, except a widow and a dependent child, who immediately before the commencement of this Act was entitled to a pension in respect of himself and his dependants, if any, on the ground of a finding expressed before the commencement of this Act, shall, as from the said commencement, be entitled to—

- (a) in the case of a finding of pneumoconiosis which has impaired his cardio-respiratory functions by not more than fifty per cent, a monthly pension of fifty rand;
- (b) in the case of a finding of pneumoconiosis which has impaired his cardio-respiratory functions by more than fifty per cent but by not more than seventy-five per cent, a monthly pension of ninety-four rand;
- (c) in the case of a finding of pneumoconiosis which has impaired his cardio-respiratory functions by more than seventy-five per cent, or a finding of pneumoconiosis together with tuberculosis, a monthly pension of one hundred and thirty-six rand;
- (d) in the case of a finding of tuberculosis, a monthly pension of ninety-four rand:

Provided that where the pension to which such a White person was entitled immediately before the commencement of this Act, is equal to or greater than the corresponding pension under this subsection, the commissioner shall increase the pension to which the person concerned was entitled as aforesaid, by three rand in respect of every dependent child and shall pay the increased pension to the person concerned as if the previous Act had not been repealed, until, as a result of the decrease in the number of dependants, such pension has become smaller than the corresponding pension under this subsection.

(2) A person who is entitled to a pension under subsection (1) (a), may within six months from the date of commencement of this Act apply on the prescribed form to the commissioner for the conversion of that pension into a one-sum benefit.

(3) The commissioner may in his discretion, after consultation with the advisory committee, grant or refuse any application

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under subsection (2), and the decision of the commissioner in connection with any such application shall be final.

(4) Where the commissioner grants such an application, he shall award to the person concerned a one-sum benefit which shall be equal to the difference (if any) between twelve thousand rand and such smaller total amount as has been received by that person by way of a one-sum benefit (if any) and monthly pension in respect of himself and his dependants under this Act and the previous Act up to the date on which the commissioner received his application: Provided that if there is no such difference or if such difference is less than four thousand rand, the commissioner shall pay to the person concerned a one-sum benefit of four thousand rand.

(5) Any person who has accepted a one-sum benefit in lieu of a monthly pension under the provisions of this section, and his dependants, shall not at any time have a further right or claim to a monthly pension under this Act.

(6) When the certification committee has found that a person to whom a one-sum benefit was awarded under subsection (4) is suffering from a compensatable disease in the second degree, the commissioner shall award to such person an additional benefit of six thousand rand.

(7) When the certification committee has found that a person mentioned in subsection (1) (a), to whom a one-sum benefit in lieu of a monthly pension was not awarded, is suffering from pneumoconiosis which has impaired his cardio-respiratory functions by more than fifty per cent but not more than seventy-five per cent, the commissioner shall award to that person a monthly pension of ninety-four rand.

(8) When the certification committee has found that a person mentioned in subsection (1) (a) or (b), to whom a one-sum benefit in lieu of a pension was not awarded, is suffering from pneumoconiosis which has impaired his cardio-respiratory functions by more than seventy-five per cent, or that such person or a person mentioned in subsection (1) (d), is suffering from tuberculosis and another compensatable disease simultaneously, the commissioner shall award to the person concerned a monthly pension of one hundred and thirty-six rand.

Benefits to  
White person  
found after  
commencement of  
this Act to be  
suffering from  
compensatable  
disease.

80. (1) When the certification committee after the commencement of this Act finds for the first time that a White person who did not before such commencement become entitled to any benefit under the previous Act, is suffering from a compensatable disease in the first degree, the commissioner shall award to the person concerned a one-sum benefit of twelve thousand rand.

(2) When the certification committee has found for the first time that a person to whom a benefit has been awarded under subsection (1) is suffering from a compensatable disease in the second degree, the commissioner shall award to the person concerned an additional one-sum benefit of six thousand rand.

(3) When the certification committee has found for the first time that a White person who did not previously become entitled to a benefit under subsection (1), is suffering from a compensatable disease in the second degree, the commissioner shall award to the person concerned a one-sum benefit of eighteen thousand rand.

(4) When the certification committee has found for the first time that a White person who did not previously become entitled to a benefit under this Act or the previous Act, is suffering from tuberculosis with which he was, in the opinion of the committee, affected while he was performing risk work at or in connection with a controlled mine or a controlled works, or with which he was affected at any time within twelve months after the date on which he performed such work for the last time, the commissioner shall award to such person a one-sum benefit of five thousand rand.



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(5) When the certification committee has found for the first time that a White person to whom a one-sum benefit in respect of tuberculosis was previously awarded under this Act or the previous Act, is suffering from a compensatable disease in the second degree, the commissioner shall award to such person a one-sum benefit which shall be equal to the difference between eighteen thousand rand and the amount of the first-mentioned benefit.

Unpaid benefits  
at death of White  
beneficiary.

81. (1) If a person who became entitled to a one-sum benefit under section 79 or 80 and to whom such benefit was not paid in full, has died, the commissioner shall award to his widow or, if there is no widow, to his dependent children, if any, a benefit which shall be equal to the unpaid balance of such one-sum benefit.

(2) If a benefit equal to such unpaid balance cannot be awarded in terms of subsection (1) for the reason that there is no widow or dependent child, the commissioner may, in his discretion and after consultation with the advisory committee, award a benefit equal to such balance to any person or persons for whose maintenance the deceased, in the opinion of the commissioner, was responsible before his death, and where there is no such person, the commissioner shall pay such benefit to the estate of the deceased.

Benefits to  
dependants of  
deceased White  
person not  
entitled to benefit  
before death, or to  
whom one-sum  
benefit was paid in  
lieu of pension.

82. (1) If the certification committee has found that a deceased White person who did not before his death become entitled to any benefit under this Act or the previous Act, was at the time of his death suffering from a compensatable disease, the commissioner shall award to his dependants, if any, benefits as follows:—

(a) in the case of a finding of a compensatable disease other than tuberculosis or of tuberculosis together with another compensatable disease—

(i) to his widow, a one-sum benefit equal to the amount to which the deceased would have been entitled had he not died; or

(ii) if there is no widow but there are dependent children, in respect of each dependent child, a benefit determined by the commissioner after consultation with the advisory committee: Provided that the benefits so determined in respect of all such children shall in the aggregate equal the amount to which the deceased would have been entitled had he not died; or

(b) in the case of a finding of tuberculosis only in respect of which he did not receive a benefit but would have been entitled to a benefit had he not died, to his widow, if there is one, or to his dependent children if there is no widow, a one-sum benefit of five thousand rand.

(2) If the certification committee has found that a deceased White person to whom a one-sum benefit was awarded under section 79 (4) in lieu of a monthly pension, was at the time of his death suffering from a compensatable disease in the second degree, the commissioner shall award to his widow, if there is one, or if there is no widow, to his dependent children, if any, a one-sum benefit of six thousand rand.

