

COMPENSATION FOR OCCUPATIONAL INJURIES AND HEALTH DISEASES ACT NO130 OF 1993

To Provide for compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment, or for death resulting from such injuries or diseases; and to provide for matters connected therewith.

Chapter I: Interpretation of Act

1. Definitions

In this Act, unless the context indicates otherwise--

'accident'

means an accident arising out of and in the course of an employee's employment and resulting in a personal injury, illness or the death of the employee;

'actuary'

means any Fellow of an institute, faculty, society or chapter of actuaries approved by the Minister;

'airman'

means an employee employed in any capacity in an aircraft;

'annual earnings'

means--

- a) the amount referred to in section 82(1)(a) if accepted by the Director-General as correct;
- b) the amount determined by the Director-General if in his opinion the amount referred to in paragraph (a) is less than the amount actually paid; or
- c) the estimated amount referred to in section 82(5);

'assessment'

means an assessment made in terms of section 83;

'assessor'

means a person appointed under section 8 as an assessor;

'Board'

means the Compensation Board established by section 10;

'business'

means any industry, undertaking, trade or occupation or any activity in which any employee is employed;

'chiropractor'

means a person registered as a chiropractor in terms of the Associated Health Service Professions Act, 1982 (Ad 63 of 1982);

'commissioner'

means the Compensation Commissioner appointed under section 2(1)(a);

'compensation'

means compensation in terms of this Act and, where applicable, medical aid or payment of the cost of such medical aid;

'compensation fund'

means the fund established by section 15;

'continental shelf'

means the continental shelf referred to in section 7 of the Territorial Waters Act, 1963 (Act 87 of 1963);

'contractor'

means a person referred to as a contractor in section 89;

'dependant of an employee'

means--

- a) a widow or widower who at the time of the employee's death was married to the employee;
- b) a widow or widower who at the time of the employee's death was a party to a marriage to the employee according to indigenous law and custom, if neither the husband nor the wife was a party to a subsisting civil marriage;
- c) if there is no widow or widower referred to in paragraph (a) or (b), person with whom the employee was at the time of the employee's death living as husband and wife;
- d) a child under the age of 18 years of the employee or of his or her spouse, and includes a posthumous child, a step-child, an adopted child and a child born out of wedlock;
- e) a child over the age of 18 years of the employee or of his or her spouse, and a parent or any person who in the opinion of the Director-General was acting in the place of a parent, a brother, a sister, a half-brother or half-sister, a grandparent or a grandchild of the employee;

and who was in the opinion of the Director-General at the time of the employee's death wholly or partly financially dependent upon the employee;

'Director-General'

means the Director-General of the Department of Labour;

'disablement'

means temporary partial disablement, temporary total disablement, permanent disablement or serious disfigurement, as the case may be;

'earnings'

means the remuneration of an employee at the time of the accident or the commencement of the occupational disease as calculated in terms of this Act;

'employee'

means a person who has entered into or works under a contract of service or of apprenticeship or learnership, with an employer, whether the contract is express or implied, oral or in writing, and whether the remuneration is calculated by time or by work done, or is in cash or in kind, and includes--

- a) a casual employee employed for the purpose of the employer's business;
- b) a director or member of a body corporate who has entered into a contract of service or of apprenticeship or learnership with the body corporate, in so far as he acts within the scope of his employment in terms of such contract;

- c) a person provided by a labour broker against payment to a client for the rendering of a service or the performance of work, and for which service or work such person is paid by the labour broker;
- d) in the case of a deceased employee, his dependants, and in the case of an employee who is a person under disability, a curator acting on behalf of that employee;

but does not include--

- i) a person, including a person in the employ of the State, performing military service or undergoing training referred to in the Defence Act, 1957 (Act 44 of 1957), and who is not a member of the Permanent Force of the South African Defence Force;
- ii) a member of the Permanent Force of the South African Defence Force while on 'service in defence of the Republic' as defined in section 1 of the Defence Act, 1957;
- iii) a member of the South African Police Force while employed in terms of section 7 of the Police Act, 1958 (Act 7 of 1958), on 'service in defence of the Republic' as defined in section 1 of the Defence Act, 1957;
- iv) a person who contracts for the carrying out of work and himself engages other persons to perform such work;
- v) a domestic employee employed as such in a private household;

'employer'

means any person, including the State, who employs an employee, and includes--

- a) any person controlling the business of an employer;
- b) if the services of an employee are lent or let or temporarily made available to some other person by his employer, such employer for such period as the employee works for that other person;
- c) a labour broker who against payment provides a person to a client for the rendering of a service or the performance of work, and for which service or work such person is paid by the labour broker;

'employer individually liable'

means an employer who in terms of section 84(1)(a) is exempt from paying assessments to the compensation fund;

'employers' organization'

means an employers' organization as defined in section 1 of the Labour Relations Act, 1956 (Act 28 of 1956);

'financial year'

means the period between the first day of March in any year and the last day of February in the following year, both dates included;

'mandator'

means a person referred to as a mandator in section 89;

'medical aid'

means medical, surgical or hospital treatment, skilled nursing services, any remedial treatment approved by the Director-General, the supply and repair of any prosthesis or any device necessitated by disablement, and ambulance services where, in the opinion of the Director-General, they were essential;

'medical practitioner'

means a person registered as a medical practitioner in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974);

'Minister'

means the Minister of Labour;

'mutual association'

means a mutual association licensed under [section 30](#);

'National Revenue Fund'

means the fund established by section 213 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

'natural resources'

means the natural resources referred to in section 7 of the Territorial Waters Act, 1963 (Act 87 of 1963);

'occupational disease'

means any disease contemplated in section [65\(1\)\(a\)](#) or [\(b\)](#);

'occupational injury'

means a personal injury sustained as a result of an accident;

'pension'

means a pension referred to in [section 49](#) or [54](#);

'periodical payment'

means a periodical payment of compensation in respect of temporary disablement;

'permanent disablement'

in relation to an employee and subject to section 49, means the permanent inability of such employee to perform any work as a result of an accident or occupational disease for which compensation is payable;

'person under disability'

means a minor, a lunatic or any person who by law is subject to curatorship or tutorship;

'prescribed'

means prescribed in terms of this Act or by regulation;

'presiding officer'

means any officer appointed in terms of section 2(1)(a) or (b) and designated as such by the Director-General;

'regulation'

means a regulation made in terms of this Act;

'reserve fund'

means the fund established by [section 19](#);

'seaman'

means an employee employed in any capacity on board a ship by the owner or person in command of the ship;

'serious and willful misconduct'

means--

- a) being under the influence of intoxicating liquor or a drug having a narcotic effect;
- b) a contravention of any law for the protection or the health of employees or for the prevention of accidents, if such contravention was committed willfully or with a reckless disregard of the provisions of such law; or
- c) any other act or omission which the Director-General having regard to all the circumstances considers to be serious and willful misconduct;

'South African aircraft'

means an aircraft registered or licensed in the Republic in terms of a law governing the registration or licensing of aircraft, and the owner of which is resident in the Republic or has a place of business in the Republic;

'South African ship'

means a vessel used in navigation which--

- a) is registered in the Republic in terms of any law / governing the registration of ships and is not registered in any other state in terms of a similar law; or
- b) is owned or chartered by a person whose head office or place of business is in the Republic or by a person who resides in the Republic;

'tariff of assessment'

means the tariff of assessment referred to in section 83(1);

'temporary partial disablement'

in relation to an employee, means the temporary partial inability of such employee as a result of an accident or occupational disease for which compensation is payable to perform the whole of the work at which he or she was employed at the time of such accident or at the commencement of such occupational disease or to resume work at a rate of earnings not less than that which he or she was receiving at the time of such accident or occupational disease;

'temporary total disablement'

in relation to an employee, means the temporary total inability of such employee as a result of an accident or occupational disease for which compensation is payable to perform the work at which he or she was employed at the time of such accident or at the commencement of such occupational disease or work similar thereto;

'this Act'

includes the Schedules thereto and any regulation;

'trade union'

means a trade union as defined in section 1 of the Labour Relations Act, 1956 (Act 28 of 1956), and includes an employees' organization recognized by law and functioning;

'Workmen's Compensation Act'

means the Workmen's Compensation Act, 1941 (Act 30 of 1941);

Chapter II: Administration of Act

2. Staff to assist Director-General

- 1) The Minister shall, subject to such conditions as he or she may determine, in order to assist the Director-General in the performance of his or her functions in terms of or under this Act and subject to the laws governing the public service, appoint--
 - a) an officer to be called the Compensation Commissioner; and
 - b) such other officers and employees as the Minister or an officer designated by him or her may deem necessary.
- 2) The Director-General, and the officers and employees referred to in subsection (1)(b), shall be remunerated out of the National Reserve Fund, which shall be reimbursed out of the compensation fund for the expenditure concerned.

Chapter II: Administration of Act

3. Delegation of powers and assignment of duties by Director-General

- 1) The Director-General may, subject to such conditions as he or she may determine, delegate any of his or her powers or assign any of his or her duties to the Director-General, or an officer or employee referred to in section 2(1)(b), and may at any time cancel any such delegation or assignment.
- 2) A delegation or assignment under subsection (1)--
 - a) shall not divest the Director-General of the power delegated or duty assigned, and he or she may at any time amend or set aside any decision made thereunder; and
 - b) shall not prevent the exercise of the power or the performance of the duty concerned by the Director-General himself or herself.

Chapter II: Administration of Act

4. Functions of Director-General

- 1) Subject to the provisions of this Act, the Director-General shall--
 - a) [Para. (a) deleted by section 4 of Act No. 61 of 1997];
 - b) inquire into accidents and occupational diseases;
 - c) adjudicate on claims and other matters coming before him for decision;
 - d) issue an order for the payment of compensation in respect of an award made by him;
 - e) decide whether a person is an employee, an employer, a mandator or a contractor for the purposes of this Act;
 - f) decide any question relating to--
 - i) a right to compensation;
 - ii) the submission, consideration and adjudication of claims for compensation;
 - iii) the calculation of earnings;
 - iv) the degree of disablement of any employee;
 - v) the amount and manner of payment of compensation;
 - vi) the award, withholding, review, discontinuance, suspension, increase or reduction of compensation;
 - vii) the Liability for payment of compensation as contemplated in section 29;

- g) decide whether a person is a dependant of an employee and, if so, the percentage of dependence, and, in the case where there is more than one dependant, which shall receive compensation and the allocation of compensation among them;
 - h) consider and adjudicate upon claims in terms of section 62;
 - i) decide upon--
 - i) the need for, and the nature and sufficiency of medical aid;
 - ii) the reasonableness of the cost of medical aid, and the amount and manner of payment of such cost;
 - j) decide upon the Liability for assessment, tariffs of assessment, the amounts of assessments, the manner of payment of assessments and related matters;
 - k) decide upon any other question falling within his functions in connection with the administration of this Act;
 - l) administer the compensation fund and the reserve;
 - m) fund; recover amounts due to the compensation fund, including amounts which should not have been paid out in terms of this Act, or write off such amounts if, in his opinion, they cannot be recovered;
 - n) after the conclusion of each financial Year submit a report to the Minister regarding the administration of this Act during that year;
 - o) record statistics and information regarding the occurrence and causes of accidents and occupational diseases, and the award of benefits in terms of this Act;
 - p) institute such inquiries and perform such other functions as may be prescribed, or as he may deem necessary for the administration of this Act.
- 2) The Director-General may--
- a) for the administration of this Act enter into an agreement with any person for the performance of a particular task or of particular work or for the rendering of particular services on such conditions and for such remuneration as may be agreed upon;
 - b) found, establish or subsidize, or assist with the founding, establishment or subsidizing of, a body, organization or scheme whose objects include one or more of the following:
 - i) The prevention of accidents or of any disease which is due to the nature of a particular activity;
 - ii) the promotion of the health or safety of employees;
 - iii) the provision of facilities designed to assist injured employees and employees suffering from occupational diseases to return to their work or to reduce or remove any disability resulting from their injuries or diseases;
 - iv) the carrying out of any activity which will contribute to the attainment of any of the referred to in subparagraphs (i), (ii); and
 - c) purchase or otherwise acquire shares in any body, organization or scheme referred to in paragraph (b), and alienate any shares so acquired;
 - d) apply unclaimed compensation for the general welfare of injured employees or employees suffering from occupational diseases;
 - e) [Para. (e) deleted by section 4 of Act No. 61 of 1997].

Chapter II: Administration of Act

5. Power of Director-General to acquire and alienate Immovable property and to raise money

- 1) The Director-General may With the approval of the Minister--
 - a) raise money by way of loans;
 - b) purchase or otherwise acquire immovable property, and alienate such property.
- 2) Immovable property acquired under subsection (1) shall be held in the name of the Director-General in trust for the compensation fund.

Chapter II: Administration of Act

6. Powers of Director-General regarding witnesses and subpoenas

- 1)
 - a) The Director-General may subpoena any person who in his opinion is able to give information concerning the subject of any injury in terms of this Act, or who is suspected to have or m the opinion of the Director-General has in his possession or custody or under his control any book, document or thing which has a bearing on the inquiry, to appear before him at a time and place specified in the subpoena, to be interrogated or to produce such book, document or thing, and the Director-General may retain such book, document or thing for further investigation.
 - b) An inquiry referred to in paragraph (a) shall take place m public unless the Director-General orders otherwise.
- 2) The Director-General may call and administer an oath to, or accept an affirmation from, any person present at such an inquiry who was or could have been subpoenaed in terms of subsection (1), and the Director-General or an assessor may interrogate such person and order him to produce any book, document or thing in his possession or custody or under his control.
- 3) A person who--
 - a) has been duly subpoenaed under subsection (1) and who fails without sufficient cause to attend at the time and place specified in the subpoena;
 - b) has been duly subpoenaed under subsection (1) or called under subsection (2) and who--
 - i) fails to remain in attendance until excused by the Director-General from further attendance;
 - ii) refuses to be sworn as a witness or to make an affirmation;
 - iii) refuses or fails to answer fully and satisfactorily any question lawfully put to him under subsection 2;
 - iv) refuses or fails to produce any book, document or thing in his possession or custody or under his control which he has been required to produce under subsection (1) or (2);
 - c) hinders or obstructs the Director-General in the performance of any of his functions in terms of this section, shall be guilty of an offence.
- 4) A person who, after having been sworn as a witness or having made an affirmation, makes a false statement knowing it to be false, shall be guilty of an offence and shall upon conviction be liable to the penalty that may be imposed for perjury.

- 5) The law relating to privilege as applicable to a witness testifying in a court of law shall be applicable at an inquiry referred to in subsection (1).
- 6) If a person has been subpoenaed to appear before the Director-General and the Director-General is satisfied that such person has as a result of his appearance suffered any pecuniary loss or had to incur expense, the Director-General may pay out of the compensation fund the prescribed allowances or the amount of the loss or expense, whichever is the lesser.
- 7) The Director-General may delegate any of his functions under this section to an assessor, an officer or employee referred to in section 1 of the Public Service Act, 1984 (Act 111 of 1984), or a medical practitioner, and in this section 'Director-General' includes any such assessor, officer, employee or medical practitioner while acting within the scope of such delegation.

Chapter II: Administration of Act

6A. Functions of commissioner

The commissioner shall--

- a) receive notices of accidents and occupational diseases, claims for compensation, medical reports and accounts, objections, applications, returns of earnings and payments due to the compensation fund;
- b) by notice in the *Gazette* prescribe the rules referred to in section 56(3)(c), as well as the forms to be used and the particulars to be furnished in connection with notice of occupational injuries and diseases, claims for compensation or any other form or matter which he or she may deem necessary for the administration of this Act.

Chapter II: Administration of Act

7. Powers of authorised person

- 1) The Director-General may authorize any assessor, any officer or employee referred to in section 1 of the Public Service Act, 1984 (Act 111 of 1984), or any medical practitioner to investigate any matter that he may deem necessary for the performance of his functions.
- 2) A person authorized under subsection (1) (in this section referred to as an 'authorized person') shall be furnished with a certificate to that effect signed by the Director-General.
- 3) An authorized person may--
 - a) without previous notice, at all reasonable times enter any premises, and take an interpreter or other assistant or a police officer with him onto the premises;
 - b) while he is on the premises, or at any time thereafter, question any person who is or was on the premises, either alone or in the presence of any other person on any matter to which this Act relates;
 - c) order any person who has control over or custody of any book, document or thing on or in those premises to produce to him forthwith, or at such time and place as may be determined by him, such book, document or thing;
 - d) at any time and place order any person who has the possession or custody of or is in the control of a book, document or thing relating to the business of an employer or previous employer, to produce forthwith or at such time and place as may be determined by him, such book, document or thing;

- e) seize any book, document or thing which in his opinion may serve as evidence in any matter in terms of this Act;
 - f) examine or cause to be examined any book document or thing produced to him or seized by him, and make extracts therefrom or copies thereof, and order any person who in his opinion is qualified thereto to explain any entry therein;
 - g) order an employee to appear before him at such time and place as may be determined by him, and question that employee.
- 4) An authorized person performing any function in terms of this section shall on demand produce the certificate referred to in subsection (2).
- 5) Any person who--
- a) falsely holds himself out to be an authorized person;
 - b) refuses or fails to answer fully and satisfactorily any question put to him by an authorized person in the performance of his functions;
 - c) refuses or fails to comply with any lawful request of or order by an authorised person;
 - d) hinders or obstructs an authorized person in the performance of his functions, shall be guilty of an offence.

