

# HOW TO CLAIM FROM THE COMPENSATION FUND

## COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT

# SERI

socio-economic rights institute  
of south africa

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MAKING HUMAN RIGHTS REAL

Domestic workers are now covered by the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA).<sup>1</sup> This law provides for the payment of compensation to employees who suffer injuries or contract diseases while performing their work duties through the Compensation Fund. In the case of a death as a result of a work-related injury or disease, the Fund allows for compensation to the deceased employee's dependents.

Similar to the Unemployment Insurance Fund (UIF), it is the responsibility of employers to register their employees and make contributions to the Compensation Fund once a month. Please see this [notice](#) for more information about how employers can register employees.

### There are four main types of compensation payments under COIDA:

1

Payments for temporary disability (where the employee eventually recovers from the injury or illness).

2

Payments for permanent disability (where the employee never fully recovers).

3

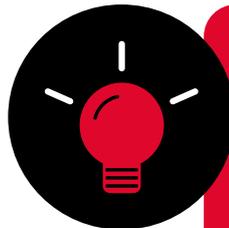
Payments for death (paid to dependents of the employee).

4

Payments for medical expenses and others.<sup>2</sup>

Compensation can come in the form of lump-sum payments, periodical payments or monthly pension payments depending on the circumstances of each case.

## HOW TO CLAIM FROM THE COMPENSATION FUND<sup>3</sup>



The six steps below describe the process for submitting claims physically, via fax or email, but can also be used to understand the [online](#) claiming process in which case claim forms are submitted online and documents uploaded, using an example of a domestic worker injured at work.

Lerato Mogale works for five days a week as a domestic worker for Elaine Smith, who lives with her husband Greg and two children. Lerato's work includes cleaning, doing laundry, ironing and preparing food. On 15 March 2021 while carrying the laundry basket down the stairs, Lerato slipped and fell, injuring her ankle. Below is a step by step account of how Lerato and her employer Elaine dealt with the workplace injury.

<sup>1</sup> Domestic workers have been included in COIDA since 19 November 2020, when the Constitutional Court handed down a judgment declaring the exclusion of domestic workers from the definition of "employee" in section (xix)(v) of COIDA as unconstitutional. The Court stated that the order of constitutional invalidity should apply retrospectively to 27 April 1994, meaning domestic workers who suffered work-related injuries, diseases or death like in Mahlangu's case, from 27 April 1994 are also able to submit their claims to the Compensation Fund. See SERI's [website](#) for more information on Mahlangu.

<sup>2</sup> Labour Guide, "Injuries on Duty", Labour Guide, available at: <https://www.labourguide.co.za/injuries-on-duty/540-guidelines-for-claims>

<sup>3</sup> This section is adapted from Labour Guide, "Claiming procedure for injuries on duty", Labour Guide, available at: <https://www.labourguide.co.za/injuries-on-duty/177-claiming-procedure-for-injuries-on-duty>

<sup>4</sup> This section is adapted from Labour Guide, "Claiming procedure for injuries on duty", Labour Guide, available at: <https://www.labourguide.co.za/injuries-on-duty/177-claiming-procedure-for-injuries-on-duty>

## IMPORTANT INFORMATION ABOUT THE CLAIMING PROCESS<sup>4</sup>

- If the employee is off work for three days or less for a minor injury, this is not covered by the Compensation Fund.
- If the injury was caused by the employee's own misconduct or wrongdoing, no payment will be made unless the employee was seriously disabled or died from the accident.
- If the employee unreasonably refuses to get medical treatment, there may be no payment for as long as the employee refuses.
- The employer should keep all copies of the forms.
- COIDA states that an employer has to pay compensation to the injured employee for the first 3 months from the date of the occupational injury. The Compensation Fund will repay the employer.

**Step 1: The employee should give the employer written or verbal notice of the injury as soon as it happens.**

*It is advised that employees report the accident to the employer as soon as possible, before his or her shift ends, and avoid leaving the workplace until the report has been made. The employer should then complete the first form, the W.Cl.2 form (called the Notice of Accident and Claim for Compensation) within 7 days of the notice to the Compensation Commissioner. The form has two identical parts, A and B. The employer should fill out both parts and give part B to the medical practitioner where the employee is receiving treatment.*

When Lerato's accident happened, Elaine and Greg were home. After her fall, Lerato was in a lot of pain and told them that she thought that her ankle might be broken. Greg then rushed Lerato to the hospital where she waited to be seen by a doctor. While Lerato was at the hospital, Elaine began the paperwork to claim from the Compensation Fund. Elaine went to check up on her and gave her Part B of the W.Cl.2 form and told her to give it to the doctor and inform him or her that the injury happened at the workplace.