(3) If a benefit cannot be awarded under subsection (1) or (2) because there is no widow or dependent child, the commissioner may in his discretion and after consultation with the advisory committee, award such benefit to any person or persons for whose maintenance the deceased, in the opinion of the commissioner, was responsible before his death, and where there is no such person, the commissioner shall pay such benefit to the estate of the deceased.

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Benefits to dependants of deceased White person entitled to pension before his death.

83. (1) If a White person who was entitled to a pension under the previous Act and to whom a one-sum benefit in lieu of such pension was not awarded, has died, the commissioner shall award to his dependants, if any, benefits as follows—

- (a) to his widow, a one-sum benefit of nine thousand rand; or
- (b) if there is no widow but there are dependent children, in respect of each dependent child a benefit determined by the commissioner after consultation with the advisory committee: Provided that the benefits so determined in respect of all such children shall in the aggregate not exceed nine thousand rand.

(2) After the death of any person to whom a one-sum benefit was awarded under subsection (1) (b), the commissioner shall pay the unpaid balance (if any) of such benefit to the estate of the deceased.

Benefits to dependants of deceased White person who were entitled to pensions before commencement of Act.

84. (1) If a dependant of a deceased White person was immediately before the commencement of this Act entitled to a pension under the previous Act, such dependant shall, as from such commencement, be entitled—

- (a) in the case of a widow, to a monthly pension of seventy rand; and
- (b) in the case of a dependent child, to a monthly pension of twenty-nine rand.

(2) If any dependent child who has no mother or adoptive parent, is entitled to a pension under subsection (1), the commissioner, in his discretion and after consultation with the advisory committee, may, for the periods which the commissioner deems necessary—

- (a) continue to pay such pension after the dependant has reached the age of eighteen years; or
- (b) without regard to the age of the dependant, increase such pension by not more than one hundred per cent.

Benefits to dependants of deceased White person who did not become entitled to pensions under previous Act.

85. If any dependant of a deceased White person did not become entitled to a pension under the previous Act on the ground of a finding expressed before the commencement of this Act that the deceased was before or at the time of his death suffering from pneumoconiosis, the commissioner shall award with effect from such commencement to the widow of the deceased (if there is one) who has not remarried and to his dependent children (if any) the appropriate pensions provided for in section 84.

Benefits to Coloured person (excluding widow and dependent child) who received pension under previous Act.

86. (1) A Coloured person, excluding a widow and a dependent child, who immediately before the commencement of this Act was entitled to a pension in respect of himself and his dependants, if any, by virtue of a finding expressed before the commencement of this Act, shall as from such commencement be entitled to—

- (a) in the case of a finding of pneumoconiosis which has impaired his cardio-respiratory functions by not more than fifty per cent, a monthly pension of twenty-five rand;
- (b) in the case of a finding of pneumoconiosis which has impaired his cardio-respiratory functions by more than fifty per cent but not more than seventy-five per cent, or a finding of tuberculosis, a monthly pension of forty-seven rand;
- (c) in the case of a finding of pneumoconiosis which has impaired his cardio-respiratory functions by more than seventy-five per cent, or a finding of pneumoconiosis together with tuberculosis, a monthly pension of sixty-eight rand:

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Provided that where the pension to which such a Coloured person was entitled immediately before the commencement of this Act, is equal to or greater than the corresponding pension under this subsection, the commissioner shall increase the pension to which the person concerned was entitled as aforesaid, by one rand and fifty cents in respect of every dependent child and shall pay the increased pension to the person concerned as if the previous Act had not been repealed, until, as a result of the decrease in the number of dependants, such pension has become smaller than the corresponding pension under this subsection: Provided further that when the number of dependants of the Coloured person concerned has decreased to such extent that, had he had the decreased number of dependants at the said commencement, the said corresponding pension would have been awarded to him at such commencement, the commissioner shall award the said corresponding pension to him in lieu of the pension to which he was entitled as aforesaid.

(2) When the certification committee has found that a Coloured person mentioned in subsection (1) (a), is suffering from pneumoconiosis which has impaired his cardio-respiratory functions by more than fifty per cent but not more than seventy-five per cent, the commissioner shall award to such Coloured person a monthly pension of forty-seven rand: Provided that where the pension under this subsection is smaller than the pension which he received under subsection (1), the commissioner shall continue to pay to him the last-mentioned pension together with a monthly allowance of ten rand, until such pension together with such monthly allowance has, as a result of the decrease in the number of dependants, become smaller than the pension under this subsection.

(3) When the certification committee has found that a Coloured person mentioned in subsection (1) or (2), is suffering from pneumoconiosis which has impaired his cardio-respiratory functions by more than seventy-five per cent or that he is suffering from pneumoconiosis together with tuberculosis, the commissioner shall award to the Coloured person concerned a monthly pension of sixty-eight rand: Provided that where the pension under this subsection is smaller than the pension which the Coloured person concerned received under subsection (1) or (2) in respect of himself and his dependants, the commissioner shall continue to pay to him the greater pension together with a monthly allowance of ten rand, until such pension together with such monthly allowance has, as a result of the decrease in the number of dependants, become smaller than the pension under this subsection.

Benefits to Coloured male found after commencement of Act to be suffering from compensatable disease.

87. (1) When the certification committee after the commencement of this Act finds for the first time that a Coloured male who did not before such commencement become entitled to any benefit under the previous Act, is suffering from a compensatable disease in the first degree, the commissioner shall award to the Coloured male concerned a one-sum benefit of six thousand rand.

(2) When the certification committee has found for the first time that a Coloured male to whom a benefit was awarded under subsection (1), is suffering from a compensatable disease in the second degree, the commissioner shall award to such person an additional one-sum benefit of three thousand rand.

(3) When the certification committee has found for the first time that a Coloured male who did not become entitled to a benefit under subsection (1), is suffering from a compensatable disease in the second degree, the commissioner shall award to such person a one-sum benefit of nine thousand rand.

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(4) When the certification committee has found for the first time that a Coloured male who did not previously become entitled to any benefit under this Act or the previous Act, is suffering from tuberculosis with which he was, in the opinion of that committee, affected while he was performing risk work at or in connection with a controlled mine or a controlled works, or with which he was affected at any time within twelve months after the date on which he performed such work for the last time, the commissioner shall award to him a one-sum benefit of two thousand five hundred rand.

(5) When the certification committee has found for the first time that a Coloured male who previously became entitled to a benefit in respect of tuberculosis, is suffering from a compensatable disease in the second degree, the commissioner shall award to him an additional one-sum benefit which shall be equal to the difference between the benefit mentioned in subsection (3) and the benefit to which that person became entitled previously.

Benefits to  
Coloured female  
who legally  
performed risk  
work.

88. (1) When the certification committee has after the commencement of this Act found for the first time that a Coloured female who legally performed risk work at or in connection with a controlled mine or a controlled works, is suffering from a compensatable disease (excluding tuberculosis), the commissioner shall award to her the benefit mentioned in section 87 (1), (2) or (3), as the case may be, as if she were a Coloured male.