Chapter II: Administration of Act

8. Assessors

- 1) The Minister may after consultation with the Board appoint so many persons as assessors as he may deem necessary to assist the Director-General in the hearing of any objection in terms of section 91.
- 2) The assessors referred to in subsection (1) shall be Persons who in the opinion of the Minister represent the interests of employees and employers, respectively, and to that end the Minister may consult any organization representing employees or employers.
- 3) The number of assessors appointed to represent the interests of employees shall be equal to the number of assessors appointed to represent the interests of employers.
- 4) The Minister may in addition to the assessors referred to in subsection (1) appoint one or more practitioners, including a medical practitioner appointed under section 2(1)(b), as medical assessors.
- 5) An assessor shall be appointed for such period and on such conditions as the Minister may determine, but the Minister may at any time terminate the appointment of an assessor who--
- a) has been guilty of misconduct or neglect of duty;
 - b) is not able to perform his functions in terms of this Act properly; or
 - c) in his opinion no longer represents the interests on the ground of which he was appointed.
- 6) An assessor shall be paid the prescribed remuneration and travelling and subsistence allowances out of the compensation fund.

Chapter II: Administration of Act

9. Compensation payable to assessors

- 1) If an assessor excluding an assessor in the employ of an employer contemplated in section 84(1)(a)(i), meets with an accident arising out of and in the course of the performance by him or her of his or her functions as assessor and resulting in a personal injury, illness or his or her death, he or she or his or her dependants, as the case may be, shall be entitled to compensation as if he or she were an employee at the time of the accident.
- 2) Compensation in terms of this section shall be paid by the Director-General out of the compensation fund.

Chapter II: Administration of Act

10. Compensation Board

There is hereby established a board to be known as the Compensation Board.

Chapter II: Administration of Act

11. Composition of Board

- 1) The Board shall consist of--
 - a) the Director-General or an officer contemplated in section 2(1)(a) or (b) designated by him or her, who shall act as chairperson;
 - b) two persons appointed by the Minister, one of whom shall be appointed after consultation with the Minister of Health;
 - c) the Chief Inspector of Occupational Health and Safety or his or her nominee;
 - d) one person as a member and one person as an alternate member appointed by the Minister from a list of the names of not more than three persons nominated in order of preference by The Rand Mutual Assurance Company Limited;
 - e) one person as a member and one person as an alternate member appointed by the Minister from a list of the names of not more than three persons nominated in order of preference by the Federated Employers' Mutual Assurance Company Limited;
 - f) two persons as members and up to two persons as alternate members appointed by the Minister from a list of the names of not more than six persons nominated in order of preference by the South African Medical and Dental Council;
 - g) three persons as members and up to three persons as alternate members appointed by the Minister to represent the interests of all employers from a list of the names of not more than ten persons nominated in order of preference by employers' organizations;
 - h) five persons as members and up to five persons as alternate members appointed by the Minister to represent the interests of all employees from a list of the names of not more than ten persons nominated in order of preference by employees' organizations.
- 2) An assessor may not be appointed as a member or an alternate member of the Board.
- 3) An alternate member may attend and take part in the proceedings at any meeting of the Board whenever the member in whose stead he or she has been appointed as an alternate member, is absent from the meeting.

Chapter II: Administration of Act

12. Functions of Board

- 1) The Board shall advise the Minister regarding--
 - a) matters of policy arising out of or in connection with the application of this Act;
 - b) the nature and extent of the benefits that shall be Payable to employees or dependants of employees, including the adjustment of existing pensions;
 - c) the appointment of assessors;
 - d) the amendment of this Act.
- 2) The Board may at the request of the Director-General advise him regarding the performance of a particular aspect of his functions.

Chapter II: Administration of Act

13. Term of office and remuneration of members of Board

- 1) The members of the Board appointed by the Minister shall be appointed for a period not exceeding four years and on such conditions as the Minister may determine, but the Minister may at any time terminate the appointment of any member who--
 - a) has been guilty of misconduct or neglect of duty; or
 - b) is not able to perform his functions in terms of this Act properly.
- 2) The Minister may--
 - a) at the request of a mutual association referred to in section 11(1)(d) or (e) terminate the appointment of a member representing such association; and
 - b) terminate the appointment of a member referred to in section 11(1)(g) or (h) if in his opinion such member no longer represents the interests on the ground of which he was appointed.
- 3) A member of the Board shall be paid the prescribed remuneration and travelling and subsistence allowances out of the compensation fund.

Chapter II: Administration of Act

14. Meetings of Board

- 1) The Board shall meet at the times and places determined by the chairman.
- 2) If six or more of the members of the Board request the Director-General in writing with a statement of reasons to convene a meeting, the Director-General shall within 21 days after having received such request convene a meeting of the Board.
- 3) A quorum for a meeting of the Board shall be nine members of the Board.
- 4) The decision of more than 75 per cent of the members present at a meeting of the Board shall be the decision of the Board.

Chapter III: Compensation Fund and Reserve Fund

15. Compensation fund

- 1) There is hereby established a fund to be known as the compensation fund.
- 2) The compensation fund shall consist of--
 - a) any moneys vested in the compensation fund in terms of subsection (3);
 - b) the assessments paid by employers in terms of this Act;
 - c) any amounts paid by employers to the Director-General in terms of this Act;
 - d) any penalties and fines imposed in terms of this Act other than by a court of law;
 - e) any interest on investments of the compensation fund and the reserve fund;
 - f) any amounts transferred from the reserve fund;
 - g) the Payments made to the Director-General in terms of section 88;
 - h) any other amounts to which the compensation fund may become entitled.
- 3)
 - a) The accident fund established by section 64 of the Workmen's Compensation Act shall, as from the commencement of this Act, cease to exist, and all amounts credited to the accident fund immediately before such commencement, shall as from such commencement vest in the compensation fund.
 - b) All liabilities and rights, existing as well as accruing, of the accident fund shall devolve upon the compensation fund as from the commencement of this Act.

Chapter III: Compensation Fund and Reserve Fund

16. Application of compensation fund

- 1) The compensation fund shall, subject to the provisions of this Act, be under the control of the Director-General and its moneys shall be applied by the Director-General to--
 - a) the payment of compensation, the cost of medical aid or other pecuniary benefits to or on behalf of or in respect of employees in terms of this Act where no other person is liable for such payment;
 - b) the maintenance of the reserve fund;
 - c) the payment of expenses incurred in or in connection with the performance of his functions in terms of section 4(2);
 - d) the reimbursement of the National Revenue Fund in respect of remuneration paid in terms of section 2(2);
 - e) the payment of the prescribed remuneration and travelling and subsistence allowances to assessors;
 - f) the payment of the cost of or in connection with the medical examination of employees;
 - g) the payment of witness fees in terms of section 6(6);
 - h) the payment of any other expenditure incurred by the Director-General in the performance of his functions in terms of this Act.
- 2) The Director-General may transfer any surplus in the compensation fund to the reserve fund.

Chapter III: Compensation Fund and Reserve Fund

17. Valuation of compensation fund

- 1) The assets and liabilities of the compensation fund shall from time to time, as the Director-General may consider necessary, but in any event at intervals of not more than three years, be valued by an actuary appointed by the Minister to determine the sufficiency of the fund.
- 2) The result of the valuation referred to in subsection (1) shall be included in the next annual report of the Director-General succeeding the completion of the valuation.

Chapter III: Compensation Fund and Reserve Fund

18. Accounting

- 1) The Director-General shall receive all money payable to or for the benefit of the compensation fund in terms of this Act, and shall be charged with the responsibility of accounting for all money received and the utilization thereof.
- 2) The Director-General may transfer any part of the moneys in the compensation fund and the reserve fund to the Public Debt Commissioners for investment.

Chapter III: Compensation Fund and Reserve Fund

19. Reserve fund

- 1) There is hereby established a fund to be known as the reserve fund, consisting of cash or investments or both.
- 2) The amount of the reserve fund shall be determined by the Director-General.
- 3) The objects of the reserve fund are--
 - a) to Provide for unforeseen demands on the compensation fund;
 - b) to stabilize the tariffs of assessment.
- 4) Payments out of the reserve fund shall take place on the authorization of the Director-General.
- 5) The reserve fund established in terms of section 66 of the Workmen's Compensation Act shall, as from the commencement of this Act, cease to exist, and all amounts credited to the said reserve fund immediately before such commencement shall as from such commencement vest in the reserve fund established by subsection (1).

Chapter III: Compensation Fund and Reserve Fund

20. Accounts and audit

- 1) The Director-General shall keep such accounts, including an account with a bank contemplated in the Banks Act, 1990 (Act No. 94 of 1990), and records as are necessary for the exercise of proper control over the compensation fund and the reserve fund, and shall prepare yearly balance sheets made up to the last day of the financial year, showing in all necessary detail the assets and liabilities and the revenue and expenditure of the funds.

- 2) The accounts of the said funds shall be audited by the Auditor-General, and the cost of such audit shall be paid out of the compensation fund.
- 3) The Director-General shall, as soon as possible after the completion of the balance sheets referred to in subsection (1), submit a copy thereof and a copy of the report referred to in section 4(1)(n) to the Minister, who shall table such copies in Parliament within 30 days after receipt thereof, if Parliament is in ordinary session or, if Parliament is not in ordinary session, within 30 days of the commencement of its next ensuing ordinary session.

Chapter III: Compensation Fund and Reserve Fund

21. Income of funds exempt from tax

The income of the compensation fund and the reserve fund, including income from any investments, shall be exempt from income tax.

Chapter IV: Compensation for occupational injuries

22. Right of employee to compensation

- 1) If an employee meets with an accident resulting in his disablement or death such employee or the dependants of such employee shall, subject to the provisions of this Act, be entitled to the benefits provided for and prescribed in this Act.
- 2) No periodical payments shall be made in respect of temporary total disablement or temporary partial disablement which lasts for three days or less.
- 3)
 - a) If an accident is attributable to the serious and, willful misconduct of the employee, no compensation shall be payable in terms of this Act, unless--
 - i) the accident results in serious disablement; or
 - ii) the employee dies in consequence thereof leaving a dependant wholly financially dependent upon him.
 - b) Notwithstanding paragraph (a) the Director-General may, and the employer individually liable or mutual association concerned, as the case may be, shall, if ordered thereto by the Director-General, pay the cost of medical aid or such portion thereof as the Director-General may determine.
- 4) For the purposes of this Act an accident shall be deemed to have arisen out of and in the course of the employment of an employee notwithstanding that the employee was at the time of the accident acting contrary to any law applicable to his employment or to any order by or on behalf of his employer, or that he was acting without any order of his employer, if the employee was, in the opinion of the Director-General, so acting for the purposes of or in the interests of or in connection with the business of his employer.
- 5) For the purposes of this Act the conveyance of an employee free of charge to or from his place of employment for the purposes of his employment by means of a vehicle driven by the employer himself or one of his employees and specially provided by his employer for the purpose of such conveyance, shall be deemed to take place in the course of such employee's employment.

Chapter IV: Compensation for occupational injuries

23. Accidents outside Republic

- 1)
 - a) If an employer carries on business chiefly in the Republic and an employee of his ordinarily employed in the Republic, meets with an accident while temporarily employed outside the Republic, such employee shall, subject to paragraph (c), be entitled to compensation as if the accident had happened in the Republic.
 - b) The amount of compensation contemplated in paragraph (a) shall be determined on the basis of the earnings which the employee, in the opinion of the Director-General, would have received if he had remained in the Republic.
 - c) This subsection shall cease to apply to an employee after he has been employed outside the Republic for a continuous period of 12 months, save by agreement between the Director-General, the employee and the employer concerned, and subject to such conditions as the Director-General may determine.
- 2) If an employee resident in the Republic meets with an accident while employed in, on or above the continental shelf, such employee shall be entitled to compensation as if the accident had happened in the Republic.
- 3)
 - a) If an employer carries on business chiefly outside the Republic and an employee of his ordinarily employed outside the Republic, meets with an accident while temporarily employed in the Republic, such employee shall not be entitled to compensation unless the employer has previously agreed with the Director-General that such employee shall be entitled to compensation and, where applicable, has paid the necessary assessments in respect of him.
 - b) An employee referred to in paragraph (a) who is so temporarily employed in the Republic for a continuous period of more than 12 months, shall be deemed to be ordinarily employed by such employer in the Republic.
- 4) If, in terms of the law of the state in which an accident happens, an employee, in the circumstances referred to in subsection (1), is entitled to compensation or if an employee meets with an accident in the circumstances referred to in subsection (2) or in the Republic and he would be entitled to compensation in terms of the law of any other state as well as in terms of this Act, he shall by written notice to the Director-General elect to claim compensation either in terms of this Act or in terms of the law of the other state.

Chapter IV: Compensation for occupational injuries

24. Application of Act to seamen and airmen

This Act shall apply to a seaman or airman--

- a) while employed on a South African ship or aircraft;
- b) while, subject to section 23(3), employed in the Republic on any other ship or aircraft.

Chapter IV: Compensation for occupational injuries

25. Accidents during training for or performance of emergency services

If an employee meets with an accident--

- a) while he is, with the consent of his employer, being trained in organized first aid, ambulance or rescue work, fire-fighting or any other emergency service;
- b) while he is engaged in or about his employer's mine, works or premises in organized first aid, ambulance or rescue work, fire-fighting or any other emergency service ;
- c) while he is, with the consent of his employer, engaged in any organized first aid, ambulance or rescue work, fire-fighting or other emergency service on any mine, works or premises other than his employer's, such accident shall, for the purposes of this Act, be deemed to have arisen out of and in the course of his employment.

Chapter IV: Compensation for occupational injuries

26. Special circumstances in which Director-General may refuse award

If a right to compensation in terms of this Act arises owing to the death or disablement of an employee as a result of an accident, the Director-General may refuse to award the whole or a portion of such compensation and the Director-General, or, if authorized thereto by the Director-General, the employer individually liable or mutual association concerned, as the case may be, may also refuse to pay the whole or any portion of the cost of medical aid--

- a) if the employee at any time represented to the employer or the Director-General, knowing the information to be false, that he was not then suffering from or had not previously suffered from a serious injury or occupational disease or any other serious disease, and such an accident was caused by, or the death resulted from or the disablement resulted from or was aggravated by, such injury or disease; or
- b) if, in the opinion of the Director-General, the death was caused, or the disablement was caused, prolonged or aggravated, by the unreasonable refusal or willful neglect of the employee to submit to medical aid in respect of any injury or disease, whether caused by the accident or existing before the accident.

Chapter IV: Compensation for occupational injuries

27. Special circumstances in which Director-General may make award

If in a claim for compensation in terms of this Act it appears to the Director-General that the contract of service or apprenticeship or learnership of the employee concerned is invalid, he may deal with such claim as if the contract was valid at the time of the accident.

Chapter IV: Compensation for occupational injuries

28. Employee requiring constant help

If the injury in respect of which compensation is payable causes disablement of such a nature that the employee is unable to perform the essential actions of life without the constant help of another person, the Director-General may in addition to any other benefits in terms of this Act grant an allowance towards the cost of such help.

Chapter IV: Compensation for occupational injuries

29 Liability for payment of compensation

If an employee is entitled to compensation in terms of this Act, the Director-General or the employer individually Liabe or the mutual association concerned, as the case may be, shall be Liabe for the payment of such compensation.

Chapter IV: Compensation for occupational injuries

30 Mutual associations

- 1) The Minister may, for such period and subject to such conditions as he may determine, issue a licence to carry on the business of insurance of employers against their liabilities to employees in terms of this Act to a mutual association which was licensed on the date of commencement of this Act in terms of section 95(1) of the Workmen's Compensation Act: Provided that the Minister may, from time to time, order that, in addition to any securities deposited in terms of the Insurance Act, 1943 (Act No. 27 of 1943), and the Workmen's Compensation Act, securities considered by the Director-General to be sufficient to cover the liabilities of the mutual association in terms of this Act be deposited with the Director-General or his or her nominee.
- 2) Subject to the provisions of subsection (4), a security so deposited shall be used solely for making good the default of the association concerned in respect of any Liability of an employer in terms of this Act, and for payment of any expenses lawfully incurred in connection with such making good or the enforcement of such liability.
- 3) The Minister may from time to time determine the conditions upon which, the manner in which and the period within which any such security shall be made available to a person entitled to payment therefrom.
- 4) If the Minister is satisfied that the whole or any portion of such security is no longer necessary and that the association concerned is not in a position to incur a Liability payable therefrom, he shall cause such security, or portion thereof, to be returned to such association.
- 5) If an association has deposited with the Director-General or his or her nominee any such security and thereafter fails to meet in full any of its liabilities in terms of this Act, or is placed in liquidation, then, notwithstanding the provisions of any other law, such security shall vest in the Director-General for the purpose of the liabilities of the association in terms of this Act.
- 6) If at any time the Minister is satisfied that a mutual association has failed to comply with any of the conditions imposed by him or her under subsection (1), he or she may suspend or withdraw the licence issued to that association under the said subsection.