**Step 2: After completing the W.Cl.2 form, the employer should send it, along with a certified copy of the employee's I.D and the first medical report, the W.Cl.4 form, if it is available, to the Compensation Commissioner. It is good practice for the employer to prepare a list of witnesses to the accident to aid the investigation.**

Later on 15 March, Lerato saw Dr Mazibuko who assessed her injuries and ordered an x-ray. The x-ray revealed that Lerato had a bone fracture and although she would not need surgery, she would need to be fitted with a plaster cast and use crutches to walk. Dr Mazibuko indicated that Lerato would not be able to return to work for at least 6 weeks. Lerato was fitted with a back slab cast, ordered to be on bed rest and asked to return on the 18 March to have her full plaster cast fitted.

After her doctor's visit Lerato informed Elaine of her conversation with Dr Mazibuko. Elaine then outlined the next steps to be taken to claim compensation. She assured Lerato that as an employer she was obliged to continue compensating her for the first 3 months of her absence from work, as this is required by the law (the Fund repays employers), and that she would print out all the forms the doctor would need to fill in and give them to Lerato to give to the doctor on the 18 March. Elaine also informed Lerato that she would be in touch to get more information and documentation from her, like a certified copy of her I.D, banking details and proof of residence, which would be needed at a later stage.

Elaine then sent the W.Cl.2 form and a certified copy of Lerato's I.D to the Compensation Commissioner on 16 March the day after the accident.

**Step 3: The medical practitioner should fill out the first medical report, the W.Cl.4 form, and hand it to the employee or send it directly to the employer within 14 days from the date of the first consultation. The employee is not responsible for medical costs; the medical practitioner claims from the Compensation Fund. If an employee seeks a second medical opinion however, then he or she is responsible for those costs.**

On 18 March Dr Mazibuko filled out the first medical report (W.Cl.4 form), attached the x-ray report and gave it to Lerato. Lerato arranged to give the form to Elaine who immediately forwarded it to the Compensation Commissioner.

**Step 4: After receiving the forms the Compensation Commissioner will register the claim and send the employer the W.Cl.55 form (called the acknowledgement postcard).**

*A claim number will be provided on the postcard which should be used for all paperwork. After the Commissioner receives the doctor's report (W.Cl.4), he will make a decision about the claim: if the Commissioner accepts that the injury did indeed occur during the course of the employee's work, then he will send the employer another form, W.Cl.56,*

*called the claim postcard. In the case that the Commissioner does not issue the W.Cl.56 form, it means that he has not accepted the claim and no payments will be made. If the employee disagrees with the decision, he or she can appeal the decision within 90 days by submitting the W929 form to the Commissioner.*

In Lerato's case the Compensation Commissioner accepted liability for the injury and Elaine filled out the W.Cl.56 form.

**Step 5: If the injury lasts a long time, then the medical practitioner should fill in a progress medical report called the W.Cl.5 form. A progress report must be sent to the Compensation Fund on a monthly basis until the employee is able to return to work.**

Lerato was booked off for 6 weeks in total until she was able to return to work. At the 4 week mark Lerato saw Dr Mazibuko, who submitted a progress medical report (W.Cl.5) as an update. Elaine forwarded this report to the Commissioner.

**Step 5: Once the medical practitioner is satisfied that the employee is fit to return to work then the medical practitioner will issue a final medical report.**

*The medical practitioner should fill out another W.Cl.5 form (the same form as the progress report) which should be sent to the Compensation Commissioner by the employer. In the report the doctor will state either that the employee is fit to return to work or that the employee is permanently disabled.*

After 6 weeks, Dr Mazibuko was satisfied that Lerato was fit to return to work. She filled out the W.Cl.5 form and handed it to Lerato to give to Elaine, who then forwarded it to the Compensation Commissioner. Lerato then returned to work on 26 April 2021 after 6 weeks.

**Step 6: Once the employee resumes work, the employer should fill out the W.Cl.6 form, the resumption report, and submit it to the Compensation Commissioner.**

*The Commissioner will only make payments after all forms are submitted and will then close the case. By filling out the resumption report the employer is also able to claim back compensation he or he paid to the employee during the first 3 months the employee was away.*

**Details for the Compensation Commissioner:**

COMPENSATION HOUSE  
CNR. SOUTPANSBERG AND HAMILTON ROAD  
P.O. BOX 955  
PRETORIA, 0001

Call Centre 086 010 5350

Fax: (012) 323-8627; (012) 325-6686; (012) 326-7889;  
(012) 323-6986

E-mail: cf-info@labour.gov.za

Website: <http://www.labour.gov.za>

For information regarding employer registrations please see [notice](#) by the Compensation Commissioner. All forms can be found [here](#).

For updates and announcements about retrospective claims visit the Department of Employment and Labour's [media desk](#). For more information about domestic workers' rights in South Africa, download the [Domestic Workers' Rights: A Legal and Practical Guide](#) developed by the Socio-Economic Rights Institute of South Africa (SERI).

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HELPLINE



To speak to a paralegal, you can call, SMS, send a WhatsApp message, a 'please call me' or email to:

072 663 3739 | 063 610 1865  
[help@blacksash.org.za](mailto:help@blacksash.org.za)

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