(2) When the certification committee has found for the first time that a Coloured female who legally performed risk work at or in connection with a controlled mine or a controlled works, is suffering from tuberculosis with which she was, in the opinion of the committee, already affected while she was performing such work, or with which she was affected at any time within twelve months from the date on which she performed such work for the last time, the commissioner shall award to her, if she performed not less than two hundred shifts of risk work at a controlled mine or a controlled works of which not less than one hundred shifts were worked within the twelve months which immediately preceded the date on which she performed such work for the last time, a one-sum benefit of two thousand five hundred rand.

(3) When the certification committee has found for the first time that a Coloured female who legally performed risk work at a controlled mine or a controlled works, is suffering from tuberculosis together with any other compensatable disease, the commissioner shall award to her—

- (a) if she previously became entitled to a one-sum benefit under the previous Act or under subsection (1) or (2) of this section, an additional one-sum benefit which shall be equal to the difference between nine thousand rand and the benefit she became entitled to previously; or
- (b) if she did not previously become entitled to a benefit under the previous Act or this Act, a one-sum benefit of nine thousand rand.

Unpaid benefits  
upon death of  
Coloured  
beneficiary.

89. (1) If a Coloured male who became entitled to a one-sum benefit under the previous Act or section 87 of this Act, and to whom such benefit was not paid in full, has died, the commissioner shall award to his widow or, if there is no widow, to his dependent children or, if there is no widow or dependent child, to any other person for whose maintenance the deceased, in the opinion of the commissioner, was responsible, or if there is no such person, to the estate of the deceased, a benefit which shall be equal to the unpaid portion of the said one-sum benefit.

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(2) If a Coloured female who became entitled to a one-sum benefit under the previous Act or section 88 of this Act, has died before that benefit was paid to her in full, the commissioner shall award the unpaid portion of that benefit to her husband, if there is one, or to her dependent children, if any, or if there is no husband or dependent child, to any other person for whose maintenance the deceased, in the opinion of the commissioner, was responsible or towards whose maintenance she contributed, or, if there is no such person, to the estate of the deceased.

Benefits to dependants of Coloured person who did not become entitled to benefit before death.

90. (1) When the committee has found that a deceased Coloured male who did not before his death become entitled to any benefit under the previous Act or this Act, was at the time of his death suffering from a compensatable disease in respect of which he would have been entitled to a benefit had he not died, the commissioner shall award to his widow, if there is one, or, if there is no widow, to his dependent children, if any, a one-sum benefit which shall be equal to the benefit to which the deceased would have been entitled had he not died.

(2) If a benefit cannot be awarded under subsection (1) because there is no widow or dependent child, the commissioner shall award the benefit to which the deceased would have been entitled had he not died to any person or persons for whose maintenance the deceased was, in the opinion of the commissioner, responsible or towards whose maintenance he contributed or, if there is no such person, to the estate of the deceased.

(3) When the certification committee has found that a deceased Coloured female who legally performed risk work at a controlled mine or a controlled works and who did not before her death become entitled to any benefit under the previous Act or this Act, was at the time of her death suffering from a compensatable disease in respect of which she would have been entitled to a benefit had she not died, the commissioner shall award to her husband, if there is one, or to her dependent children, if any, or in part to her husband and in part to her dependent children, a one-sum benefit in accordance with the provisions of subsection (1).

(4) If a benefit cannot be awarded under subsection (3) because there is no husband or dependent child, the commissioner shall act in accordance with the provisions of subsection (2) as if the deceased were a person referred to in subsection (1).

Benefits to dependants of deceased Coloured person who was entitled to pension before death.

91. (1) If a Coloured person who was entitled to a pension under this Act, has died, the commissioner shall award benefits to his dependants as follows—

- (a) to his widow, a one-sum benefit of four thousand five hundred rand; or
- (b) if there is no widow but there are dependent children, to every dependent child, a benefit determined by the commissioner after consultation with the advisory committee: Provided that the benefits so determined in respect of all such children shall in the aggregate equal four thousand five hundred rand.

(2) If a benefit cannot be awarded under subsection (1) because there is no widow or dependent child, the commissioner shall award the benefit which would have been awarded under the said subsection to the widow, had there been one, to any person or persons for whose maintenance the deceased was, in the opinion of the commissioner, responsible or towards whose maintenance the deceased contributed or, if there is no such person, to the estate of the deceased.



## Act No. 78, 1973. OCCUPATIONAL DISEASES IN MINES AND WORKS ACT, 1973.

Benefits to dependant of Coloured person who received pension before commencement of Act.

92. (1) If a dependant of a deceased Coloured person was immediately before the commencement of this Act entitled to a pension under the previous Act, such dependant shall as from such commencement, be entitled—

- (a) in the case of a widow, to a monthly pension of thirty-five rand; and
- (b) in the case of a dependent child, to a monthly pension of fourteen rand and fifty cents.

(2) The provisions of section 84 (2) shall *mutatis mutandis* apply with reference to any dependent child of a deceased Coloured person who has no mother or adoptive parent.

Benefits to dependants of deceased Coloured person who did not become entitled to pensions under previous Act.

93. If any dependant of a deceased Coloured person did not become entitled to a pension under the previous Act on the ground of a finding expressed before the commencement of this Act that the deceased was before or at the time of his death suffering from pneumoconiosis, the commissioner shall award with effect from such commencement to the widow of the deceased (if there is one) who has not remarried and to his dependent children (if any) the appropriate pensions provided for in section 92.

Payment of, and interest on, benefit awarded to White or Coloured person.

94. (1) Subject to the provisions of subsection (2), the commissioner shall pay a one-sum benefit awarded to a White person or a Coloured person under this Act, in a single payment.

(2) The commissioner shall, at the request in writing of a beneficiary referred to in subsection (1), pay the one-sum benefit in question or any portion thereof as elected by the beneficiary, in such monthly or three-monthly instalments as may be determined from time to time by the beneficiary in question.

(3) The commissioner may pay any pension or any instalment of a one-sum benefit awarded to any White person or Coloured person under the previous Act or this Act—

- (a) to the beneficiary himself; or
- (b) in part to the beneficiary and in part to his dependants; or
- (c) in full to his dependants; or
- (d) for the benefit of the beneficiary or his dependants, to any other person or any institution, organization or Government Department; or
- (e) in part to the beneficiary and in part, for the benefit of the beneficiary or his dependants, in accordance with paragraph (d).

(4) The commissioner shall add interest to any one-sum benefit or any other amount awarded under the previous Act or this Act to a White person or a Coloured person, or to the balance of any such benefit or amount, as the case may be, at a rate determined from time to time by the commissioner after consultation with an actuary designated by the Minister and with the advisory committee, as from the first day of the month following the month in which such benefit or amount was awarded until the last day of the month preceding the month in which such benefit or amount or the final instalment thereof was paid: Provided that no interest shall be paid on any amount which has remained in the possession of the commissioner for less than thirty days.

## Act No. 78, 1973. OCCUPATIONAL DISEASES IN MINES AND WORKS ACT, 1973.

Gratuity payable  
on remarriage of  
widow entitled to  
pension.