Chapter IV: Compensation for occupational injuries

31. Security for payment of compensation and cost of medical aid by employers individually liable

- 1) The Director-General may order an employer individually liable to deposit such securities as in the opinion of the Director-General are sufficient to cover the liabilities of the employer in terms of this Act.

- 2) If an employer has deposited with the Director-General any such security and thereafter fails to meet in full his liabilities in terms of this Act, the Director-General may apply such security to pay those liabilities, and he may deposit any unused balance in the compensation fund and apply it for the payment of future liabilities of that employer in terms of this Act.

Chapter IV: Compensation for occupational injuries

32. Compensation may not be alienated or reduced

- 1) Notwithstanding anything to the contrary in any other law contained, compensation shall not--
 - a) be ceded or pledged;
 - b) be capable of attachment or any form of execution under a judgment or order of a court of law;
 - c) [Para. (c) deleted by section 12 of Act No. 61 of 1997];
 - d) be set off against any debt of the person entitled to the compensation.
- 2) Notwithstanding subsection (1), the Director-General or the mutual association concerned, as the case may be, may pay compensation payable to an employee in whole or in part to the employer to the extent to which such employer has made payments to the employee in respect of disablement arising out of an occupational injury or disease.

Chapter IV: Compensation for occupational injuries

33. Cession or relinquishment of benefits void

Any provision of an agreement existing at the commencement of this Act or concluded thereafter in terms of which an employee cedes or purports to cede or relinquishes or purports to relinquish any right to benefits in terms of this Act, shall be void.

Chapter IV: Compensation for occupational injuries

34. Compensation not to form part of deceased employee's estate

Compensation in terms of this Act owing to the death of an employee shall not form part of his estate.

Chapter IV: Compensation for occupational injuries

35. Substitution of compensation for other legal remedies

- 1) No action shall lie by an employee or any dependant of an employee for recovery of damages in respect of any occupational injury or disease resulting in the disablement or death of such employee against such employee's employer, and no liability for compensation on the part of such employer shall arise save under the provisions of this Act in respect of such disablement or death.
- 2) For the purposes of subsection (1) a person referred to in section 56(1)(b), (c), (d) and (e) shall be deemed to be an employer.

Chapter IV: Compensation for occupational injuries

36. Recovery of damages and compensation paid from third parties

- 1) If an occupational injury or disease in respect of which compensation is payable, was caused in circumstances resulting in some person other than the employer of the employee concerned (in this section referred to as the 'third party') being liable for damages in respect of such injury or disease--
 - a) the employee may claim compensation in terms of this Act and may also institute action for damages in a court of law against the third party; and
 - b) the Director-General or the employer by whom compensation is payable may institute action in a court of law against the third party for the recovery of compensation that he is obliged to pay in terms of this Act.
- 2) In awarding damages in an action referred to in subsection (1)(a) the court shall have regard to the compensation paid in terms of this Act.
- 3) In an action referred to in subsection (1)(b) the amount recoverable shall not exceed the amount of damages, if any, which in the opinion of the court would have been awarded to the employee but for this Act.
- 4) For the purposes of this section compensation includes the cost of medical aid already incurred and any amount paid or payable in terms of section 28, 54(2) or 72(2) and, in the case of a pension, the capitalized value as determined by the Director-General of the pension, irrespective of whether a lump sum is at any time paid in lieu of the whole or a portion of such pension in terms of section 52 or 60, and periodical payments or allowances, as the case may be.

Chapter IV: Compensation for occupational injuries

37. Threats and compulsion

Any person who threatens an employee or in any manner compels or influences an employee to do something resulting in or directed at the deprivation of that employee's right to benefits in terms of this Act, shall be guilty of an offence.

Chapter V: Claims for compensation

38. Notice of accident by employee to employer

- 1) Written or verbal notice of an accident shall, as soon as possible after such accident happened, be given by or on behalf of the employee concerned to the employer, and notice of the accident may also be given as soon as possible to the commissioner in the prescribed manner.
- 2) Failure to give notice to an employer as required in subsection (1) shall not bar a right to compensation if it is proved that the employer had knowledge of the accident from any other source at or about the time of the accident.
- 3) Subject to section 43, failure to give notice to an employer as required in subsection (1), or any error or inaccuracy in such notice, shall not bar a right to compensation if in the opinion of the Director-General—

- a) the compensation fund or the employer or mutual association concerned, as the case may be, is not or would not be seriously prejudiced by such failure, error or inaccuracy if notice is then given or the error or inaccuracy is corrected;
 - b) such failure, error or inaccuracy was caused by an oversight, absence from the Republic or other reasonable cause.
- 4) If a seaman or airman meets with an accident, the person in command or the owner of the ship or aircraft, as the case may be, shall for the purposes of this section and sections 39, 40, 41 and 43 be deemed to be the employer.

Chapter V: Claims for compensation

39. Notice of accident by employer to commissioner

- 1) Subject to the provisions of this section an employer shall within seven days after having received notice of an accident or having learned in some other way that an employee has met with an accident, report the accident to the commissioner in the prescribed manner.
- 2) For the purposes of subsection (1) an employer referred to in section 84(1)(a)(i) means, in the case of--
 - a) the national and provincial spheres of government, the respective heads of department referred to in section 7(3) of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
 - b) Parliament, the Secretary to Parliament;
 - c) a provincial legislature, the Secretary of the provincial legislature in question.
- 3)
 - a) An employer referred to in section 84(1)(a)(ii) shall within 60 days after the commencement of this Act, and an employer referred to in section 84(1)(a)(iii) shall within 30 days after having been granted exemption under section 84(2), furnish the commissioner with the name of a person who shall be responsible to report on behalf of such employer accidents as required by subsection (1) (in this section referred to the 'responsible person').
 - b) If such employer individually liable thereafter designates some other person as the responsible person such employer shall within 30 days after such designation notify the commissioner thereof in the prescribed manner.
- 4) Notwithstanding subsection (1) the Director-General may upon application authorize an employer individually Liable to report accidents at such intervals and in such manner as the Director-General may determine.
- 5) An employer referred to in section 84(1)(b) shall report accidents to the mutual association concerned in the prescribed manner.
- 6) An employer, excluding an employer referred to in section 84(1)(a)(i), (ii) and (iii), who fails to comply with subsection (1) shall be guilty of an offence.
- 7) For the Purposes of this section an accident includes any injury reported by an employee to his employer, if the employee when reporting the injury alleges that it arose out of and in the course of his employment and irrespective of the fact that in the opinion of the employer the alleged accident did not so arise out of and in the course thereof.
- 8) If an employer, excluding an employer referred to in section 84(1)(a)(i), (ii) and (iii), fails to report in the prescribed manner an accident which has happened to an employee in

his, her or its service within seven days after having received notice thereof or having learned thereof in some other manner, the Director-General may impose a fine of not more than the full amount of the compensation payable in respect of such accident upon him, her or it in addition to any other penalty to which he, she or it may be liable.

- 9) If a fine is in terms of subsection (8) imposed upon an employer referred to in section 84(1)(b), and is paid to the Director-General or recovered by him, such fine shall be paid over to the mutual association concerned.
- 10) For the purposes of subsection (8) compensation includes the cost of medical aid and any amount paid or payable in terms of section 28, 54(2) or 72(2) and, in the case of a pension, the capitalized value as determined by the Director-General of the pension, irrespective of whether a lump sum is at any time paid in Lieu of the whole or a portion of such pension in terms of section 52 or 60, and periodical payments or allowances, as the case may be.
- 11) If the Director-General is of the opinion that the failure referred to in subsection (8) was not willful or was due to a cause over which the employer had no control or that the payment of the full amount of the compensation payable in respect of such accident, including the capitalized value as determined in subsection (10), will probably result in the insolvency of the employer concerned or, in the case of an employer that is a company, its liquidation, the Director-General may on such conditions as he may think fit--
 - a) reduce or remit any fine imposed by him;
 - b) permit the employer to pay the fine in such instalments as he may determine.
- 12) An employer shall at the request of an employee or the dependant of an employee furnish such employee or dependant with a copy of the notice of the accident furnished by the employer to the commissioner in respect of a claim for compensation by such employee or dependant.

Chapter V: Claims for compensation

40. Inquiry by Director-General Into accident

- 1) The Director-General shall, after having received notice of an accident or having learned in some other way that an employee has met with an accident, make such inquiry as he may deem necessary to enable him to decide upon any claim or liability in terms of this Act.
- 2) An employee or employer shall, at the request of the Director-General, furnish such further particulars regarding the accident and injuries concerned as the Director-General may require
- 3) The Director-General shall, at the request of an injured employee or his employer, furnish such information as the Director-General may deem necessary to enable that employee or employer to comply with the provisions of this Act.
- 4) An employer who fails to comply with the provisions of this section shall be guilty of an offence.
- 5) Notwithstanding section 4(1)(c), the Director-General may refuse to adjudicate on the claim of an employee who fails to comply with subsection (2).

Chapter V: Claims for compensation

41. Particulars in support of claim

- 1) An employee who has met with an accident shall, when reporting the accident or thereafter at the request of the employer or commissioner, furnish such information and documents as may be prescribed or as the employer or commissioner may direct.
- 2) Subject to section 62, an employer shall within seven days after having received a claim, medical report or other documents or information concerning such claim send such claim, report, documents or information to the commissioner.

Chapter V: Claims for compensation

42. Employee to submit to medical examination

- 1) An employee who claims compensation or to whom compensation has been paid or is payable shall when so required by the Director-General or the employer or mutual association concerned, as the case may be, after reasonable notice, submit himself at the time and place mentioned in the notice to an examination by the medical practitioner designated by the Director-General or the employer or mutual association concerned.
- 2) Such expenses incurred by the employee to comply with the provisions of this section as the Director-General may deem necessary and reasonable, and the prescribed remuneration for a medical examination in terms of this section, shall be paid by the party requiring the examination.
- 3) If, in the opinion of any medical practitioner, the employee is not capable of calling upon the designated medical practitioner, the employee shall inform the party requiring the examination thereof or cause him to be so informed, and the designated medical practitioner shall then examine the employee at a time and place as agreed upon.
- 4) An employee shall be entitled at his own expense to have a medical practitioner or chiropractor of his choice present at an examination by a designated medical practitioner.

Chapter V: Claims for compensation

43. Claim for compensation

- 1)
 - a) A claim for compensation in terms of this Act shall be lodged by or on behalf of the claimant in the prescribed manner with the commissioner or the employer or the mutual association concerned, as the case may be, within 12 months after the date of the accident or, in the case of death, within 12 months after the date of death.
 - b) If a claim for compensation is not lodged as prescribed in paragraph (a), such claim for compensation shall not be considered in terms of this Act, except where the accident concerned has been reported in terms of section 39.
- 2) Notwithstanding subsection (1)(a) a claim for compensation by any seaman or airman may be lodged with the person in command of the ship or aircraft concerned, as the case may be, except if such seaman or airman is himself the person in command.

- 3) If any seaman or airman meets with an accident outside the Republic resulting in death, a claim for compensation shall be instituted within 12 months after news of the death has been received by any dependant claiming compensation.
- 4) The provisions of section 38 shall apply *mutatis mutandis* in respect of any failure to institute a claim or in respect of any error or inaccuracy in a claim instituted in terms of this section.

Chapter V: Claims for compensation

44. Prescription

A right to benefits in terms of this Act shall lapse if the accident in question is not brought to the attention of the commissioner or of the employer or mutual association concerned, as the case may be, within 12 months after the date of such accident.

Chapter V: Claims for compensation

45. Consideration of claim

- 1) The Director-General shall consider and adjudicate on a claim for compensation, and for that purpose may carry out such investigation as he may deem necessary or he may formally hear the claim.
- 2) If the Director-General decides upon a formal hearing, he shall in the prescribed manner give notice of the date, time and place of the hearing to the claimant and employer.
- 3) If the Director-General considers it necessary that any person, including the claimant and the employer, should be present at a formal hearing to be interrogated, he may issue a subpoena for the appearance of such witness.
- 4) Upon application by a person who in the opinion of the Director-General has a sufficient interest in the subject of a formal hearing, the Director-General shall issue a subpoena for the appearance of a person except if he is of the opinion that such person cannot further the investigation, in which case the Director-General shall issue a subpoena only if the party applying therefor deposits with the Director-General a sum sufficient to cover the necessary expenses to be incurred by the witness as well as the cost of the service of such subpoena.
- 5) The provisions of section 6 shall apply *mutatis mutandis* to a person subpoenaed in terms of subsection (3) or (4).
- 6) The Director-General may from time to time adjourn a formal hearing to a date, time and place determined by him.
- 7) The Director-General shall keep or cause to be kept a record of the proceedings at a formal hearing, and upon payment of the prescribed fees any person may obtain a copy of such record.

Chapter V: Claims for compensation

46. Appearance of parties

- 1)
 - a) Every party to a claim for compensation or his representative may appear before the Director-General at a formal hearing.
 - b) The Director-General may designate any person to investigate a claim, attend a formal hearing, cross-examine witnesses, adduce rebutting evidence and present arguments.
- 2) No person other than an advocate or attorney shall be entitled to any fees or remuneration except such necessary expenses as the Director-General may allow.
- 3) No fees or remuneration shall be claimed from an employee or employer except with the approval of the Director-General.
- 4)
 - a) The Director-General may of his or her own motion or on an *ex parte* application by a party to a claim for compensation, order any attorney employed by such party or a representative who has allegedly, contrary to subsection (2), claimed fees or remuneration, to submit to him or her a statement showing what he or she has received or contracted to receive from his or her client, and to submit for taxation his or her bill of costs, including attorney and client costs, against such client.
 - b) Upon such taxation the Director-General may allow such fees, costs and expenses as he may consider reasonable in the circumstances.
 - c) If an amount has been paid in excess of the amount allowed upon taxation, the excess shall be refunded to the person concerned, and any agreement in terms of which such an excess is otherwise payable shall be void as to that excess.
- 5) The provisions of subsections (2), (3) and (4) shall also apply to any act in connection with a claim for compensation which is not the subject of a formal hearing.
- 6) Any person who agrees or attempts to collect any money contrary to the provisions of this section shall be guilty of an offence.

Chapter VI: Determination and calculation of compensation

47. Compensation for temporary total or partial disablement

- 1)
 - a) Compensation for temporary total disablement shall be calculated on the basis set out in item 1 of Schedule 4 subject to the minimum and maximum amounts.
 - b) [Para. (b) deleted by section 17 of Act No. 61 of 1997]
- 2) Compensation for temporary partial disablement shall consist of such portion of the amount calculated in terms of subsection (1) as the Director-General may consider equitable.
- 3)
 - a) Notwithstanding section 29 the employer in whose service an employee is at the time of the accident shall be liable for the payment of the compensation referred to in subsection (1) for the first three months from the date of accident.

- b) After the expiry of the said three months, compensation so paid by such employer shall be repaid to the employer by the Director-General or mutual association concerned, as the case may be.
 - c) An employer who fails to comply with paragraph (a) shall be guilty of an offence.
- 4) Payment of compensation in terms of subsections (1) and (2) shall take place in the form of periodical payments at such times and intervals, but not exceeding one month, as the Director-General may determine.
- 5)
- a) Periodical payments shall take place for so long as the temporary total disablement continues, but not for a period exceeding 24 months.
 - b) If such disablement continues for longer than 12 months, the Director-General may order the continuation of those payments for such further period as he may determine.
- 6) Temporary total disablement continuing for more than 24 months may be treated by the Director-General as permanent disablement.
- 7)
- a) No periodical payments shall be payable for the period in respect of which the employer pays the cost of maintenance of an injured seaman in terms of the merchant shipping law.
 - b) Notwithstanding paragraph (a) such payments may be made as the Director-General may deem equitable but not exceeding the amount contemplated in subsection (1)

Chapter VI: Determination and calculation of compensation

48. Expiry of compensation for temporary total or partial disablement

- 1) The right to compensation for temporary total or partial disablement shall expire--
 - a) upon the termination of such disablement or if the employee resumes the work upon which he was employed at the time of the accident or occupational disease. or resumes any other work at the same or greater earnings;
 - b) if the employee is awarded compensation for permanent disablement.
- 2) Notwithstanding subsection (1) the Director-General may, and the employer individually liable or mutual association concerned, as the case may be, shall, if directed thereto by the Director-General, again award compensation for temporary total or partial disablement if--
 - a) the disablement of the employee concerned recurs or deteriorates; or
 - b) the employee receives further medical aid necessitating further absence from his service, provided that such aid will in the opinion of the Director-General reduce his disablement.
- 3) If the Director-General awards compensation under subsection (2), he may suspend or direct the employer individually liable or mutual association concerned, as the case maybe, to suspend any pension payments to the employee concerned in respect of the same accident for so long as such employee is receiving periodical payments.

