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Black Sash – You and Your Rights (Issue 3)

Claiming Compensation Fund Benefits for Injuries on Duty

Did you know about the Compensation Fund administered by the Department of Labour? The fund provides compensation for workers who get injured at work, or sick from diseases contracted at work, or for death as a result of the injuries or diseases. Workers' access to the fund is protected by section 27 in the Constitution (i.e. right to social security).

The Compensation Fund is located in Pretoria and is covered by the Compensation for Occupational Injuries and Diseases Act (1993) and Compensation Fund for Occupational Injuries and Diseases Amended Act (1997). Remember, this is the law.

Recently, Parliament adopted further changes to law governing the Compensation Fund to include domestic workers. This includes casual workers.

As a worker, you may only claim compensation if the injury or occupational illness has been assessed as 'permanent disablement', 'temporary disablement' or 'temporary total disablement'.

All employers are required to register with the Compensation Fund and pay annual assessment fees. The registration includes all workers on the employer's payroll. Workers do not pay anything to the Compensation Fund. Employers cannot deduct any fees from workers' remuneration in order to pay into the Compensation Fund.

What are the reporting procedures under the Compensation Fund for when an injury on duty has occurred?

- The worker's responsibility is to report the accident to the employer as soon as possible after such accident has happened. If the worker does not give the

employer and the Compensation Fund notice on the prescribed form, the claim may not be considered.

- Should the employer fail to report the accident, the worker has to complete a Notice of Accident and Claim for Compensation form. The form can be submitted to the labour centre or directly to the Compensation Fund.
- The worker must assist the employer in obtaining the medical reports. The employer may choose the doctor. The worker must make sure to see the doctor regularly and ensure that the claim is finalized. In the meantime, it is important that the worker makes regular enquiries about the claim.
- The employer's responsibility is to report the accident in the prescribed manner by completing the 'Employer's Report of an Accident' form which must be submitted to the Compensation Fund within 7 days after the accident took place.
- The employer should obtain the 'First Medical Report' from the treating doctor. The medical report is an important requirement when liability for the payment of compensation and medical expenses is considered.
- The employer should obtain the 'Progress Medical Report' which is an indication that the worker is receiving prolonged medical treatment and is off-duty as a result of injuries sustained in an accident. Progress Medical Reports should be submitted on a monthly basis to the Fund to ensure that compensation in respect of total disablement is paid timeously.
- The employer should obtain and submit the 'Final Medical Report' as soon as the worker's condition has become stable. The doctor has to describe the loss of function as a result of the accident, if any, to enable the Compensation Fund to assess permanent disability, if any.
- The employer must complete and submit the 'Resumption Report' after the worker has returned to work. When the worker is booked off-duty for a lengthy period, interim reports must be submitted.
- Finally, should the claim qualify for the payment of compensation, the employer must submit the worker's banking details.

If the Compensation Fund has rejected the claim with written, valid and lawful reasons, the decision will be communicated to the worker in writing. The Compensation Fund will invite the worker to submit a written 'Objection Form' within 180 days.

For the way in which compensation is calculated, see table below:

Nature and degree of disablement	Nature of benefits	Manner of calculating benefits
Temporary total disablement	Periodical payments	75% of an employee's monthly earnings at the time of the accident to a maximum compensation of R6 064,50 per month
Permanent disablement of 30%	Lump sum	15 times the monthly earnings of the employee at the time of the accident to a minimum and a maximum compensation of R12 375,00 and R67 950,00
Permanent disablement of less than 30%	Lump sum	An amount which bears to a lump sum calculated under item 2 the same proportion as the degree of permanent disablement to 30%
Permanent disablement of 100%	Monthly pension	75% of the employee's monthly earnings at the time of the accident to a minimum and a maximum compensation of R618,75 and R6 064,50 per month, respectively
Permanent disablement of less than 100% but more than 30%	Monthly pension	A monthly pension which bears to a pension calculated under item 4 the same proportion as the degree of permanent disablement to 100%
Fatal	Lump sum	Twice the employee's monthly pension that would have been payable to the employee under item 4 had he been totally permanently disabled
Fatal	Monthly pension	40% of the monthly pension that would have been payable to the employee under item 4 had he been totally permanently disabled
Fatal	Monthly pension	20% of the monthly pension that would have been payable to the employee under item 4 had he been totally permanently disabled, to each child
Fatal	Lump sum	Percentage dependence as portion of R28 680,00
Fatal	Funeral costs	A reasonable amount for funeral costs to a maximum of R5 350,00 or the actual amount, whichever is the lesser

Employers should not wait for full documentation before reporting an accident.

Workers in the construction, electrical and metal industries are covered by Rand Mutual Assurance Company (Pty) Limited and mineworkers by Compensation Commissioner for Occupational Diseases, Department of Health.

For further information and assistance, contact the Compensation Fund at –

Tel. 0860 105 350

Email: complaints@labour.gov.za

Email: cfcallcentre@labour.gov.za

Email: cfenquiries@labour.gov.za

Department of Employment and Labour (Eastern Cape)

Tel. (043) 701 3000

Fax (043) 722 1012 / 743 9719

Email: ec.customercare@labour.gov.za

Rand Mutual Assurance (construction / metal workers)

Tel. 0860 222 132 / Fax 0860 222 203

Email: contactcentre@randmutual.co.za

Compensation Commissioner for Occupational Diseases (Mineworkers)

Department of Health

Tel. (011) 356 5602 / (011) 356 5600 / Cell No 072 220 0247

Email: infoccod@health.gov.za