95. If a widow who is entitled to a pension under this Act, remarries, her pension shall lapse and the commissioner shall pay to her an amount equal to twenty-four times the amount of her monthly pension.

Death of White or  
Coloured  
beneficiary.

96. (1) A right to any benefit under this Act to which any White person or Coloured person became entitled, shall lapse on the death of the person concerned, except in so far as any part of the benefit was paid out to or for the benefit of such person.

(2) When a right to a one-sum benefit to which the widow of a deceased White person or deceased Coloured person became entitled under any provision of the previous Act or this Act, has lapsed as aforesaid, the commissioner shall pay the benefit in question or the unpaid balance thereof to any person or persons for whose maintenance she was, in the opinion of the commissioner, responsible, or if there is no such person, the commissioner shall pay the benefit in question or the unpaid balance thereof to the estate of the deceased.

(3) When any person who was entitled to a pension under this Act has died, the commissioner shall pay the full pension in respect of the month in which such person has died—

- (a) to the dependants of the deceased, if any; or
- (b) if there are no dependants, to any person or persons for whose maintenance the deceased was, in the opinion of the commissioner, responsible; or
- (c) if there is no such person, to any person who or organization which cared for or medically treated the deceased immediately before his death; or
- (d) if there is no such person or organization, to the estate of the deceased.

Pensioner  
becoming  
permanent inmate  
of State  
institution.

97. When any person who is entitled to a pension under this Act has become a permanent inmate of any institution the cost of maintenance of which is paid in full or in part from State funds, the commissioner may discontinue payment of such pension or retain so much thereof as is not required to pay the cost of maintenance of the person concerned or of any person or persons for whose maintenance that person is responsible.

Cessation of  
pension awarded  
to dependant.

98. (1) A pension awarded under the previous Act or this Act to a dependant of a deceased White person or a deceased Coloured person, shall cease—

- (a) in the case of a widow, on her re-marriage; and
- (b) in the case of a dependent child, when that child reaches the age of eighteen years, but subject to the provisions of section 84 (2) or section 92 (2), as the case may be.

(2) If the commissioner has increased the pension of a dependant under the provisions of section 84 (2) or 92 (2), or has continued payment of such pension after the age of eighteen years, the commissioner may—

- (a) at any time reduce such pension; or
- (b) at any time after the beneficiary has reached the age of eighteen years, discontinue payment of such pension if the commissioner is satisfied that the beneficiary has acquired sufficient means of subsistence.

(3) A pension which is continued after the age of eighteen years as aforesaid, may not be paid beyond the age of twenty-five years.

## Act No. 78, 1973. OCCUPATIONAL DISEASES IN MINES AND WORKS ACT

Where disease not due exclusively to work or risk work at mine or works.

99. (1) No person shall be entitled to any benefit or other amount under this Act in respect of any disease which, in the opinion of the certification committee, is attributable exclusively to work other than work at a mine or works.

(2) When the certification committee has found that any person is, or that any deceased person was at the time of his death, suffering from a compensatable disease (including tuberculosis) attributable mainly to the performance at a mine or works of work other than risk work, benefits shall be awarded to or in respect of such person as if the disease were attributable to the performance of risk work at a controlled mine or a controlled works.

(3) When the certification committee has found that any person is suffering from a compensatable disease which, in the opinion of that committee, is attributable partly but not mainly to work at a mine or works, the commissioner may in his discretion award to or in respect of such person who is not in receipt of full benefits in respect of that disease under the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), or any other law, benefits not exceeding one-half of the benefits provided for in this Act.

No person entitled to benefits from more than one source in respect of same disease.

100. (1) No person shall be entitled to benefits under this Act in respect of any disease for which he has received or is still receiving full benefits under the Workmen's Compensation Act, 1941 (Act No. 30 of 1941).

(2) Notwithstanding anything in any other law contained, no person who has a claim to benefits under this Act in respect of a compensatable disease as defined in this Act, on the ground that such person is or was employed at a controlled mine or a controlled works, shall be entitled, in respect of such disease, to benefits under the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), or any other law.

Special awards, and allowance in respect of permanent attendant.

101. (1) If a special award was made under the provisions of the previous Act to any person the commissioner may in his discretion continue payment of the award in question for any such period or during any such periods as he may deem necessary, but subject to the provisions of subsections (2) and (3).

(2) No special award shall be paid to any person who is in receipt of a pension or to whom a one-sum benefit was awarded after the commencement of this Act in respect of a compensatable disease other than tuberculosis.

(3) A special award shall not exceed the amount of seventy rand per month and no such award, except an award referred to in subsection (1), shall be paid—

- (a) in the case of a female, after she has attained the age of sixty years; or
- (b) in the case of a male, after he has attained the age of sixty-five years.

(4) The commissioner may, subject to the provisions of subsection (3), make a special award to a White person or Coloured person to whom a one-sum benefit has been awarded in respect of tuberculosis and who—

- (a) in the opinion of the commissioner is in necessitous circumstances; or
- (b) in the opinion of the certification committee has been permanently incapacitated by tuberculosis from performing remunerative work.

(5) The commissioner may, subject to the provisions of subsection (3), discontinue or increase or decrease any special award made to any person under the previous Act or this Act.

(6) If any person received an allowance in respect of a permanent attendant in terms of any provision of the previous Act immediately before the commencement of this Act, the commissioner may in his discretion and on such conditions as he

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may deem desirable, continue to pay such allowance, and decrease or cancel such allowance at any time.

Assistance in connection with training.

102. (1) The commissioner may, after consultation with the advisory committee but subject to the provisions of subsections (2) and (3), render assistance to any White person or Coloured person to whom any benefit was awarded under the previous Act or this Act or to any dependant of any such person or to any dependant of a deceased person to whom a benefit has been awarded by reason of a post-mortem finding of the certification committee, in order to enable such person or dependant—

- (a) to receive school education; or
- (b) to receive education at any college, university or other educational institution for the purpose of qualifying for any profession; or
- (c) to receive training for the purpose of qualifying for any trade or for any commercial, industrial or domestic occupation.

(2) Assistance under subsection (1) may be rendered by way of a single award or periodical awards, as the commissioner deems desirable, and in the case of secondary school education or education at any college, university or other post-school educational institution, by way of bursaries which shall be awarded on such conditions and in accordance with such scale as the commissioner may determine: Provided that a bursary awarded to any person shall not exceed the amount of one thousand two hundred rand in any one year.

(3) The amounts paid out under this section shall not exceed in the aggregate one hundred and fifty thousand rand in any one financial year.

Commissioner may demand proof of continuance of right to benefit.

103. The commissioner may require proof that a person to whom any benefit or other amount has been awarded under the previous Act or this Act, is still alive, or, in the case of a pension or monthly allowance, that the person concerned has not ceased to be entitled to such pension or monthly allowance, and may, if such proof is not furnished to his satisfaction, discontinue payment of the pension or allowance until such proof is furnished.