Chapter VI: Determination and calculation of compensation

49. Compensation for permanent disablement

- 1)
 - a) Compensation for permanent disablement shall be calculated on the basis set out in items 2, 3, 4 and 5 of Schedule 4 subject to the minimum and maximum amounts.
 - b) [Para. (b) deleted by section 18 of Act No. 61 of 1997]
- 2) If an employee has sustained an injury set out in Schedule 2, he shall for the purposes of this Act be deemed to be permanently disabled to the degree set out in the second column of the said Schedule.
 - a) If an employee has sustained an injury or serious mutilation not mentioned in Schedule 2 which leads to permanent disablement, the Director-General shall determine such percentage of disablement in respect thereof as in his opinion will not lead to a result contrary to the guidelines of Schedule 2.
 - b) If an injury or a serious mutilation contemplated in paragraph (a) or (b) has unusually serious consequences for an employee as a result of the special nature of the employee's occupation, the Director-General may determine such higher percentage as he or she deems equitable.
- 3) No payment for temporary disablement in terms of section 47 shall be deducted from compensation payable in terms of this section.
- 4) For the purposes of this section 'monthly pension' means, where it appears in the relevant items in Schedule 4, a pension payable monthly during the lifetime of the employee and which expires at the end of the month in which the employee dies.

Chapter VI: Determination and calculation of compensation

50. Amendment of Schedule 2

The Minister may on the recommendation of the Director-General, and after consultation with the Board, amend Schedule 2 by notice in the Gazette in respect of injuries or categories of injuries as well as the percentage of disablement: Provided that at least 60 days before any such amendment a notice shall be published in the Gazette--

- a) of the intention to effect an amendment and the proposed content of the amendment; and
- b) inviting any person who wishes to comment on the proposed amendment to submit such comment in writing to the commissioner within the period mentioned in the notice.

Chapter VI: Determination and calculation of compensation

51. Compensation for permanent disablement of employee in training or under 26 years of age

- 1) If as a result of an accident an employee sustains permanent disablement and at the time of the accident--
 - a) was an apprentice or in the process of being trained in any trade, occupation or profession; or

- b) was under 26 years of age, the Director-General shall determine the earnings of such employee in accordance with subsection (2) for the purpose of the calculation of compensation in terms of section 49.
- 2)
- a) In the case of an employee referred to in subsection (1)(a), his earnings shall be calculated on the basis of the earnings to which a recently qualified person or a person in the same occupation, trade or profession with five years more experience than the employee would have been entitled at the time of the accident, whichever calculation is more favourable to the employee.
 - b) In the case of an employee referred to in subsection (1)(b), his earnings shall be calculated on the basis of the earnings normally to which a person of 26 years of age would have been entitled if at the time of the accident he had been performing the same work as the employee or a person in the same occupation, trade or profession with five years more experience than the employee, whichever calculation is more favourable to the employee.

Chapter VI: Determination and calculation of compensation

52. Payment of lump sum in lieu of pension

- 1) If a pension does not exceed a prescribed amount, the Director-General may, upon the application of the pensioner, pay or direct the payment of a lump sum in lieu of that pension or a portion thereof.
- 2)
- a) If a pension exceeds the prescribed amount, the Director-General may, upon the application of the pensioner, in lieu of a portion of that pension not exceeding the prescribed amount pay or direct the payment of a lump sum.
 - b) If the balance of the pension payable is less than the prescribed amount per month, the Director-General may pay or direct the payment of a lump sum in lieu of the whole of such pension.
- 3) No pension or portion of a pension due to a child shall be paid in a lump sum.
 - 4) Any lump sum in terms of this section shall be calculated on the basis determined by the Director-General, and the payment thereof shall be subject to the control of the Director-General as referred to in section 59.

Chapter VI: Determination and calculation of compensation

53. Compensation to employee previously in receipt of compensation

- 1) In awarding compensation to an employee in respect of permanent disablement or in reviewing an award of compensation, the Director-General may take into account any compensation awarded in terms of this Act or any other law to the employee as a result of permanent disablement.
- 2) If an employee has received compensation for permanent disablement in terms of this Act and subsequently meets with an accident resulting in further permanent disablement in respect of which compensation is payable in terms of this Act, the Director-General may calculate his compensation in respect of such further permanent disablement and, where applicable, also the first-mentioned compensation, on the basis of the earnings that he received at the time of any of the accidents concerned, whichever earnings are more favourable to the employee.

- 3) Subject to section 56, an employee shall not be paid compensation in the form of a pension or pensions in respect of one or more accidents if it amounts to more than the pension payable in respect of 100 per cent disablement.

Chapter VI: Determination and calculation of compensation

54. Amount of compensation if employee dies

- 1) If an employee dies as a result of an injury caused by an accident, compensation shall be payable as follows:
 - a) If the employee leaves a dependant referred to in paragraph (a), (b) or (c) of the definition of 'dependant of an employee' in section 1 (in this section referred to as the 'widow or widower'), and there are no children, a lump sum as set out in item 6 of Schedule 4 and a monthly pension as set out in item 7 of Schedule 4;
 - b) If the employee leaves a widow or widower and a child referred to in paragraph (d) of the said definition, compensation to the widow or widower calculated in accordance with paragraph (a) of this subsection, and in respect of the child a pension calculated in accordance with paragraph (c) of this subsection: Provided that any pension payable in terms of this paragraph shall not in all exceed the pension for 100 per cent permanent disablement which would have been payable to the employee under section 49(1);
 - c) if the employee leaves a child referred to in paragraph (d) of the said definition, or a child referred to in paragraph (e) of the said definition who in the opinion of the Director-General is unable to earn an income owing to a physical or mental disability, a pension as set out in item 8 of Schedule 4: Provided that--
 - i) if the employee at the time of his death does not leave a widow or widower or where such a widow or widower later dies, the aggregate amount of the pensions payable in terms of this paragraph may, in the discretion of the Director-General and subject to review by him from time to time, be increased by an amount not exceeding the pension which is or would have been payable in terms of paragraph (a) of this subsection to the widow or widower;
 - ii) the pension payable in terms of this paragraph shall not in all exceed the pension which would have been awarded to the employee under section 49(1) in the case of 100 per cent permanent disablement;
 - iii) any increase or reduction of a pension in terms of this proviso shall be calculated in such manner as the Director-General may deem equitable, and the amount and manner of awarding may be reviewed by him from time to time;
 - iv) the pension payable to a child referred to in paragraph (d) of the said definition shall lapse at the end of the month in which such child reaches the age of 18 years, except where such child is unable to earn an income owing to a physical or mental disability, or dies or marries before reaching the age of 18 years, or until the child completes secondary education, or while the child is undergoing tertiary education and it could reasonably have been expected that the employee would have contributed to the maintenance of that child, whichever occurs last;
 - v) the pension payable to a child referred to in paragraph (d) or (e) of the said definition who is unable to earn an income owing to a physical or mental disability, shall cease on a date determined by the Director-General when in his or her opinion it may reasonably have been expected that the employee would no longer have contributed towards the maintenance of that child;
 - d) if the employee leaves no dependants referred to in Paragraph (a), (b) or (c) of this subsection but a dependant referred to in paragraph (e) of the said definition, excluding a child over the age of 18 years who is unable to earn an income owing to a physical or mental disability, and--

- i) who is wholly financially dependant upon the employee, a monthly pension which in all shall not amount to more than 40 per cent of the pension which would have been payable to the employee under section 49(1) for 100 per cent permanent disablement, for so long as in the opinion of the Director-General it may reasonably have been expected that the employee would have contributed to the maintenance of that person; or
 - ii) who was partly financially dependant upon the employee and there is no dependant as contemplated in Subparagraph (i), a lump sum as set out in item 9 of Schedule 4.
 - e) [Para. (e) deleted by section 21 of Act No. 61 of 1997].
- 2) The Director-General may pay out of the compensation fund such amount as he may deem reasonable, within the limits set out in item 10 of Schedule 4, for the funeral costs of an employee or direct the employer individually liable or mutual association concerned, as the case may be, to pay such costs.
 - 3) No amount shall be deducted from the compensation awarded in terms of this section to a dependant in respect of any compensation awarded to the employee himself in respect of the same or any other accident.
 - 4) A pension payable to a widow or widower in terms of this section shall lapse on the last day of the month in which she or he dies.
 - 5) If an employee leaves two or more dependants referred to in paragraph (b), (d) or (e) of the definition of 'dependant of an employee' in section 1--
 - a) the compensation payable to the dependants shall, notwithstanding the provisions of this section, be awarded in such manner as the Director-General may determine: Provided that the compensation payable in all shall not exceed the lump sum and pension which would have been payable in terms of this section if such employee had left only one such dependant;
 - b) the Director-General may, if one of the dependants referred to in the said paragraph (b) dies, allocate the pension which was payable to that dependant to the children, if any, of such dependant or, if there are no children, to the other dependant or dependants referred to in the said paragraph (b).
 - 6) For the purposes of this section a dependant referred to in paragraph (a), (b) or (d) of the definition of dependant of an employee' in section 1 shall be deemed to have been wholly financially dependent upon the employee at the time of the accident unless the contrary is proved.

Chapter VI: Determination and calculation of compensation

55. Amendment of Schedule 4

The Minister may on the recommendation of the Director-General, and after consultation with the Board, amend Schedule 4 by notice in the *Gazette* in respect of the nature, extent, minimum and maximum amount of benefits: Provided that at least 60 days before any such amendment a notice shall be published in the *Gazette*--

- a) of the intention to effect an amendment and the proposed content of the amendment; and
- b) inviting any person who wishes to comment on the proposed amendment to submit such comment in writing to the commissioner within the period mentioned in the notice.

Chapter VI: Determination and calculation of compensation

56. Increased compensation due to negligence of employer

- 1) If an employee meets with an accident or contracts an occupational disease which is due to the negligence--
 - a) of his employer;
 - b) of an employee charged by the employer with the management or control of the business or of any branch or department thereof;
 - c) of an employee who has the right to engage or discharge employees on behalf of the employer;
 - d) of an engineer appointed to be in general charge of machinery), or of a person appointed to assist such engineer in terms of any regulation made under the Minerals Act, 1991 (Act 50 of 1991); or
 - e) of a person appointed to be in charge of machinery in terms of any regulation made under the Occupational Health and Safety Act, 1993 (Act 85 of 1993), the employee may, notwithstanding any provision to the contrary contained in this Act, apply to the commissioner for increased compensation in addition to the compensation normally payable in terms of this Act.
- 2) For the purposes of subsection (1) an accident or occupational disease shall be deemed also to be due to the negligence of the employer if it was caused by a patent defect in the condition of the premises, place of employment, equipment, material or machinery used in the business concerned, which defect the employer or a person referred to in paragraph (b), (c), (d) or (e) of subsection (1) has failed to remedy or cause to be remedied.
- 3)
 - a) An application for increased compensation in terms of this section shall be lodged with the commissioner in the prescribed manner within 24 months after the date of the accident or the commencement of the occupational disease, but the commissioner may extend that period by a further period not exceeding 12 months if he is satisfied that there are good reasons why the employee did not lodge his application within that period, and that neither the compensation fund nor the employer will unreasonably be prejudiced by the extension of such period.
 - b) The commissioner shall, as soon as possible after receipt of such an application, send a copy thereof to the employer in whose employ the employee was at the time of the accident or the employer in whose employ the employee was when he contracted the occupational disease.
 - c) The provisions of sections 6, 7, 45 and 46 shall, subject to such rules as the commissioner may prescribe for the facilitation of the consideration of applications in terms of this section, apply *mutatis mutandis* in respect of such an application.
- 4)
 - a) If the Director-General is satisfied that the accident or occupational disease was due to negligence as referred to in subsection (1), he shall award the applicant such additional compensation as he may deem equitable.
 - b) The amount of such additional compensation together with any other compensation awarded in terms of this Act shall not exceed the amount of the pecuniary loss which the applicant has in the opinion of the Director-General suffered or can reasonably be expected to suffer as a direct result of the said accident or occupational disease.

- 5) The Director-General may deal with an application in terms of subsection (1) *mutatis mutandis* in accordance with the procedure prescribed in section 91 as if it were an objection in terms of that section.
- 6) The presiding officer may in any proceedings in terms of this section make such an order as to costs and the payment thereof as he may deem fit.
- 7) If increased compensation has been awarded in terms of this section the Director-General may for such period as he may deem necessary apply the provisions of section 85(2) in respect of the employer of the employee concerned.

Chapter VI: Determination and calculation of compensation

57. Increase of monthly pensions

- 1) The Minister may on the recommendation of the Director-General by notice in the *Gazette* increase the monthly pensions payable in terms of sections 49 and 54 by such percentage as he may so determine: Provided that at least 60 days before any such increase a notice shall be published in the *Gazette*--
 - a) of the intention to increase the monthly pensions; and
 - b) inviting any person who wishes to comment on the proposed increase to submit such comment in writing to the commissioner within the period mentioned in the notice.
- 2) In determining the percentage referred to in subsection (1) the Minister may differentiate between accidents which happened on different dates.

Chapter VI: Determination and calculation of compensation

58. Advances on compensation

In anticipation of the award of compensation the Director-General may, if in his opinion the interests or pressing need of the employee warrants it, advance to or on behalf of the employee such amount as he may deem equitable or direct the employer individually liable or mutual association concerned to advance it, subject to such conditions as the Director-General may determine.

Chapter VI: Determination and calculation of compensation

59. Control over payment of compensation

- 1) Compensation payable in terms of this Act may for reasons deemed by the Director-General to be sufficient, be--
 - a) paid to the employee or the dependant of an employee entitled thereto, or to any other person on behalf of such employee or dependant, in instalments or in such other manner as he may deem fit;
 - b) invested or applied to the advantage of the employee or the dependants of an employee;
 - c) paid to the Master of the Supreme Court, a trustee or any other person to be applied in accordance with such conditions as may be determined by the Director-General;
 - d) applied according to one or more of paragraphs (a), (b) and (c).

- 2) Notwithstanding any provision to the contrary contained in this Act, if compensation is payable by an employer individually liable or a mutual association, as the case may be, the Director-General may direct such employer or mutual association to pay the whole or any portion of the compensation concerned to the Director-General to be dealt with in terms of subsection (1).
- 3)
 - a) On the death of an employee or a dependant of an employee the unpaid balance of any compensation awarded shall not form part of his estate and shall be paid to such dependant as the Director-General may designate.
 - b) Where there is no dependant, the Director-General may pay such balance or a portion thereof to the estate of the deceased.

Chapter VI: Determination and calculation of compensation

60. Pensioner resident outside Republic

- 1) If an employee or a dependant of an employee to whom a pension is payable in terms of this Act is resident outside the Republic or is absent from the Republic for a period or periods totaling more than six months, the Director-General may award a lump sum as determined by him in Lieu of such pension, and upon payment of such lump sum the right to the pension shall expire.
- 2) Before the Director-General exercises his power under subsection (1), he shall notify that employee or dependant of his intention and request him to submit any representations that he wishes to make for consideration to the Director-General within the period specified by the Director-General.

Chapter VI: Determination and calculation of compensation

61. Recovery of compensation or other benefits

- 1) If an employer individually liable or a mutual association that is liable for the payment of compensation or any other pecuniary benefit in terms of this Act, refuses or fails to pay such compensation or benefit, the Director-General may issue an order in the prescribed form for the payment thereof.
- 2) The Director-General shall send a certified copy of the order referred to in subsection (1) to the clerk of the magistrate's court of the district in which the party referred to in subsection (1) has its place of business, and thereupon such order shall have the effect of a civil judgment of that magistrate's court and the Director-General shall have all the powers of a judgment creditor.
- 3) Any amount recovered under subsection (2) shall be paid into the compensation fund and the provisions of section 59 shall apply *mutatis mutandis* in respect of such amount.

Chapter VI: Determination and calculation of compensation

62. Provisional settlements

- 1) Notwithstanding any provision to the contrary contained in this Act, the Director-General may, subject to such conditions as he may determine, authorize an employer individually liable or a mutual association to provisionally settle claims by employees for compensation or for the payment of the cost of medical aid.

- 2) An employer or association referred to in subsection (1) shall report provisional settlements to the Director-General at such intervals and with such particulars as the Director-General may determine, and the Director-General may confirm, amend or repudiate any such provisional settlement, or deal with the claim in accordance with section 45 as if the provisional settlement concerned had not been made.

Chapter VI: Determination and calculation of compensation

63. Manner of calculating earnings

- 1) In order to determine compensation, the Director-General shall calculate the earnings of an employee in such manner as in his opinion is best to determine the monthly rate at which the employee was being remunerated by his employer at the time of the accident, including--
 - a) the value of any food or quarters or both supplied by the employer to the date of the accident;
 - b) any overtime payment or other special remuneration in cash or in kind of a regular nature or for work ordinarily performed, but excluding--
 - i) payment for intermittent overtime;
 - ii) payment for non-recurrent occasional services;
 - iii) amounts paid by an employer to an employee to cover any special expenses;
 - iv) *ex gratia* payments whether by the employer or any other person.
- 2) If an employee's remuneration is determined in accordance with a rate calculated upon work performed, his earnings shall be deemed to be his remuneration for similar work upon the same conditions of remuneration for as long a period as possible prior to the accident but not exceeding 12 months.
- 3) If by reason of the short duration of the service of an employee with his employer it is impracticable to calculate his earnings in such service, his earnings shall, if possible, be calculated on the basis of the amount which the employee with similar work at the same conditions of remuneration earned with another employer during the 12 months immediately prior to the accident, or on the basis of the amount which during the 12 months immediately prior to the accident was earned by other employees of the first-mentioned employer with similar work and on the same conditions of remuneration, or would have been earned by the employee during the previous 12 months had he been so employed.
- 4) If an employee has entered into contracts of service with two or more employers and has in terms of those contracts worked at one time for one employer and at another time for another employer, his earnings shall be calculated as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.
- 5) If in the opinion of the Director-General it is not practicable to calculate the earnings of an employee in accordance with the preceding provisions, the Director-General may calculate those earnings in such manner as he may deem equitable, but with due regard to the principles laid down in those provisions.
- 6) This section shall not be construed as prohibiting the calculation of earnings on a weekly basis, but where earnings are so calculated the monthly earnings shall be calculated as equal to four and one-third times the amount of such weekly earnings.

Chapter VI: Determination and calculation of compensation

64. Certain compensation to employers prohibited

- 1) Any employer who deducts from the earnings of an employee any amount or receives any amount from him to compensate the employer directly or indirectly for any amount which the employer is liable to pay in terms of this Act, shall be guilty of an offence.
- 2) Any court convicting an employer of contravening subsection (1) shall, in addition to any penalty it may impose, order the employer to pay to the commissioner within a specified period and in instalments or otherwise as the court may determine, such amount as he has received contrary to the provisions of subsection (1).
- 3) The commissioner shall pay the amount received by him in terms of such an order to the employee from whose earnings that amount has been deducted or from whom the amount has been received.
- 4) Upon application by the employer the court may at any time, on good cause shown, extend the period within which the amount referred to in subsection (2) is payable or amend the amount of the instalments.
- 5) An order made under this section shall have the effect of a civil judgment of a magistrate's court in favour of the commissioner.

Chapter VII: Occupational diseases

65. Compensation for occupational diseases

- 1) Subject to the provisions of this Chapter, an employee shall be entitled to the compensation provided for and prescribed in this Act if it is proved to the satisfaction of the Director-General--
 - a) that the employee has contracted a disease mentioned in the first column of Schedule 3 and that such disease has arisen out of and in the course of his or her employment; or
 - b) that the employee has contracted a disease other than a disease contemplated in paragraph (a) and that such disease has arisen out of and in the course of his or her employment.
- 2) If an employee has contracted a disease referred to in subsection (1) and the Director-General is of the opinion that the recovery of the employee is being delayed or that his temporary total disablement is being prolonged by reason of some other disease of which the employee is suffering, he may approve medical aid also for such other disease for so long as he may deem it necessary.
- 3) If an employee has contracted a disease referred to in subsection (1) resulting in permanent disablement and that disease is aggravated by some other disease, the Director-General may in determining the degree of permanent disablement have regard to the effect of such other disease.
- 4) Subject to section 66, a right to benefits in terms of this Chapter shall lapse if any disease referred to in subsection (1) is not brought to the attention of the commissioner or the employer or mutual association concerned, as the case may be, within 12 months from the commencement of that disease.

- 5) For the purposes of this Act the commencement of a disease referred to in subsection (1) shall be deemed to be the date on which a medical practitioner diagnosed that disease for the first time or such earlier date as the Director-General may determine if it is more favourable to the employee.
- 6) The provisions of this Act regarding an accident shall apply *mutatis mutandis* to a disease referred to in subsection (1), except where such provisions are clearly inappropriate.

Chapter VII: Occupational diseases

66. Presumption regarding cause of occupational disease

If an employee who has contracted an occupational disease was employed in any work mentioned in Schedule 3 in respect of that disease, it shall be presumed, unless the contrary is proved, that such disease arose out of and in the course of his employment.

Chapter VII: Occupational diseases

67. Calculation of compensation

- 1) Compensation for a disease referred to in section 65(1) shall be calculated on the basis of the earnings of the employee calculated *mutatis mutandis* in accordance with the provisions of section 63 and the disablement of the employee at the time of the commencement of the disease or such earlier date as the Director-General may determine, if it is proved to his satisfaction that the employee was suffering from the disease at an earlier date, whichever earnings are more favourable to the employee .
- 2) If an employee is no longer in employment at the time of the commencement of the said disease, his earnings shall be calculated on the basis of the earnings that he would probably have been earning had he still been working.

Chapter VII: Occupational diseases

68. Notice of occupational disease by employee and employer

- 1) An employee shall as soon as possible after the commencement of a disease referred to in section 65(1) give written notice thereof to his employer or to the employer where he was last employed, and he may also give written notice of the said disease in the prescribed manner to the commissioner.
- 2) An employer shall within 14 days after having so received notice or having learned in some other way that an employee has contracted a disease referred to in section 65(1), report such disease in the prescribed manner to the commissioner or mutual association concerned, as the case may be, irrespective of whether he may be of the opinion that the employee did not contract such disease in his employ or in the employ of a previous employer.
- 3) An employer who fails to comply with subsection (2) shall be guilty of an offence.

Chapter VII: Occupational diseases

69. Amendment of Schedule 3

The Minister may on the recommendation of the Director-General, and after consultation with the Board and the chairpersons of the medical advisory panels, amend Schedule 3 by notice in the *Gazette*, also with retrospective effect, in respect of the description of the diseases and work: Provided that at least 60 days before any such amendment a notice shall be published in the *Gazette*--

- a) of the intention to effect an amendment and the proposed content of the amendment; and
- b) in which any person who wishes to comment on the proposed amendment is invited to submit such comment in writing to the commissioner within the period mentioned in the notice.

Chapter VII: Occupational diseases

70. Appointment of medical advisory panels

- 1) The Director-General may on a regional basis appoint medical advisory panels which shall consist of as many members as he or she may deem necessary to--
 - a) assist him with regard to the diagnosis of occupational diseases in individual cases;
 - b) advise him regarding the inclusion of occupational diseases in Schedule 3;
 - c) advise him regarding general policy concerning the diagnosis of, and disablement as a result of, occupational diseases.
- 2) A member of a medical advisory panel shall be paid the prescribed remuneration and travelling and subsistence allowances out of the compensation fund.
- 3) The Director-General shall designate a member of a medical advisory panel as chairman thereof.
- 4) The members of medical advisory panels shall be appointed by the Director-General for such period and on such conditions as he may determine, but the Director-General may at any time terminate the appointment of any member who--
 - a) has been guilty of misconduct or neglect of duty; or
 - b) is not able to perform his functions in terms of this Act properly.
- 5) The provisions of section 9 shall apply *mutatis mutandis* to members of medical advisory panels.

Chapter VIII: Medical aid

71. First aid

[Section 71 repealed by section 27 of Act No. 61 of 1997]

Chapter VIII: Medical aid

72. Conveyance of injured employee

- 1) If an employee meets with an accident which necessitates his conveyance to a hospital or medical practitioner or from a hospital or medical practitioner to his residence, his employer shall forthwith make the necessary conveyance available.
- 2) The Director-General or the employer individually liable or mutual association concerned, as the we may be, shall pay the reasonable cost (as determined by the Director-General) incurred in respect of that conveyance.
- 3) Any employer who fails to comply with subsection (1) shall be guilty of an offence.

Chapter VIII: Medical aid

73. Medical expenses

- 1) The Director-General or the employer individually liable or mutual association concerned, as the case may be, shall for a period of not more than two years from the date of an accident or the commencement of a disease referred to in section 65(1) pay the reasonable cost incurred by or on behalf of an employee in respect of medical aid necessitated by such accident or disease.
- 2) If, in the opinion of the Director-General, further medical aid in addition to that referred to in subsection (1) will reduce the disablement from which the employee is suffering, he may pay the cost incurred in respect of such further aid or direct the employer individually liable or the mutual association concerned, as the case may be, to pay it.

Chapter VIII: Medical aid

74. Submission of medical report

- 1) A medical practitioner or chiropractor shall within 14 days after having for the first time examined an employee injured in an accident or within 14 days after having diagnosed an occupational disease in an employee, furnish a medical report to the employer concerned in the prescribed manner: Provided that where the employee was at the time of the diagnosis of an occupational disease not employed, the medical report shall be furnished in the prescribed manner to the commissioner.
- 2) If the commissioner or the employer individually liable or mutual association concerned, as the case may be, requires further medical reports regarding an employee, the medical practitioner or chiropractor who has treated or is treating the employee shall upon request furnish the desired reports in the manner and at the time and intervals specified or prescribed.
- 3) If a medical practitioner or chiropractor fails to furnish a medical report as required in subsection (1) or (2) or in the opinion of the commissioner or the employer individually liable or mutual association concerned, as the case may be, fails to complete it in a satisfactory manner, such party may defer the payment of the cost of the medical aid concerned until the report has been furnished or completed in a satisfactory manner, and no action for the recovery of the said cost shall be instituted before the report has been so furnished or completed.

- 4) No remuneration shall be payable to a medical practitioner or chiropractor for the completion and furnishing of a report referred to in subsection (1) or (2).
- 5) A medical practitioner or chiropractor shall at the request of an employee or the dependant of an employee furnish such employee or dependant with a copy of the report referred to in subsection (1).

Chapter VIII: Medical aid

75. Director-General to decide on need for, and nature and sufficiency of, medical aid

All questions regarding the need for, and the nature and sufficiency of, any medical aid supplied or to be supplied in terms of this Chapter shall be decided by the Director-General.

Chapter VIII: Medical aid

76. Fees for medical aid

- 1) Subject to the provisions of this section, the cost of medical aid shall be calculated in accordance with a tariff of fees determined by the Director-General.
- 2) The tariff of fees for medical aid affecting the Medical Association of South Africa, the Chiropractic Association of South Africa and the Dental Association of South Africa shall be determined after consultation with those associations.
- 3) If the Director-General or an employer individually liable or a mutual association is liable in terms of this Act for the payment of the cost of medical aid--
 - a) no amount in excess of that determined in the tariff of fees or, if no amount has been determined for particular medical aid, no amount in excess of that deemed reasonable by the Director-General, shall be recoverable for the medical aid concerned
 - b) no amount in respect of the said cost shall be recoverable from the employee or an employer other than an employer individually liable.

Chapter VIII: Medical aid

77. Contributions by employees towards cost of medical aid prohibited

- 1) An employer who demands or receives from an employee a contribution towards the cost of medical aid supplied or to be supplied in terms of this Act, shall be guilty of an offence.
- 2) If an employer has been convicted of contravening subsection (1), the Director-General may in the prescribed form issue an order against that employer for the payment of the amount that he received contrary to the provisions of subsection (1), and section 61(2) and (3) shall then apply *mutatis mutandis* in respect of such order and amount.

Chapter VIII: Medical aid

78. Medical aid provided by employers

- 1) If an employer makes arrangements to provide to his employees injured in accidents medical aid which in the opinion of the Director-General is not less favourable to the employees than that provided for in this Chapter, the Director-General may, subject to such conditions as he may determine, approve such arrangements.
- 2) If the Director-General has approved the arrangements referred to in subsection (1)--
 - a) the employees concerned shall be entitled to medical aid in accordance with the arrangements;
 - b) the employer concerned shall not be required to provide or pay for medical aid except in accordance with the said arrangements;
 - c) the Director-General may reimburse an employer who is not individually liable so much out of the compensation fund or reduce his assessment to such an extent as he may deem equitable.
- 3) The Director-General may at any time withdraw the approval or amend the conditions referred to in subsection (1).

Chapter VIII: Medical aid

79. Consultation of representative medical authorities by Director-General

The Director-General may consult the South African Medical and Dental Council referred to in the Medical, Dental and Supplementary Health Service Professions Act, 1974 Act 56 of 1974j, the Medical Association of South Africa, the Chiropractic Association of South Africa and any other representative medical authority concerning matters connected with or arising out of the application of the provisions of this Act with regard to medical aid, and may for that purpose disclose any information relating to a matter in respect of which the views of the Council, the Associations or other authority are required.

Chapter IX: Obligations of employers

80. Employer to register with commissioner and to furnish him with particulars

- 1) An employer carrying on business in the Republic shall within the prescribed period and in the prescribed manner register with the commissioner, and shall furnish the commissioner with the prescribed particulars of his business, and shall within a period determined by the commissioner furnish such additional particulars as the commissioner may require.
- 2) The particulars referred to in subsection (1) shall be furnished separately in respect of each business carried on by the employer.
- 3) An employer shall within seven days of any change in the particulars so furnished notify the commissioner of such change.
- 4) The Director-General may exempt employers referred to in section 84(1)(a) and (b) from the provisions of this section.

- 5) Any person not resident in the Republic or any body corporate not registered in terms of any law governing the registration of bodies corporate in the Republic, and carrying on business in the Republic or engaged in, on or above the continental shelf in activities in connection with surveys, research, prospecting or exploitation of natural resources, and employing an employee in connection therewith, shall furnish the commissioner with the address of his or its head office and the name and address of his or its chief officer in the Republic, and that officer shall for the purposes of this Act be deemed to be the employer of the said employee.
- 6) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

Chapter IX: Obligations of employers

81. Employer to keep record

- 1) An employer shall keep a register or other record of the earnings and other prescribed particulars of all the employees, and shall at all reasonable times produce such register or record or a microfilm or other microform reproduction thereof on demand to an authorized person referred to in section 7 for inspection.
- 2) An employer shall retain the register, record or reproduction referred to in subsection (1) for a period of at least four years after the date of the last entry in that register or record.
- 3) An employer who fails to comply with a Provision of this section shall be guilty of an offence.
- 4) A health and safety representative elected in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), or the Mine Health and Safety Act, 1996 (Act No. 29 of 1996), and a trade union representative elected in terms of section 14 of the Labour Relations Act, 1995 (Act No. 66 of 1995). shall have the right to inspect, and where appropriate bring to the attention of the Director-General, any register, record or document which the employer must maintain, keep or complete in terms of this Act.

Chapter IX: Obligations of employers

82. Employer to furnish returns of earnings

- 1) Subject to subsection (1A), an employer, excluding an employer referred to in section 84(1)(a) and (b), shall not later than the thirty-first day of March in each year furnish the commissioner with a return in the prescribed form, certified by him, her or it as correct, showing--
 - a) the amount of earnings up to the maximum contemplated in section 83(8) paid by him, her or it to his, her or its employees during the period with effect from the first day of March of the immediately preceding year up to and including the last day of February of the following year; and
 - b) such further information as may be prescribed or as the Director-General may require.
- 1A) An employer who commences business after the last day of February of a particular year shall within seven days after such commencement furnish the commissioner with a return in the prescribed form, certified by him, her or it as correct, showing the estimated earnings of his, her or its employees for the period with effect from the commencement of the business up to and including the last day of February of the following year.

- 2) If an employer carries on business at more than one place or if he carries on more than one class of business, the commissioner may require a separate return for each place or class of business from him.
- 3) If in a return referred to in subsection (1) the amount shown as earnings, excluding earnings exceeding the maximum contemplated in subsection 83(8), is less than the amount actually paid, the Director-General may impose upon and recover from the employer a fine not exceeding 10 per cent of the difference between the amount shown and the actual amount.
- 4) The Director-General may reduce any fine referred to in subsection (3).
- 5) If an employer fails to furnish a return or if the estimate of the earnings which an employer expects to pay during a particular period is in the opinion of the Director-General too low, the Director-General may himself estimate the earnings concerned.
- 6) An employer who fails to comply with the provisions of this section shall be guilty of an offence.