Recovery by commissioner of amount wrongly paid.

104. Any amount paid by the commissioner to or for the benefit of a person who was not entitled to the payment thereof, may be recovered by the commissioner either directly or by deducting it from any amount to which the person concerned is or becomes entitled under this Act.

Arrangements by commissioner for payment of benefits on his behalf.

105. The commissioner may with the approval of the Minister make arrangements with any other Government Department or any other institution, organization or authority to undertake the payment, on behalf of the commissioner, of benefits or other amounts awarded under the previous Act or this Act.

## CHAPTER VII.

## COMPENSATION TO BANTU PERSONS.

Benefits to Bantu person found to be suffering from compensatable disease.

106. When the certification committee has found that a Bantu person is suffering from a compensatable disease which he contracted as a result of employment at or in connection with a controlled mine or a controlled works, the commissioner shall award benefits as follows—

- (a) in the case of a compensatable disease other than tuberculosis, if a benefit was not previously awarded under the previous Act or this Act, a one-sum benefit of one thousand rand;
- (b) in the case of tuberculosis together with any other compensatable disease, if a benefit was not previously

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awarded under the previous Act or this Act, a one-sum benefit of one thousand two hundred rand, or, of a benefit was previously awarded in respect of tuberculosis or any other compensatable disease, an additional one-sum benefit equal to the difference between one thousand two hundred rand and the benefit previously awarded;

- (c) in the case of tuberculosis with which the person concerned was in the opinion of the certification committee already affected while he was performing risk work at or in connection with a controlled mine or a controlled works, or with which he was in the opinion of the certification committee affected at any time within twelve months as from the date on which he performed risk work at or in connection with a controlled mine or a controlled works for the last time, if such person has worked not less than two hundred shifts as aforesaid of which not less than one hundred shifts were worked within the six months immediately preceding the date on which he performed such work for the last time, and if a benefit was not previously awarded in respect of tuberculosis, a one-sum benefit of six hundred rand.

Benefits in respect of deceased Bantu persons.

107. When the certification committee has found that a deceased Bantu person who performed risk work at or in connection with a controlled mine or a controlled works, was at the time of his death suffering from a compensatable disease in respect of which he would have been entitled to a benefit had he not died, the commissioner shall award benefits as follows—

- (a) in the case of a compensatable disease other than tuberculosis, or of such other compensatable disease together with tuberculosis, if the deceased did not before his death become entitled to a benefit under the previous Act or this Act, two-thirds of the benefit to which the deceased would have been entitled had he not died;
- (b) in the case of tuberculosis, if he did not before his death become entitled to a benefit, one-half of the benefit to which the deceased would have been entitled had he not died;
- (c) in the case of tuberculosis together with any other compensatable disease, if the deceased became entitled before his death to a benefit under the previous Act or this Act, two-thirds of the additional benefit to which the deceased would have been entitled had he not died.

Commissioner to pay benefits for Bantu persons to Bantu affairs authority.

108. (1) The commissioner shall pay to the Bantu affairs authority any benefit or other amount which the commissioner has awarded to or in respect of a Bantu person in terms of this Act.

(2) The commissioner shall pay to the Bantu affairs authority, as soon as may be after the commencement of this Act, all moneys awarded to or in respect of Bantu persons under the previous Act and held by the commissioner at such commencement.

Bantu affairs authority charged with payment, from Bantu Compensation Fund, of benefits to Bantu persons.

109. (1) The Bantu affairs authority shall be charged with the payment of any benefit or other amount awarded in terms of this Act or the previous Act to or in respect of a Bantu person.

(2) The Bantu affairs authority shall deposit all moneys paid to it under section 108 in a fund which shall be called the Bantu Compensation Fund and from which every benefit or other amount contemplated in subsection (1) shall be paid.

(3) The Bantu affairs authority may in its discretion pay any such benefit or other amount—

- (a) to the beneficiary; or



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- (b) in part to the beneficiary and in part to his dependants, or in part to the beneficiary and in part to his dependants and in part, for the benefit of the beneficiary or his dependants, to any other person or any institution, organization or authority; or
- (c) in full, for the benefit of the beneficiary or his dependants, to any other person or any institution, organization or authority; or
- (d) in the case of a deceased Bantu person, to his dependants or to any other person who, in the opinion of the Bantu affairs authority, was dependent on the deceased or for whose maintenance the deceased was responsible or towards whose maintenance the deceased contributed, or, for the benefit of such dependants or such other person, to any other person or any institution, organization or authority.

(4) The Bantu affairs authority may pay any such benefit or other amount—

- (a) in a single sum; or
- (b) in instalments; or
- (c) partly in a single sum and partly in instalments.

(5) The Bantu affairs authority shall add interest to any benefit or balance of a benefit which is in its possession, at a rate determined from time to time by the said authority and approved by the Minister of Bantu Administration and Development, from the first day of the month following upon the month in which that authority received the benefit from the commissioner until the last day of the month preceding the month in which such benefit or the final instalment thereof is paid out: Provided that interest shall not be paid on any amount which remained in the possession of the Bantu affairs authority for less than thirty days.

Unpaid benefit.

110. If the Bantu affairs authority is unable to pay out any benefit in accordance with the provisions of section 109, by reason of the death or disappearance of the person who is entitled thereto and the fact that no other person who is eligible to receive that benefit under the said section is in existence or can be traced, the Bantu affairs authority may in its discretion use the benefit or so much thereof as it deems desirable to pay wholly or partly for reasonable medical or nursing services rendered to the person who was before his death or disappearance entitled to the benefit, and for necessary medicines or articles purchased for the purpose of treating him or of alleviating any disease or defect from which he was suffering and for his funeral expenses.

Arrangements for payment of benefits, and delegation of powers, by Bantu affairs authority.

111. (1) The Bantu affairs authority may with the approval of the Minister of Bantu Administration and Development make such arrangements as the said authority may deem necessary or desirable, with any other Government Department or any institution, organization or authority (including the Government of the Transkei or the government of an area for which a legislative assembly has been established under the Bantu Homelands Constitution Act, 1971 (Act No. 21 of 1971), or for which a legislative council has been established under the Development of Self-government for Native Nations in South-West Africa Act, 1968 (Act No. 54 of 1968)) to undertake on behalf of the Bantu affairs authority the payment of any benefit or other amount which in terms of this Chapter is to be paid by the Bantu affairs authority.

(2) The Bantu affairs authority may in writing delegate any power conferred upon it by this Act—

- (a) to any other officer or employee in the Department of Bantu Administration and Development; or
- (b) with the approval of the Minister of Bantu Administration and Development, to any officer or employee in a Government Department, or person in the service of an institution, organization or authority, with which an arrangement has been made as contemplated in subsection (1).

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Agreement with  
other government.

112. (1) The State President may by agreement with the government of any country or territory in southern Africa, regulate the manner in which any benefit awarded to any Bantu person who is domiciled in such country or territory shall be paid to that Bantu person or to any other person on his behalf, and the manner of disposing of any part of such benefit which has not been paid out because the beneficiary has died.

(2) If an agreement concluded under subsection (1) contains any provisions which are in conflict with the provisions of section 108 (1) or 109, the provisions of the agreement shall prevail.

(3) Any agreement entered into before the commencement of this Act with the Government of any country or territory in southern Africa, shall be deemed to have been entered into in terms of this section until it is replaced or amended.

Recovery by  
Bantu affairs  
authority of  
amount wrongly  
paid.

113. Any amount paid by the Bantu affairs authority to or for the benefit of a person who was not entitled to the payment thereof, may be recovered by the Bantu affairs authority either directly or by deducting it from any amount to which the person concerned is or becomes entitled under any provision of this Act.

Minister of  
Bantu  
Administration  
and Development  
to make good  
certain losses in  
Bantu  
Compensation  
Fund.

114. The Minister of Bantu Administration and Development shall pay, from moneys appropriated by Parliament for that purpose, to the Bantu affairs authority for the credit of the Bantu Compensation Fund—

- (a) any amount paid from the Bantu Compensation Fund to or for the benefit of a Bantu person who was not entitled to receive such amount, and which the Bantu affairs authority is unable to recover from such person;
- (b) any loss suffered by the Bantu Compensation Fund through the negligence, dishonesty or other act or omission of any person in the service of the State, or any person, institution, organization or authority who or which has acted on behalf of the Bantu affairs authority in terms of any provision of this Act, and which the Bantu affairs authority is unable to recover from the person, institution, organization or authority concerned.

Special award to  
Bantu person.

115. If a Bantu person to whom a benefit awarded under the previous Act or this Act has been paid in full, is in necessitous circumstances and unable, by reason of old age or continuous poor health, to earn sufficient means of subsistence, the Bantu affairs authority may in its discretion, out of moneys in the Bantu Compensation Fund not required for the payment of benefits under this Act, make special awards to such person, not exceeding in the aggregate the sum of one hundred and eighty rand in any financial year.

Bantu affairs  
authority may  
make awards to  
certain  
institutions or  
organizations.

116. The Bantu affairs authority may, with the approval of the Minister of Bantu Administration and Development, which shall not be granted except in consultation with the Minister of Health, from moneys in the Bantu Compensation Fund which are not required for the payment of benefits under this Act, make awards, which in the aggregate shall not exceed the amount of eighty thousand rand in any financial year, to any one or more of the following institutions or organizations in the Republic, that is to say—

- (a) any medical institution where Bantu persons suffering from any compensatable disease, are medically treated; or
- (b) any institution or organization the function or object of which is to prevent the contracting of compensatable diseases by Bantu persons.

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Bantu affairs authority to invest moneys with Public Debt Commissioners.

117. (1) The Bantu affairs authority shall invest all moneys in the Bantu Compensation Fund which are not immediately required for the payment of benefits to Bantu persons under the provisions of this Act, with the Public Debt Commissioners.

(2) Any profit or loss on realization of investments of moneys deposited with the Public Debt Commissioners by the Bantu affairs authority, shall accrue to or be borne by the Bantu Compensation Fund.

Records and accounts to be kept by Bantu affairs authority.

118. (1) The Bantu affairs authority shall keep full and true records and accounts of all moneys paid into the Bantu Compensation Fund and of all payments made from that fund.

(2) The Bantu affairs authority shall keep separate records and accounts of all moneys which cannot be paid out to or for the benefit of Bantu persons in accordance with the provisions of this Act.

(3) The Bantu affairs authority shall cause statements to be drawn up of the records and accounts referred to in subsections (1) and (2), as at the thirty-first day of March in each year, and the Minister of Bantu Administration and Development shall lay such statements, certified by the Controller and Auditor-General, upon the Table in the House of Assembly.

Annual reports of Bantu affairs authority.

119. (1) As soon as possible after the close of each financial year the Bantu affairs authority shall furnish the Minister, the Minister of Bantu Administration and Development and the commissioner with a report containing full details in connection with the moneys in the Bantu Compensation Fund and the payments made from it.

(2) The Minister of Bantu Administration and Development shall lay copies of the report referred to in subsection (1) upon the Table in the Senate and in the House of Assembly within fourteen days of the receipt thereof, if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

## CHAPTER VIII.

## GENERAL.

Research and special medical treatment.

120. (1) The Minister may make such arrangements as he deems necessary or desirable for the proper investigation of all matters affecting the health of persons employed in or at mines or works and for the medical treatment of persons suffering from any compensatable disease.

(2) The Minister may in his discretion, but subject to the provisions of subsection (3), from moneys in the Research Account and, in consultation with the Minister of Finance, from moneys appropriated by Parliament for that purpose—

(a) on such conditions as the Minister deems fit, subsidize or pay wholly or partly the cost of maintenance and other expenses of, any institution or organization having as its object the doing of research with a view to the protection of the health of persons employed in or at or in connection with mines or works, or the prevention or alleviation of diseases to which such persons are exposed, or establish such an institution or organization;

(b) on such conditions and in such manner and in such amounts as the Minister deems fit, subsidize any person or group of persons whose object is the doing of research in connection with any disease or working conditions to which persons employed in or at or in connection with mines or works are exposed, or award to such person or group of persons a bursary or bursaries;

(c) on such conditions and in such manner as the Minister deems fit, subsidize or pay wholly or partly the cost of maintenance of any institution or organization having

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as its object the medical treatment or the care of persons suffering from compensatable diseases;

(d) on such conditions and in such manner as the Minister deems fit, establish institutions for the medical treatment of persons suffering from compensatable diseases and pay the cost of maintenance in whole or in part and any other costs of any such institution;

(e) on such conditions and in such manner and on such scale as the Minister deems fit, pay the travelling or other costs incurred by persons suffering from compensatable diseases in order to enable such persons to undergo medical treatment.

(3) The Minister shall not act under subsection (2) in relation to any matter of a medical nature, except in consultation with the Minister of Health, who, if it is a matter relating to research, shall consult the South African Medical Research Council established by section 2 of the South African Medical Research Council Act, 1969 (Act No. 19 of 1969), in regard thereto.

Minister may make regulations.

121. The Minister may make regulations for the purpose of prescribing any matter which is to be prescribed or may be prescribed in terms of any provision of this Act.

Minister to table annual reports.

122. The Minister shall lay copies of any annual report furnished to him under section 8 or 77 upon the Table in the Senate and in the House of Assembly within fourteen days after its receipt, if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

Minister may delegate powers.

123. (1) The Minister may in his discretion and on such conditions as he may deem fit, delegate in writing to the secretary or any other officer in the Department of Mines any power vested in him under this Act, and may at any time cancel any such delegation.

(2) A delegation under subsection (1) shall not divest the Minister of the power delegated, and he may at any time set aside any decision made on his behalf under such delegation: Provided that if any benefit or other amount has been awarded to any person by virtue of a decision made under such delegation, the Minister shall not set aside that decision with reference to that person.

Offences by persons generally.