Chapter IX: Obligations of employers

83. Assessment of employer

- 1) Subject to the provisions of this section, an employer shall be assessed or provisionally assessed by the Director-General according to a tariff of assessment calculated on the basis of such percentage of the annual earnings of his, her or its employees as the Director-General with due regard to the requirements of the compensation fund for the year of assessment may deem necessary.
- 2) Notwithstanding subsection (1), the Director-General may--
 - a) assess a particular employer or category of employers on such other basis as he may deem equitable;
 - b) levy a minimum assessment in respect of a particular employer or category of employers.
- 3) In determining the tariff of assessment the Director-General shall provide for the capitalized value of pensions.
- 4) For the purposes of this section earnings shall be calculated in the prescribed manner.
- 5) If the earnings actually paid by an employer in respect of a particular period differ from the earnings shown in respect of that period in the return concerned, the Director-General shall adjust his assessment accordingly.
- 6) If an employer fails to furnish the Director-General within the prescribed period with a return in terms of section 82 in respect of a particular period, the Director-General may--
 - a) assess the employer on the basis of the earnings estimated in accordance with section 82(5);
 - b) impose upon and recover from the employer a fine not exceeding 10 per cent of the amount so assessed.
 - c) where it later appears that the actual earnings were more than the earnings estimated under paragraph (a), recover the difference in the assessment from the employer, and may impose and recover a fine on such difference as contemplated in paragraph (b); and

- d) where it later appears that the actual earnings were less than the earnings estimated under paragraph (a), make the necessary adjustment.
- 7) An assessment of an employer shall be paid at such time and in such manner as the Director-General may determine.
- 8) The Minister may, on the recommendation of the Director-General and after consultation with the Board, prescribe by notice in the Gazette a maximum amount of earnings on which an assessment of an employer shall be calculated by the Director-General.

Chapter IX: Obligations of employers

84. Certain employers exempt from assessment

- 1) No assessment in favour of the compensation fund shall be payable in respect of employees--
 - a) in the employ of--
 - i) the national and provincial spheres of government, including Parliament and provincial legislatures;
 - ii) a local authority which has obtained a certificate of exemption in terms of section 70(1)(a)(ii) of the Workmen's Compensation Act and has notified the Director-General in writing within 30 days after the commencement of this Act that it desires to continue with the arrangements according to the said certificate of exemption; and
 - iii) a municipality contemplated in section 10B of the Local Government Transition Act, 1993 (Act No. 209 of 1993), to which exemption has been granted in terms of subsection (2);
 - b) whose employer has with the approval of the Director-General obtained from a mutual association a policy of insurance for the full extent of his potential liability in terms of this Act to all employees employed by him, for so long as he maintains such policy in force.
- 2) The Director-General may upon application exempt a local authority referred to in subsection (1)(a)(ii) or any municipality referred to in subsection (1)(a)(iii) from the obligations of an employer in terms of this Act on such conditions as he or she may think fit.
- 3) Notwithstanding the provisions of this section, the Director-General may on application by an employer referred to in subsection (1) permit such employer to pay assessments to the compensation fund in respect of his employees, and thereafter the provisions of this section shall cease to apply to such an employer.

Chapter IX: Obligations of employers

85. Variation of tariff of assessment

- 1) If in the opinion of the Director-General the business of an employer is designed, equipped, organized or conducted in a manner which is calculated to prevent accidents and the number of accidents and the expenditure in connection therewith are or are likely to be less than those usually occurring in comparable businesses, the Director-General may assess that employer at a lower tariff of assessment than the tariff of assessment for employers in like businesses.

- 2) If the accident record of an employer during a particular period is in the opinion of the Director-General less favourable than those of employers in comparable businesses and the Director-General is of the opinion that such state of affairs will probably continue, the Director-General may assess such employer at a higher tariff of assessment than the tariff of assessment for employers in like businesses.
- 3) If the accident record of an employer during a particular period is in the opinion of the Director-General more favourable than those of employers in comparable businesses, the Director-General may give such employer a rebate on any assessment paid or payable by him.

Chapter IX: Obligations of employers

86. Assessment to be paid by employer to commissioner

- 1) An assessment shall be paid by an employer to the commissioner within 30 days after the date of the notice of assessment or, with the approval of the commissioner, in such instalments and at such times and on such conditions as the commissioner may determine.
- 2) Interest is payable on an overdue assessment at a rate determined by the Director-General, which shall not exceed the prevailing standard rate of interest as defined in section 1 of the Exchequer Act, 1975 (Act No. 66 of 1975).

Chapter IX: Obligations of employers

87. Failure to pay assessment or other moneys

- 1) If an employer fails to pay an assessment in accordance with section 86, the Director-General may impose a fine at the prescribed percentage on the outstanding amount upon him.
- 2)
 - a) If an employer fails to comply with the provisions of section 80(1) and an employee in his employ meets with an accident, the Director-General may, in addition to any other penalty to which such employer may be Liable, impose a fine not exceeding the full amount of the compensation payable in respect of such accident upon him.
 - b) If the Director-General is of the opinion that such failure was not willful or was due to some cause over which the employer had no control, or that payment of the full amount of the capitalized value of a pension payable as compensation to the employee would probably lead to the insolvency of that employer or, in the case where the employer is a company, to its liquidation, the Director-General may--
 - i) waive in whole or in part any fine imposed by him;
 - ii) allow the employer to pay the penalty in such instalments as he may determine.
- 3) An employer who refuses or fails to pay any assessment, instalment or fine referred to in this section or any other money payable in terms of this Act, shall be guilty of an offence.
- 4)
 - a) If an employer fails to pay any amount due to the commissioner, the commissioner may issue an order in the prescribed form for the payment thereof.

- b) The commissioner shall send a certified copy of the order referred to in paragraph (a) to the clerk of the magistrate's court of the district in which that employer is resident or where he has his place of business, and thereupon such order shall have the effect of a civil judgment of that magistrate's court, and the commissioner shall have all the powers of a judgment creditor.
- 5) For the purposes of this section compensation includes the cost of medical aid as well as any amount paid or payable in terms of section 28, 54(2) or 72(2) and, in the case of a pension, the capitalized value as determined by the Director-General of the pension, irrespective of whether a lump sum in lieu of the pension or a portion thereof is at any time paid under section 52 or 60, and periodical payments or allowances, as the case may be.

Chapter IX: Obligations of employers

88. Contributions by employers individually liable and mutual associations

- 1) Notwithstanding any provision to the contrary contained in this Act, the employers individually liable and the mutual associations shall pay annually to the Director-General in such manner and at such times as he may determine, such portion of the expenditure incurred by him in the administration of the provisions of this Act as he may deem equitable.
- 2)
 - a) The Director-General shall as soon as possible after the end of each financial year estimate the loss suffered during that year as a result of compensation that became payable out of the compensation fund in respect of employees with regard to whom their employers failed to pay assessments.
 - b) Such loss shall be estimated on the basis of the difference between the compensation referred to in paragraph (a) as calculated by the Director-General, together with any expenditure incurred or likely to be incurred in connection therewith, and the amounts recovered from the employers concerned or likely to be recovered whether by way of compensation, fines or otherwise.
 - c) The loss for any particular financial year may be revised by the Director-General in subsequent years in the light of the amounts actually paid or recovered.
 - d) The employers individually liable and the mutual associations shall pay to the Director-General, in such manner and at such times as he may determine, such portion of the said loss as he may deem equitable.
- 3) The provisions of this Act with regard to the recovery of assessments shall apply *mutatis mutandis* to the recovery of an amount owing by an employer or mutual association in terms of this section.
- 4) For the purposes of this section compensation includes the cost of medical aid as well as any amount paid or payable in terms of section 28, 54(2) or 72(2) and, in the we of a pension, the capitalized value as determined by the Director-General of the pension, irrespective of whether a lump sum in lieu of the pension or a portion thereof is at any time paid under section 52 or 60, and periodical payments or allowances, as the case may be.

Chapter IX: Obligations of employers

89. Mandators and contractors

- 1)
 - a) If a person (the mandator) in the course of or for the purposes of his business enters into an agreement with any other person (the contractor) for the execution by or under the supervision of the contractor of the whole or any part of any work undertaken by the mandator, the contractor shall, in respect of his employees employed in the execution of the work concerned, register as an employer in accordance with the provisions of this Act and pay the necessary assessments.
 - b) If a contractor fails so to register or pay any assessment, the said employees of the contractor shall be deemed to be the employees of the mandator, and the mandator shall pay the assessments in respect of those employees.
- 2) If a mandator has paid an assessment or compensation for which he would not have been liable but for the provisions of subsection (1), such mandator may recover that assessment or compensation from the contractor.
- 3) If a mandator has in terms of this section paid an assessment or compensation to the commissioner, he may set off the amount so paid by him against his debt to the contractor.
- 4) Notwithstanding the provisions of this section, the Director-General may recover compensation from the contractor instead of from the mandator, and if the full amount cannot be recovered from the one, the shortfall can be recovered from the other.
- 5) A mandator shall not be liable in terms of this section in respect of any accident which happened at a place which is not on or about the premises on which the mandator undertook to execute the work, or which is not otherwise under his control or management.

Chapter X: Legal procedures

90. Review of decisions by Director-General

- 1) The Director-General may after notice, if possible, to the party concerned and after giving him an opportunity to submit representations, at any time review any decision in connection with a claim for compensation or the award of compensation on the ground-
 - a) that the employee has not submitted himself to an examination referred to in section 42;
 - b) that the disablement giving rise to the award is prolonged or aggravated by the unreasonable refusal or failure of the employee to submit himself to medical aid;
 - c) that compensation awarded in the form of a Periodical payment or a pension is excessive or insufficient because of existing or changed circumstances;
 - d) that the decision or award was based on an incorrect view or misrepresentation of the facts, or that the decision or award would have been otherwise in the light of evidence available at present but which was not available when the Director-General made the decision or award.
- 2) The Director-General may, after he has considered the evidence and representations submitted to him and made such inquiry as he may deem necessary, confirm, amend or set aside his decision, and may suspend, discontinue, reduce or increase compensation awarded.

- 3) For the purposes of this section compensation shall include medical aid.

Chapter X: Legal procedures

91. Objections and appeal against decisions of Director-General

- 1) Any person affected by a decision of the Director-General or a trade union or employers' organization of which that person was a member at the relevant time may, within 180 days after such decision, lodge an objection against that decision with the Director-General in the prescribed manner.
- 2)
 - a) An objection lodged in terms of this section shall be considered and decided by the presiding officer assisted by two assessors designated by him, of whom one shall be an assessor representing employees and one an assessor representing employers.
 - b) If the presiding officer considers it expedient, he may, notwithstanding paragraph (a), call in the assistance of a medical assessor.
 - c) The provisions of sections 6, 7, 45 and 46 shall apply *mutatis mutandis* in respect of the consideration of an objection.
- 3)
 - a) After considering an objection the presiding officer shall, provided that at least one of the assessors, excluding any medical assessor, agrees with him, confirm the decision in respect of which the objection was lodged or give such other decision as he may deem equitable.
 - b) If neither of the assessors agrees with the view of the presiding officer, the presiding officer shall submit the dispute in terms of section 92 to the Supreme Court for decision.
- 4) The presiding officer may in connection with proceedings in terms of this section make such order as to costs and the payment thereof as he may deem equitable.
- 5)
 - a) Any person affected by a decision referred to in subsection (3)(a), may appeal to any provincial or local division of the Supreme Court having jurisdiction against a decision regarding--
 - i) the interpretation of this Act or any other law;
 - ii) the question whether an accident or occupational disease causing the disablement or death of an employee was attributable to his or her serious and willful misconduct;
 - iii) the question whether the amount of any compensation awarded is so excessive or so inadequate that the award thereof could not reasonably have been made;
 - iv) the right to increased compensation in terms of section 56.
 - b) Subject to the provisions of this subsection, such an appeal shall be noted and prosecuted as if it were an appeal against a judgment of a magistrate's court in a civil case, and all rules applicable to such an appeal shall *mutatis mutandis* apply to an appeal in terms of this subsection.
- 6) Except where the presiding officer orders otherwise, no obligation to pay any assessment, compensation or any other amount to the Director General or to the compensation fund, or to pay any periodical payments to or on behalf of an employee under a decision of the presiding officer, shall be suspended or deferred by reason of the fact that an objection has been lodged against such decision in terms of subsection (1), or that an appeal has been noted in terms of subsection (5).

- 7)
- a) If during the hearing of an objection the presiding officer dies or becomes unable to act as presiding officer--
 - i) the hearing may, with the consent of the person, trade union or employers' organisation contemplated in subsection (1), proceed before another presiding officer and the assessors concerned; or
 - ii) the hearing shall start *de novo* if the consent contemplated in subparagraph (i) is not given.
 - b) If during the hearing of an objection the assessor dies or becomes unable to act as assessor--
 - i) the hearing may, with the consent of the person, trade union or employers' organisation contemplated in subsection (1), proceed before the presiding officer concerned and the remaining assessor or assessors; or
 - ii) the hearing shall start *de novo* if the consent contemplated in subparagraph (i) is not given.

Chapter X: Legal procedures

92. Director-General may state case for Supreme Court

- 1) If any question of law arises in the performance of the functions of the Director-General, the Director-General may of his or her own motion or at the request of a party with a sufficient interest in any matter or proceedings before the Director-General, state a case for decision by a High Court having jurisdiction.
- 2) The Director-General shall set out in the stated case--
 - a) the facts that he found proved; and
 - b) the view of the law which he has adopted in relation to those facts.
- 3) If the Director-General has any doubt as to the correctness of a decision given by any provincial or local division of the Supreme Court regarding a question of law in connection with the application of this Act, he may submit such decision to the Appellate Division of the Supreme Court and cause the question of law to be argued so that the Appellate Division may decide such question of law for the future guidance of all courts.

Chapter X: Legal procedures

93. Evidence

- 1) The record of any decision or award made by the Director-General, and a copy of or extract from a record or document kept by the Director-General or lodged with him, which purports to be certified by the Director-General as a true copy or extract shall upon its mere production in a court of law be *prima facie* evidence of the content of such record or document.
- 2) In any proceedings in terms of this Act, or in any court of law, any document purporting to be a sworn statement made by the Director-General or an authorized person referred to in section 7(2), and in which it is stated--
 - a) that any person is an employer, a mandator, a contractor, an employee or a dependant of an employee in terms of this Act;
 - b) that any person is or was required in terms of this Act to pay an amount to the Director-General or to an employee or other person specified in the statement;

- c) that an amount referred to in paragraph (6), or any portion thereof, has or has not been paid on a date specified in the statement;
 - d) that he has exercised a power under this Act, shall upon its mere production be *prima facie* evidence of the facts stated therein.
- 3) The person presiding at the court or other proceedings referred to in subsection (1) or (2) may cause the person who has made a sworn statement referred to in subsection (2) to be subpoenaed to give viva voce evidence or cause written interrogatories to be sent to him for answering and a document purporting to be a sworn statement With the answers of that person shall upon its mere production be *prima facie* evidence of the facts stated therein.

Chapter XI: General

94. Arrangements with foreign states regarding compensation

The Minister may by notice in the *Gazette* issue directions to give effect to the provisions of any agreement between the Republic and any other state in which provision is made for reciprocity in matters regarding compensation to employees for accidents resulting in disablement or death, including directions--

- a) to determine in any case where an employee is entitled to compensation both in terms of this Act and in terms of the law of any such state under the law of which party such employee or his dependants shall be entitled to recover compensation;
- b) to authorize the Director-General to allow evidence taken in any such state, and to obtain and take evidence for use in such state or for the facilitation of proceedings for the recovery of compensation in terms of the law of any such state.

Chapter XI: General

95. Certain documents exempt from stamp duty

Notwithstanding any provision to the contrary contained in any other law, any sworn statement, certificate, receipt or other document required or issued under this Act, shall be exempt from stamp duty.

Chapter XI: General

96. Disclosure of information

- 1) No person shall disclose any information obtained by him in the performance of his functions in terms of this Act, except--
 - a) to the extent to which it may be necessary for the proper administration of a provision of this Act;
 - b) for the purposes of the administration of justice; or
 - c) at the request of the Minister or any other person entitled thereto.
- 2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

Chapter XI: General

97. Regulations

- 1) The Minister may make regulations, after consultation with the Board, regarding--
 - a) the place of meeting and the procedure to be followed at any meeting of the Director-General and assessors or at any proceedings in terms of this Act with which the assessors are concerned, or at any investigation in terms of this Act;
 - b) subject to section 76, the fees payable to medical practitioners or chiropractors in respect of services rendered in terms of this Act;
 - c) the procedure to be followed in paying assessments and fines to the Director-General;
 - d) the persons to whom, the places where and the manner in which payment of assessments in terms of this Act shall be made;
 - e) the determination of the amount and the conditions and manner of payment of benefits to assessors or classes of assessors;
 - f) the disposal of moneys payable in terms of this Act to any person other than the Director-General and not claimed within the prescribed period by the person entitled thereto;
 - g) any matter which shall or may be prescribed by regulation in terms of this Act;
 - h) any other matter, whether or not connected with any matter mentioned in paragraphs (a) to (g), which he may deem necessary or expedient to prescribe in order to further the objects and purposes of this Act.
- 2) Different regulations may be made under subsection (1) in respect of different classes of employers and employees and of different areas, and the Minister may, after consultation with the Board, in respect thereof differentiate in such manner as he or she may deem expedient.
- 3) Any person who contravenes or fails to comply with any regulation made under subsection (1) shall be guilty of an offence and liable on conviction to a fine, or imprisonment for a period not exceeding six months.

Chapter XI: General

98. False statements

Any person who in connection with a claim for compensation in terms of this Act, or in any return, notice, report or statement to be given, made or furnished in terms of this Act, makes or causes to be made any statement which is false in a material respect, knowing it to be false, shall be guilty of an offence.