124. (1) Any person who—

(a) knowingly makes a false statement or misrepresentation or conceals any fact of material importance with intent to obtain for himself, or assist any other person to obtain, a certificate of fitness or any other document or advantage under this Act; or

(b) forges, or alters with intent to deceive, any certificate of fitness or any other document for which provision was made in the previous Act or is made in this Act, or which was issued under the previous Act or this Act, shall be guilty of an offence and liable on conviction to any penalty which may in law be imposed on a conviction of fraud.

(2) Any person who in any sworn declaration under subsection (2) of section 6 or under that subsection as applied by section 19 (2), 42 (1) or 55 (1), or in answering any question under oath or affirmation administered under subsection (3) of section 6 or under the last-mentioned subsection as so applied, makes a statement which he knows to be false, shall be guilty of an offence and liable on conviction to any penalty which may in law be imposed on a conviction of perjury.

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- (3) Any person who—
- (a) hinders or obstructs any other person in the exercise by such other person of a power conferred upon him by or under a provision of section 5 or 6 or by or under such provision as applied by section 19 (2), 42 (1) or 55 (1); or
  - (b) is in control of any place, or has in his possession or is in control of any book, document, appliance, instrument, machine or X-ray photograph contemplated in any provision of section 5 or 6, and who refuses or fails to afford any other person all reasonable facilities required by such other person in order to enable him to exercise with reference to such place, book, document, appliance, instrument, machine or X-ray photograph any power conferred upon him by or under the provision in question or by or under that provision applied as aforesaid; or
  - (c) without reasonable excuse, fails to comply with any direction under subsection (1) or (3) of section 6 or under the relevant subsection applied as aforesaid, or under section 42 (3); or
  - (d) when appearing in compliance with a direction referred to in paragraph (c), refuses to answer to the best of his knowledge and belief any lawful question put to him, or refuses to be sworn or to affirm when required by a competent person to do so; or
  - (e) in reply to a direction under subsection (1) of section 6 or under that subsection applied as aforesaid, furnishes (otherwise than in a sworn declaration) any information which is false, knowing it to be false; or
  - (f) contravenes the provisions of section 14 (1) or 15 (1); or
  - (g) without reasonable excuse fails to comply with the requirements of a notice addressed to him under section 26 (1), 29 (3) or 30 (4); or
  - (h) after having received a notice referred to in paragraph (g), performs risk work at a controlled mine or a controlled works without being in possession of a certificate of fitness thereafter issued to him under this Act,
- shall be guilty of an offence and, subject, in the case of an offence contemplated in paragraph (f), to the provisions of section 126 (1) (a), liable on conviction to a fine not exceeding two hundred rand.

Offences by holder of certificate of fitness.

125. A holder of a certificate of fitness issued to him under this Act or the previous Act, who—

- (a) at a controlled mine or a controlled works performs work which his certificate of fitness does not authorize him to perform; or
- (b) performs work at a controlled mine or a controlled works otherwise than in accordance and compliance with any restriction subject to which that certificate has been issued or renewed,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand.

Offences by owner, or person in control of, controlled mine or works, or contractor.

126. (1) An owner of a controlled mine or a controlled works, or person in control of such a mine or works or a part thereof, or contractor who—

- (a) contravenes the provisions of section 14 (1) or 15 (1); or
- (b) by virtue of an authorization under section 14 (2) or an exemption under section 15 (2) employs any person in risk work at a controlled mine or a controlled works and who fails to comply with any condition subject to which the authorization or exemption has been granted,



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shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred rand.

(2) An owner of a controlled mine or a controlled works or contractor who—

- (a) knowingly permits the performance at a controlled mine or a controlled works, by a holder of a certificate of fitness in his service, of work which his certificate of fitness does not authorize him to perform; or
- (b) knowingly permits the performance of any work by such a holder otherwise than in accordance and compliance with a condition subject to which his permit has been issued or renewed; or
- (c) fails to keep a register in accordance with the provisions of section 16 (1) or (2), as the case may be; or
- (d) fails to afford the director or an authorized person referred to in section 16 (3) all reasonable facilities and assistance to inspect any such register, or make a copy thereof available at the request of the director or such authorized person,

shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred rand.

(3) An owner of a controlled mine or a controlled works who—

- (a) after having received a copy of a notice issued under section 26 (1), 29 (3) or 30 (4), permits the performance of risk work by the person to whom the notice was addressed at such owner's mine or works before a fresh certificate has been issued to that person under this Act; or
- (b) contravenes the provisions of section 17 (1) or any provision of Chapter V,

shall be guilty of an offence and liable on conviction—

- (i) in the case of the offence referred to in paragraph (a), to a fine not exceeding four hundred rand; and
- (ii) in the case of an offence referred to in paragraph (b), to a fine not exceeding one thousand rand.

Offences by  
medical  
practitioner.

127. (1) A medical practitioner who without reasonable excuse fails to comply with any provision of section 33 or 34 or with any requirement or direction by the director thereunder or by the chairman of the certification committee under section 42 (2), shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred rand.

(2) The provisions of section 126 (1) (d) and (e) shall *mutatis mutandis* apply with reference to a medical practitioner who has been directed under section 42 (2) to submit any report to the certification committee or to appear before that committee.

Prescription.

128. No legal proceedings shall be brought against the director, the bureau, the certification committee, the reviewing authority, the commissioner, any officer or employee of the State, any institution, organization or authority or a minister of the State, to enforce any right under the previous Act or this Act, unless such proceedings are commenced within five years from the date on which the cause of action on which those proceedings are based, arose.

Notice by  
registered post.

129. Any notice, demand or direction under this Act shall be deemed, unless the contrary is proved—

- (a) to have been properly given or served if it was sent in a correctly addressed, registered envelope; and
- (b) to have been given or served at the time when the said envelope may be expected to have reached the address in question in normal circumstances.

Exemption from  
certain taxes and  
duties.

130. (1) The income of the compensation fund under the provisions of this Act, shall be free from any form of taxation on income.

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(2) Notwithstanding anything in any other law contained, any benefit or other amount paid to any person under this Act on the ground of a finding expressed by the certification committee or by any similar authority under the previous Act, shall be free from any form of taxation on income.

(3) Every document issued under this Act, and every affidavit or solemn or attested declaration which is intended for use under this Act, shall be free from stamp duty.

Benefits and  
service gratuity  
free from  
attachment.

131. (1) A right to a benefit to which any person is entitled under this Act, and a right to a gratuity under section 133, shall not be capable of being ceded by the holder thereof, and such a right or any money paid by the commissioner or the Bantu affairs authority as such a benefit or gratuity to or for the benefit of the person entitled thereto, or any money paid by the commissioner or the Bantu affairs authority to or for the benefit of any person as a special award or a special allowance under any provision of this Act, shall not be subject to attachment in execution of a judgment or order of a court of law, except at the instance of the commissioner or the Bantu affairs authority acting under section 104 or 113, and if the estate of the holder of such a right or of a person to whom or for whose benefit such money has been paid, is sequestrated as insolvent, the said right or money shall not form part of his insolvent estate.