Chapter XI: General

99. Penalties

Any person who is convicted of an offence in terms of this Act shall be liable to a fine, or to imprisonment for a period not exceeding one year.

Chapter XI: General

100. Repeal of laws

- 1) Subject to the provisions of this section, the laws specified in Schedule 1 are hereby repealed to the extent set out in the third column thereof.
- 2) Any regulation made, any direction, order or directive issued, any request made or any requirement prescribed and any other thing done under a provision of the Workmen's Compensation Act, and which could be made, issued, prescribed or done under a provision of this Act, shall be deemed to have been made, issued, prescribed or done under the last-mentioned provision.
- 3) Any claim for compensation or medical aid under a law repealed by subsection (1) in respect of an accident that happened or a scheduled disease contracted prior to the commencement of this Act shall be dealt with in terms of the repealed law as if this Act had not been passed and any right or privilege acquired or accrued under such repealed law shall not be affected by such repeal.

Chapter XI: General

101. Short title and commencement

- 1) This Act shall be called- the Compensation for Occupational Injuries and Diseases Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.
- 2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

| No. and year of law | Title | Extent of repeal |
|----------------------------|--|-------------------------|
| Act 30 of 1941 | Workmen's Compensation Act, 1941 | The whole |
| Act 27 of 1945 | Workmen's Compensation Amendment Act, 1945 | The whole |
| Act 36 of 1949 | Workmen's Compensation Amendment Act, 1949 | The whole |
| Act 5 of 1951 | Workmen's Compensation Amendment Act, 1951 | The whole |
| Act 51 of 1956 | Workmen's Compensation Amendment Act, 1956 | The whole |
| Act 7 of 1961 | Workmen's Compensation Amendment Act, 1961 | The whole |
| Act 21 of 1964 | Workmen's Compensation Amendment Act, 1964 | The whole |
| Act 58 of 1967 | Workmen's Compensation Amendment Act, 1967 | The whole |
| Act 9 of 1970 | Workmen's Compensation Amendment Act, 1970 | The whole |
| Act 27 of 1970 | Second Black Laws Amendment Act, 1970 | Section 2 |
| Act 60 of 1971 | Workmen's Compensation Amendment Act, 1971 | The whole |
| Act 11 of 1974 | Workmen's Compensation Amendment Act, 1974 | The whole |
| Act 28 of 1977 | Workmen's Compensation Amendment Act, 1977 | The whole |
| Act 8 of 1979 | Workmen's Compensation Amendment Act, 1979 | The whole |
| Act 24 of 1981 | Workmen's Compensation Amendment Act, 1981 | The whole |
| Act 29 of 1984 | Workmen's Compensation Amendment Act, 1984 | The whole |
| Act 35 of 1987 | Workmen's Compensation Amendment Act, 1987 | The whole |
| Act 40 of 1990 | Workmen's Compensation Amendment Act, 1990 | The whole |

| Injury | Percentage of permanent disablement |
|--|--|
| Loss of two limbs | 100 |
| Loss of both hands, or of all fingers and both hands | 100 |
| Total loss of sight | 100 |
| Total paralysis | 100 |
| Injuries resulting in employee being permanently bedridden | 100 |
| Any injury causing permanent total disablement | 100 |
| Loss of arm at shoulder | 65 |
| Loss of arm between elbow and shoulder | 65 |
| Loss of arm at elbow | 55 |
| Loss of arm between wrist and elbow | 55 |
| Loss of hand at wrist | 50 |
| Loss of four fingers and thumb of one hand | 50 |
| Loss of four fingers | 40 |
| Loss of thumb-- | 25 |
| | both phalanges |
| | one phalanx |
| Loss of index finger-- | 10 |
| | three phalanges |
| | two phalanges |
| | 8 |
| | one phalanx |
| | 5 |
| Loss of middle finger-- | 8 |
| | three phalanges |
| | two phalanges |
| | 6 |
| | one phalanx |
| | 4 |
| Loss of ring finger-- | 6 |
| | three phalanges |
| | two phalanges |
| | 5 |
| | one phalanx |
| | 3 |
| Loss of little finger-- | 4 |
| | three phalanges |
| | two phalanges |
| | 3 |
| | one phalanx |
| | 2 |
| Loss of metacarpals-- | 4 |
| | first, second or third (additional) |
| | 2 |
| | fourth or fifth (additional) |
| Loss of leg-- | 70 |
| | at hip |
| | 45 to 70 |
| | between knee and hip |
| | 35 to 45 |
| | below knee |
| Loss of toes-- | 15 |
| | all |
| | 7 |
| | big, both phalanges |
| | 3 |
| | big, one phalanx |
| | 7 |
| | toes other than big |
| | four |
| | toes |
| | 5 |
| | three |
| | toes |
| | 3 |
| | two toes |
| | 1 |
| | one toe |
| Loss of eye-- | 30 |
| | whole sight |
| | 30 |
| | sight |

| | | |
|-------------------|----------------------------------|----|
| | sight except perception of light | 30 |
| Loss of hearing-- | both ears | 50 |
| | one ear | 7 |

Total permanent loss of the use of a limb shall be treated as the loss of the limb. Any injury to the left arm or hand and , in the case of a left-handed employee, to the right arm or hand, may in the discretion of the Director-General be rated at ninety per cent of the above percentage. If there are two or more injuries the sum of the percentages for such injuries may be increased, in the discretion of the Director-General.

| Diseases | Work |
|---|--|
| | (a) Any work involving the handling of or exposure to any of the following substances emanating from the workplace concerned: |
| Pneumoconiosis-fibrosis of the parenchyma of organic or inorganic fibrogenic dust the lung | |
| Pleural thickening causing significant impairment of function | asbestos or asbestos dust |
| Bronchopulmonary disease | metal carbides (hard metals) |
| Byssinosis | flax, cotton or sisal |
| Occupational asthma | the sensitising agents-- (1) isocyanates (2) platinum, nickel, cobalt, vanadium or chromium salts (3) hardening agents, including epoxy resins (4) acrylic acids or derived acrylates (5) soldering or welding fumes (6) substances from animals or insects (7) fungi or spores (8) proteolytic enzymes (9) organic dust (10) vapours or fumes of formaldehyde, anhydrides, amines or diamines |
| Extrinsic allergic alveolitis | moulds, fungal spores or any other allergenic proteinaceous material, 2,4 toluene-diisocyanates |
| Any disease or pathological manifestations | beryllium, cadmium, phosphorus, chromium, manganese, arsenic, mercury, lead, fluorine, carbondisulfide, cyanide, halogen derivatives of aliphatic or aromatic hydrocarbons, benzene or its homologues, nitroglycerine or other nitric acid esters, hydrocarbons, trinitrotoluol, alcohols, glycols or ketones, acrylamide, or any compounds of the aforementioned substances |
| Erosion of the tissues of the oral cavity or nasal cavity | irritants, alkalis, acids, or fumes thereof |
| Dysbarism, including decompression sickness, abnormal atmospheric or water pressure barotrauma or osteonecrosis | |

| | |
|---|---|
| Any disease | ionising radiation from any source |
| Allergic or irritant contact dermatitis | dust, liquids or other external agents or factors |
| Mesothelioma of the pleura or peritoneum or other malignancy of the lung | asbestos or asbestos dust |
| Malignancy of the lung, skin, larynx, mouth cavity or bladder | coal-tar, pitch, asphalt or bitumen or volatiles thereof |
| Malignancy of the lung, mucous membrane of the nose or associated air sinuses | nickel or its compounds |
| Malignancy of the lung | hexavalent chromium compounds, or bis chloromethyl ether |
| Angiosarcoma of the liver | vinyl chloride monomer |
| Malignancy of the bladder naphthylamine, 4-nitrodiphenyl | 4-amino-diphenyl, benzidine, beta |
| Leukaemia | benzene |
| Melanoma of the skin | polychlorinated biphenyls |
| Tuberculosis of the lung | (1) crystalline silica (alpha quartz) (2) mycobacterium tuberculosis or MOTTs (mycobacterium other than tuberculosis) transmitted to an employee during the performance of health care work from a patient suffering from active open tuberculosis |
| Brucellosis | brucella abortus, suis or mellitensis transmitted through contact with infected animals or their products |
| Anthrax | bacillus anthracis transmitted through contact with infected animals or their products |
| Q-fever | coxiella burneti emanating from infected animals or their products |
| Bovine tuberculosis | mycobacterium bovis transmitted through contact with infected animals or their products |
| Rift Valley Fever | virus transmitted by infected animals or their products (b) Any work involving the handling of or exposure to any of the following: |
| Hearing impairment | excessive noise |
| Hand-arm vibration syndrome (Raynaud's phenomenon) | vibrating equipment |
| Any disease due to overstraining of muscular tendonous insertions | repetitive movements |

| (i) | (ii) | (iii) | (iv) | (v) |
|------|----------|----------------------------------|---------------------|--|
| Item | Section | Nature and degree of disablement | Nature of benefits | Manner of calculating benefits |
| 1. | 47(1)(a) | Temporary total disablement | Periodical payments | 75% of an employee's monthly earnings at the time of the accident subject to maximum compensation of R8 180,25 per month |
| 2. | 49(1) | Permanent disablement | Lump sum | 15 times the monthly earnings |

| | | | | |
|-----|--------------|---|-----------------|--|
| | | of 30% | | of the employee at the time of the accident subject to maximum and minimum compensation of R91 650,00 and R17 490,00 |
| 3. | 49(1) | 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% |
| 4. | 49(1) | Permanent disablement of 100% | Monthly pension | 75% of an employee's monthly earnings at the time of the accident subject to maximum and minimum compensation of R8 180,25 and R874,50 |
| 5. | 49(1) | 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% |
| 6. | 54(1)(a) | 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 |
| 7. | 54(1)(b) | 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 |
| 8. | 54(1)(c) | 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 |
| 9. | 54(1)(d)(ii) | Fatal | Lump sum | Percentage dependence as portion of R28 680,00 |
| 10. | 54(2) | Fatal | Funeral costs | A reasonable amount for funeral costs to a maximum of R6 490,00 or the actual amount, whichever is the lesser |

Regulations under the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1 993)

The Minister of Manpower has under section 97 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), made the regulations contained in the Schedule.

Regulations under the COID Act

1. Calculation of earnings [section 83(4)]

The earnings of an employee shall be the remuneration that he receives from his employer or that accrues to him and includes-

- a) the value of any food or quarters or both supplied by the employer;
- b) any overtime payment or other special remuneration in cash or in kind of a regular nature or for work ordinarily performed;
- c) any other remuneration in cash or in kind to an employee by virtue of his contract of service, including commission, cost of living allowance, and incentive or other bonuses,

but does not include-

- i) payment for intermittent overtime;
- ii) payment for non-recurrent occasional services;
- iii) amounts paid by an employer to an employee to cover any special expenses;
- iv) *ex gratia* payments whether by the employer or any other person;
- v) travelling and subsistence allowances.

Regulations under the COID Act

2. Percentage fine [section 87(1)]

The percentage for the purposes of section 87(1) of the Act shall be 10%.

Regulations under the COID Act

3. Allowances payable under section 6(6)

- 1) The allowances payable under section 6(6) shall be-
 - a) the actual cost of public transport or R0,63 per kilometer in the case of private transport, whichever is the lesser;
 - b) in respect of pecuniary loss-
 - i) R73,00 per day or the amount of the loss, whichever is the lesser; or
 - ii) in the case of a professional witness, including a medical practitioner or a chiropractor, R204,00 per hour or part of an hour with a maximum of R612,00 per day or the amount of the loss, whichever is the lesser.
 - c) in respect of subsistence expense incurred-
R73,00 for every 24 hours and R3,04 for every full hour thereafter or the actual expenses, provided such expense is in the opinion of the commissioner reasonable.
- 2) The provisions of regulations 4(4), and (5) shall apply *mutatis mutandis* to a witness.

Regulations under the COID Act

4. Remuneration and travelling and subsistence allowances of assessors [section 8(6)]

- 1) In respect of remuneration-
R204,00 per hour or part of an hour with a maximum of R612,00 per day for attending a meeting, a hearing or for the investigating of any matter.
- 2) In respect of subsistence-
an allowance at R73,00 for every 24 hours and R3,04 for every full hour thereafter or the actual expenses, provided such expense is in the opinion of the commissioner reasonable.
- 3) In respect of transport-
the actual cost of public transport or R0,63 per kilometer in the case of private transport, whichever is the lesser;
- 4) An assessor shall travel by the most convenient public conveyance, but if the commissioner is satisfied that the journey cannot be so undertaken, he may authorise the use of private transport against payment of a transport allowance as prescribed by regulation 4(3).
- 5) Where an assessor travels by a route which results in the journey lasting longer or which involves greater travelling and subsistence allowance than was in the opinion of the commissioner necessary, he may reduce a claim for such allowance to such amount that he regards as reasonable.

Regulations under the COID Act

5. Compensation payable to assessors [section 9(1)]

- 1) The compensation payable to an assessor under section 9(1) of the Act shall be the maximum benefits calculated in accordance with sections 28, 47, 48, 49 and 65 of the Act; and
- 2) the benefits in respect of medical aid in accordance with sections 73 and 76.

Regulations under the COID Act

6. Remuneration and travelling and subsistence allowances of members of Compensation Board [section 13 (3)]

- 1) In respect of remuneration-
R50,00 per hour or part of an hour with a maximum of R396,00 per day for attending a meeting or where the presence of a member is required in connection with any other official function of the Board.
- 2) In respect of subsistence-
an allowance at R73,00 for every 24 hours and R3,04 for every full hour thereafter or the actual expenses, provided such expense is in the opinion of the commissioner reasonable.
- 3) In respect of transport-
the actual cost of public transport or R0,63 per kilometer in the case of private transport, whichever is the lesser.

- 4) A member of the Board shall travel by the most convenient public conveyance, but if the commissioner is satisfied that the journey cannot be so undertaken, he may authorise the use of private transport against payment of a transport allowance as prescribed by regulation 6(3).
- 5) Where a member of the Board travels by a route which results in the journey lasting longer or which involves greater travelling and subsistence allowance than was in the opinion of the commissioner necessary, he may reduce a claim for such allowance to such amount that he regards as reasonable.

Regulations under the COID Act

7. Commutation of Pension [section 52]

The amounts for the purposes of section 52(1) and (2)(b) shall be R400 and R100 per month, respectively.

Regulations under the COID Act

8. Copy of record [section 45(7)]

The fees for a copy of a record referred to in section 45(7) shall be R0,25 per page.

Regulations under the COID Act

9. Disposal of unclaimed moneys [section 97(1)(f)]

- 1) If money owing by an employer individually liable or a mutual association to an employee or his dependant has remained unpaid after three months because it has not been claimed and the person in question has not been traced, the money shall be paid to the commissioner quarterly under cover of a statement with the necessary particulars.
- 2)
 - a) If money owing to an employee or his dependant has remained unpaid after 12 months because it has not been claimed and the person in question has not been traced, the commissioner shall cause a notice to be published annually in the Government Gazette with particulars of every unclaimed amount of more than R100 and in which any person claiming the amount shall be called upon to submit his claim to the commissioner within one month after the date of the notice.
 - b) If at the expiration of the said month no claim has been submitted or a claim has been submitted but has been rejected by the commissioner, the said amount shall be paid into the reserve fund.
 - c) Unclaimed amounts of R100 or less shall be retained by the commissioner for the purpose of section 4(2)(d).

Regulations under the COID Act

10. Moneys payable to medical practitioners [sections 42(2), 52 and 97(1)(b)]

- 1) The fees payable to medical practitioners for other services than medical aid rendered in terms of this Act, including the furnishing of a report, shall be-
 - a) in respect of an occupational injury or disease or disablement for the purpose of section 42(2): R612,00;

- b) in respect of an application for the commutation of a pension in terms of section 52 of the Act-
 - general practitioner: R48,00.
 - specialist: R83,00.
- 2) The fees for other medical services for a medical practitioner shall be- R204,00 per hour or part of an hour with a maximum of R612,00 per day.
- 3) The travelling allowance payable to a medical practitioner who travels more than 10 kilometers in total from his consulting rooms to examine an employee shall be entitled to the payment of the cost of public transport or R0,90 per kilometer travelled with own transport.

Regulations under the COID Act

11. Remuneration and travelling and subsistence allowance of members of medical advisory panels [section 70]

A member of a medical advisory panel shall be entitled to the following remuneration and allowances for the performance of his functions:

- a) in respect of the diagnosis of an occupational disease, the fees determined under section 76;
- b) in respect of attendance at a meeting for the purposes of section 70(1)(b) and (c), the fees payable to an assessor in terms of regulation 4.