(2) If a person to whom or for whose benefit such a benefit (other than a monthly pension or allowance) or such a gratuity has been paid, has purchased any immovable or movable property, and the purchase price or not less than one-quarter of the purchase price has been paid out of the benefit or gratuity, that property shall not be subject to attachment for a debt (or a novation thereof) which arose before the benefit or gratuity in question was paid to or for the benefit of the judgment debtor.

Increases in  
terms of Act  
disregarded for  
payment of social  
pensions.

132. (1) In this section "other Act" means the Children's Act, 1960 (Act No. 33 of 1960), the Aged Persons Act, 1967 (Act No. 81 of 1967), the Blind Persons Act, 1968 (Act No. 26 of 1968), the War Veterans' Pensions Act, 1968 (Act No. 25 of 1968), and the Disability Grants Act, 1968 (Act No. 27 of 1968).

(2) A person who immediately before the commencement of this Act was in receipt of a benefit or other amount under the previous Act as well as a pension or an allowance or a pension and an allowance under any other Act, shall continue to be entitled to such pension or allowance or pension and allowance notwithstanding the increase under this Act of the said benefit or other amount, which increase shall for the purposes of such other Act be deemed not to be means.

(3) Subject to the provisions of subsection (4), the provisions of subsection (2) shall not apply with reference to a White person.

(4) If a White person was on the thirtieth day of September, 1972, in receipt of a benefit or other amount under the previous Act as well as a pension or allowance under any other Act, and the pension or allowance is by virtue of the provisions of subsection (3) to be cancelled or decreased in accordance with any provision of the other Act or the regulations made thereunder, payment of that pension or allowance to him may be continued as if the said subsection did not apply with reference to him.

Service gratuity  
payable to  
certain persons.

133. (1) Any person—

(a) who from any date after 1st August, 1946, continuously remained in the full-time service of the bureau or the council or the State and who has not contributed to the Public Service Pension Fund referred to in section 2 (1) of the Government Service Pensions

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Act, 1965 (Act No. 62 of 1965), in respect of such service; and

(b) who immediately before the commencement of this Act was eligible for a gratuity referred to in section 135 of the previous Act, but to whom such gratuity had not been awarded before such date,

shall be eligible, in lieu of such gratuity, for a service gratuity which shall be equal to one-eighth of the salary (other than any temporary or personal allowance) which he received for the twelve months immediately preceding the date of termination of his service, multiplied by the number of years, including any fraction of a year, of his service.

## (2) Any person—

(a) who would have been eligible for a gratuity referred to in subsection (1) had he not at any date after 1st August, 1946, resigned from the service referred to in subsection (1); and

(b) who before he so resigned, had been in such service for a period of not less than ten years and had not contributed to the Public Service Pension Fund referred to in subsection (1); and

(c) who has returned to such service,

shall be eligible for a service gratuity which shall be equal to one-eighth of the salary (other than any temporary or personal allowance) which he after his return received for the twelve months immediately preceding the date of termination of his service, multiplied by the number of years, including any fraction of a year, of service before he resigned as contemplated in paragraph (a).

(3) If the service of a person who is eligible for a service gratuity referred to in subsection (1) or (2), is terminated by death, such service gratuity shall, notwithstanding the provisions of subsection (4), be awarded—

- (a) to his widow; or
- (b) if there is no widow, to his dependent children; or
- (c) if there are no dependent children, to any person for whose maintenance he was responsible immediately before his death; or
- (d) if there is no such person, to his estate.

(4) If the service of a person who is eligible for a service gratuity referred to in subsection (1) or (2), is terminated before he has attained the age of sixty years, he shall not be awarded such service gratuity unless his service is terminated by retirement on account of permanent poor health or any permanent physical or mental defect, on the recommendation of two or more medical practitioners, and with the approval of the Minister.

(5) A service gratuity referred to in subsection (1) or (2) which has been awarded to any person whose service has been terminated by his retirement, may, in the discretion of the commissioner, be paid in a single payment or in instalments, and if paid in instalments the commissioner shall add to the balance of such service gratuity interest calculated at a rate determined by the commissioner and approved by the Minister.

(6) If any person to whom a service gratuity referred to in subsection (1) or (2) has been awarded and to whom it is being paid in instalments dies before such service gratuity has been paid in full, the commissioner shall pay the balance thereof—

- (a) to his widow; or
- (b) if he has no widow, to his dependent children; or
- (c) if he has no dependent children, to any person for whose maintenance he was responsible immediately before his death; or
- (d) if there is no such person, to his estate.

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(7) Any service gratuity awarded in terms of this section shall be paid out of the compensation fund and any payment by way of such gratuity shall be debited in equal proportions to the State Account and the Mines Account.

(8) In subsection (1)—

“bureau” includes the Miners’ Medical Bureau within the meaning of the previous Act;

“council” means the General Council for Pneumoconiosis Compensation within the meaning of the previous Act.

State to bear cost of administration of Act.

134. All expenditure incurred to give effect to any provision of this Act shall, except in so far as any such expenditure is in terms of this Act to be defrayed from another source, be defrayed by the Minister from moneys appropriated by Parliament for that purpose.

Application in South West Africa.

135. This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.

Repeal of laws.

136. (1) Subject to the provisions of subsection (2), the laws specified in the Schedule are hereby repealed to the extent set out in the third column thereof.

(2) Any regulation, notice, prohibition, order, direction, approval or document made, given, imposed or issued and any other thing done in terms of a provision of any law repealed by subsection (1), shall, except in so far as may be otherwise required by this Act, be deemed to have been made, given, imposed, issued or done under the corresponding provision of this Act.

Short title and commencement.

137. This Act shall be called the Occupational Diseases in Mines and Works Act, 1973, and shall come into operation on the first day of October, 1973.

## Schedule.

## LAWS REPEALED.

No. and year of law.	Title.	Extent of repeal.
Act No. 64 of 1962	Pneumoconiosis Compensation Act, 1962 . . . . .	The whole.
Act No. 77 of 1962	Finance Act, 1962 . . . . .	Section 6.
Act No. 50 of 1964	Pneumoconiosis Compensation Amendment Act, 1964 . . . . .	The whole.
Act No. 92 of 1965	Pneumoconiosis Compensation Amendment Act, 1965 . . . . .	The whole.
Act No. 103 of 1967	Finance Act, 1967 . . . . .	Section 8.
Act No. 83 of 1968	Pneumoconiosis Compensation Amendment Act, 1968 . . . . .	The whole.
Act No. 8 of 1970	Pneumoconiosis Compensation Amendment Act, 1970 . . . . .	The whole.
Act No. 91 of 1971	Finance Act, 1971 . . . . .	Section 8.
Act No. 88 of 1972	Finance Act, 1972 . . . . .	Section 6.
Act No. 95 of 1972	Pneumoconiosis Compensation Laws Amendment Act, 1972 . . . . .	The whole.
Act No. 97 of 1972	Pension Laws Amendment Act, 1972 . . . . .	Section 11.