Regulations under the COID Act

12. First aid [section 71]

- 1) An employer shall take all reasonable steps necessary under the circumstances to ensure that an employee injured at his place of employment shall forthwith receive first aid.
- 2) Where less than five employees are employed at a place of employment, the employer shall supply a first aid box or boxes at or near the place of employment which shall be available and accessible for the treatment of injured persons at such place of employment and the first aid box or boxes shall contain at least the following:

| | |
|---------|---|
| Item 1 | Wound cleaner/antiseptic (100 ml) |
| Item 2 | Swabs for cleaning wounds |
| Item 3 | Cotton wool for padding (100 g) |
| Item 4 | Pair of forceps for splinters |
| Item 5 | Pair of scissors (minimum size 100 mm) |
| Item 6 | One set of safety pins |
| Item 7 | Four triangular bandages |
| Item 8 | Four roller (crepe) bandages (75 mm x 5 m) |
| Item 9 | One roll of elastic adhesive (25 mm x 3 m) |
| Item 10 | One non-allergenic adhesive strip (25 mm x 3 m) |
| Item 11 | One packet of adhesive dressing strips (minimum quantity, ten assorted sizes) |
| Item 12 | Four first aid dressings (75 mm x 100 mm) |
| Item 13 | Two straight splints |
| Item 14 | Two pairs large and two pairs medium disposable latex gloves |
| Item 15 | One CPR mouth piece or similar device. |

Regulations under the COID Act

13. Commencement

These regulations shall come into operation on 1 March 1994.

Rules, Forms and Particulars which shall be furnished in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993)

I, Louis van Assen, Compensation Commissioner, hereby prescribe under section 4(2)(e) of the Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), the following:

Rules and Particulars

1. Application for increased compensation (section 56)

An application for increased compensation shall be submitted to the Commissioner on Form WG 30 (Annexure 1) with the particulars required therein and such other information and documents as the applicant may consider necessary.

Rules to facilitate the consideration of applications under section 56.

In these rules a word or expression to which a meaning has been assigned in the Act shall have that meaning and, unless the context indicates otherwise-

"applicant"

means the person making application;

"application"

means an application in terms of section 56 of the Act for increased compensation;

"the Act"

the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), and also the Workmen's Compensation Act, 1941 (Act No. 30 of 1941);

"respondent"

means-

- a) in the cases where the compensation fund is liable for the payment of compensation-
 - i) the Legal Officer or any other person appointed by the Commissioner; and
 - ii) as second respondent, the employer of the employee concerned unless the said employer has notified the Commissioner that he does not intend to intervene in the matter or fails to comply with paragraph (f) of these rules;
- b) in the case where a mutual association is liable for the payment of compensation-
 - i) the mutual association; and
 - ii) as second respondent, the employer of the employee concerned unless the said employer has notified the Commissioner that he does not intend to intervene in the matter or has failed to comply with paragraph (f) of these rules;
- c) in the case where an employer referred to in section 84(1)(a)(i) of the Act is liable for the payment of compensation, the person concerned mentioned in section 39(2) of the Act;

- d) in any other case where an employer individually liable is liable for the payment of compensation, such employer.
- e) The Commissioner shall as soon as practicable after an application has been submitted to him send a copy thereof to the employer in question and, where appropriate, the mutual association.
- f) Within three months after a copy has so been sent, every respondent shall deliver a document to the Commissioner and the applicant in which he states-
 - i) whether he contests the application and, if so,
 - ii) which allegations by the applicant he admits and which allegations he denies, together with such explanations and information that he may deem relevant.
- g) The applicant shall within three months after the document referred to in paragraph (f) has been delivered to him deliver a document to the Commissioner and every respondent in which he states-
 - i) whether he intends to proceed with his application and, if so,
 - ii) which allegations by the respondent he admits and which allegations he denies, together with such explanations and information that he may deem relevant.
- h) The Commissioner may at any time request any party to supply further particulars and such party shall within the period determined by the Commissioner deliver a document with such particulars to the Commissioner.
- i) The Commissioner may at any time permit any party to amend or supplement any allegation, explanation or information in terms of paragraphs (f), (g) or (h) of these rules.
- j) The Commissioner may at any time extend the period prescribed by paragraphs (f), (g) or determined in terms of paragraph (h) of these rules.
- k) If the Commissioner decides upon a formal hearing, he shall send a document to every party in which-
 - i) he sets out the facts which have been admitted and for which there is *prima facie* evidence in his opinion;
 - ii) he formulates the issue.
- l) The Commissioner may at any time before or during the hearing of his own accord or on application by one of the parties amend the formulation of the issue.
- m) A formal hearing shall not be set down or be proceeded with earlier than 30 days after the dispatch of the documents referred to in paragraph (k) of these rules or the amendment of the formulation of the issue as contemplated in paragraph (l), save with the consent of all the parties.

Rules and Particulars

2. Registration of employers [section 80]

- i) An employer shall register with the Commissioner by submitting Form W As 2 (Annexure 7) with the particulars required therein to the Commissioner.
- ii) An employer shall register with the Commissioner within seven days after the day on which he employs his first employee.

- iii) Any employer who at the commencement of the Act has not been registered with the Workmen's Compensation Commissioner in terms of section 96 of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), shall within 14 days of such commencement register with the Commissioner.

Rules and Particulars

3. Return of earnings [section 82(1)]

The return of earnings shall be on Form W As 8 (Annexure 8) with the particulars required therein, as the case may be.

Rules and Particulars

4. Notice of accident by the employer [section 39(1) and (5)]

An accident shall be reported to the Commission in terms of section 39(1) and (5) of the Act submitting Form W CI 2 (E) (Annexure 13) to the Commissioner or the mutual association with the particulars required therein as the case may be.

Rules and Particulars

5. Notice of accident and claim for compensation [sections 38(1) and 43(1)]

Notice of an accident and claim for compensation in terms of sections 38(1) and 43(1) of the Act shall be given by or on behalf of an employee to the employer or mutual association or the Commissioner as the case may be by submitting Form W CI 3 (Annexure 14) with the particulars required therein.

Rules and Particulars

6. Notice of an occupational disease and claim for compensation [section 65(6) and 68(1)]

- i) Notice of an occupational disease or a claim for compensation shall be lodged by submitting to the employer, Commissioner or mutual association Form W CI 14 (Annexure 18) with the particulars required therein, together with such other documents that may be regarded as necessary to corroborate the claim.
- ii) If the claimant becomes aware of information or acquires possession of a document which in his opinion is relevant for the decision of the claim and which is not at the disposal of the Commissioner, he shall forthwith lay such information or document before the Commissioner.
- iii)

Rules and Particulars

7. Notice of an occupational disease by the employer [section 68(2)]

Notice of an occupational disease shall be given in terms of section 68(2) to the Commissioner or mutual association as the case may be by submitting Form W CI 1 (E) (Annexure 12) with the particulars required therein.

Rules and Particulars

8. Witnesses [sections 6 and 45]

- i) A subpoena in terms of section 6 or 45 of the Act shall be on Form WG 28 (Annexure 2) and shall be signed by the Commissioner.
- ii) A subpoena can be served on the person to whom it is addressed-
 - a) by delivering a copy thereof to him;
 - b) by leaving a copy thereof at his place of abode, business or employment with some person apparently not less than 16 years of age and apparently residing or employed there; or
 - c) by dispatching a copy thereof to him by registered or certified post at his place of abode, business or employment, or to his post office box number

Rules and Particulars

9. Objection against decision of Commissioner [section 91]

An objection against a decision of the Commissioner shall be submitted on Form WG 29 (Annexure 3) with the particulars required therein.

Rules and Particulars

10. Submission of medical reports [section 74]

- 1) A medical report in respect of an accident shall be on Form W CI 4 (Annexure 15) and shall be posted to the employer with the particulars required therein.
- 2) A medical report in respect of an occupational disease shall be on Form W CI 22 (Annexure 19) and shall, with the particulars required therein, be posted to the employer or, where applicable, submitted to the Commissioner.
- 3) When so required further medical reports in respect of an accident shall be submitted monthly on Form W CI 5 (Annexure 16) to the Commissioner or the mutual association or employer individually liable concerned, as the case may be.
- 4) When so required further medical reports in respect of an industrial disease shall be submitted monthly on Form W CI 26 (Annexure 20) to the Commissioner or the mutual association or employer individually liable concerned, as the case may be.

Rules and Particulars

11. Orders by Commissioner [sections 61(1), 77(2) and 87(4)]

Orders by the Commissioner under sections 61(1), 77(2) and 87(4) shall be on Forms W Ac 61 (Annexure 5), W CI 9 (Annexure 17) and W Ac 60 (Annexure 4), respectively, and shall be signed by him.

Rules and Particulars

Other particulars

Notification of name of responsible person [section 39(3)].

The Commissioner shall be notified in writing of the full name, postal address, telephone and fax number of the responsible person.

Rules and Particulars

Notice of formal hearing [section 45(2)]

The Commissioner shall notify the claimant in writing of the date, time and place of the formal hearing.

Tariff of Fees in respect of Dental Aid

General Guidelines

Dental Services Rules

1. The following Rules apply to all practitioners

- 001 Item 8101 refers to a Full Mouth Examination, charting and treatment planning and no further examination fees shall be chargeable until the treatment plan resulting from this consultation is completed with the exception of Item 8102. This includes the issuing of a prescription where only medication is prescribed. Item 8104 refers to a consultation for a specific problem and not to a full mouth examination, charting and treatment planning. This includes the issuing of a prescription where only medication is prescribed.
- 002 Except in those cases where the fee is determined "by arrangement", the fee for the rendering of a service which is not listed in this schedule shall be based on the fee in respect of a comparable service that is listed therein and Rule 002 must be indicated together with the tariff item.
- 003 In the case of a prolonged or costly dental service or procedure, the dental practitioner shall ascertain beforehand from the Commissioner whether he will accept financial responsibility in respect of such treatment.
- 004 In exceptional cases where the tariff fee is disproportionately low in relation to the actual services rendered by a practitioner, such higher fee as may be mutually agreed upon between the dental practitioner and the Commissioner may be charged and Rule 004 must be indicated together with the tariff item.
- 005 Save in exceptional cases the service of a specialist shall be available only on the recommendation of the attending dental or medical practitioner. Referring practitioners shall indicate to the specialist that the patient is being treated under the Compensation for Occupational Injuries and Diseases Act.
- 007 "Normal consulting hours" are between 08:00 and 17:00 on weekdays, and between 08:00 and 13:00 on Saturdays.
- 008 A dental Practitioner shall submit his account for treatment under the Act to the employer of the employee concerned.

009 Dentists in general practice shall be entitled to charge two-thirds of the fees of specialists only for treatment that is not listed in the schedule for dentists in general practice and Modifier 8004 must be shown against any such item. Benefits in respect of specialists charging treatment procedures not listed in the schedule for that speciality, shall be allocated as follows:
 General Dental Practitioners Schedule 100%
 Other Dental Specialists Schedule 2/3

010 Fees charged by dental technicians for their services (PLUS L) shall be shown on the dentist's invoice against the code 8099. Such dentist's invoice shall be accompanied by the actual invoice of the dental technician (or a copy thereof) and the invoice of the dental technician shall bear the signature of the dentist (or the person authorised by him) as proof that it has been complied correctly. "L" comprises the fee charged by the dental technician for his services as well as the cost of gold and of teeth. For example, item 8231 is specified as follows:

| | |
|-------------|---------------|
| | Rc |
| 8231 | X |
| 8009 (8231) | Y |
| Total | <u>R(X+Y)</u> |

011 Modifiers may only be used where (M/W) appears against the item in the schedule.

- 8001 33 1/3 % of the appropriate scheduled fee (see Note 4 - preamble to Maxillo-facial and oral surgery schedule).
- 8002 The appropriate scheduled fee + 50% (see Note 1 - preamble to Maxillo-facial and oral surgery schedule).
- 8003 The appropriate scheduled fee + 10% (see Note 5 - preamble to Perio schedule).
- 8004 Two-thirds of appropriate scheduled fee (see Rule 009).
- 8005 The appropriate scheduled fee up to a maximum of **R171.20** (see Note 2 - preamble to Maxillo-facial and oral surgery schedule).
- 8006 50% of the appropriate scheduled fee (see Note 3 - preamble to Maxillo-facial and oral surgery schedule).
- 8007 15% of the appropriate scheduled fee with a maximum of **R86.90** (see preamble(s) under "oral surgery" in the schedule for GP's and the schedule for specialists in Maxillo-facial and oral surgery).
- 8008 The appropriate scheduled fee + 25% (see Note 5 - preamble to Maxillo-facial and oral surgery schedule, GP's schedule).
- 8009 75% of the appropriate scheduled fee (see Note 3 under the preamble of the Maxillo-facial and oral surgery schedule).
- 8010 The appropriate scheduled fee plus 75%.

012 In cases where treatment is not listed in the schedule for dentists in general practice or specialists then the appropriate fee listed in the medical schedules shall be charged and the relevant item in the medical schedules must be indicated.

013 Cost of material (VAT inclusive): This item provides for a charge for material where indicated against the relative item codes by the words (See Rule 013). Material to be charged for at cost plus a handling fee not exceeding 35%, up to **R1433.80**. A maximum handling fee of 10% shall apply above a cost of **R1433.80**. A maximum handling fee of **R2150.70** will apply.
 Note: Item 8220 (suture) is applicable to all registered persons.

Explanations

2. Additions, deletions and revisions

A summary listing of additions, deletions and revisions applicable to this Schedule is found in Appendix A.

New code numbers added to the Schedule are identified with the symbol . placed before the code number.

In instances where a code has been revised, the symbol * is placed before the code number.

3. Tooth identification

Tooth identification is compulsory for all invoices rendered. Tooth identification is only applicable to procedures identified with the letter (T) in the mouth part (MP) column. The International Standards Organisation (ISO) in collaboration with the FDI designated system for teeth and areas of the oral cavity, should be used.

4. Abbreviations used in the Schedule

+D Add fee for denture
+L Add laboratory fee
GP General practitioner
M/W Modifier
MP Mouth part
Na Not applicable
T Tooth

5. VAT

Fees are VAT inclusive.

Tariff of Fees in respect of Dental Aid

I. General Dental Practitioners

Preamble

- (1) The dental procedure codes for general dental practitioners are divided into twelve (12) categories of services. The procedures have been grouped under the category with which the procedures are most frequently identified. The categories are solely for convenience in using the Schedule and should not be interpreted as excluding certain types of Oral Care Providers from performing or reporting such procedures. These categories are similar to the *Current Dental Terminology Second Edition* (CDT-2).
- (2)(M/W) Procedures not described in the general practitioner's schedule should be reported by referring to the relevant specialist's schedule. Dentists in general practice shall be entitled to charge two-thirds of the fees of specialists only for treatment that is not listed in the schedule for dentists in general practice and Modifier 8004 must be shown against any such item (See Rules 009 and 011). There are no specific codes for orthodontic treatment in the current general practitioner's schedule, and the general practitioner must refer to the specialist orthodontist's schedule.

(3)(M/W) Oral and maxillo-facial surgery (Section J of the Schedule): The fee payable to a general practitioner assistant shall be calculated as 15% of the fee of the practitioner performing the operation, with the indicated minimum (see Modifier 8007). The patient must be informed beforehand that another dentist will be assisting at the operation and that a fee will be payable to the assistant. The assistant's name must appear on the invoice rendered to the patient.

Tariff of Fees in respect of Dental Aid

III. Specialist Maxillo-Facial and Oral Surgeons

Preamble

(See Rule 011)

- 1.(M/W) If extractions (code 8201 and 8202) are carried out by specialists in maxillo-facial and oral surgery, the fees shall be equal to the appropriate tariff fee plus 50 per cent (See Modifier 8002).
- 2.(M/W) The fee for more than one operation or procedure performed through the same incision shall be calculated as the fee for the major operation plus the tariff fee for the subsidiary operation to the indicated maximum for each subsidiary operation or procedure (See Modifier 8005).
- 3.(M/W) The fee for more than one operation or procedure performed under the same anaesthetic but through another incision shall be calculated on the tariff fee for the major operation plus:
 - 75% for the second procedure/operation (Modifier 8009)
 - 50% for the third and subsequent procedures/operations (Modifier 8006)This rule shall not apply where two or more unrelated operations are performed by practitioners in different specialities, in which case each practitioner shall be entitled to the full fee for his operation.

If, within four months, a second operation for the same condition or injury is performed, the fee for the second operation shall be half of that for the first operation.

The fee for an operation shall, unless otherwise stated, include normal post-operative care for a period not exceeding four months. If a practitioner does not himself complete the post-operative care, he shall arrange for it to be completed without extra charge: provided that in the case of post-operative treatment of a prolonged or specialised nature, such fee as may be agreed upon between the practitioner and the scheme may be charged.
- 4.(M/W) The fee payable to a general practitioner assistant shall be calculated as 15% of the fee of the practitioner performing the operation, with the indicated minimum (See Modifier 8007). The assistant's fee payable to a maxillo-facial and oral surgeon shall be calculated at 33,33% of the appropriate scheduled fee (Modifier 8001). The assistant's name must appear on the invoice rendered to the patient.
- 5.(M/W) The additional fee to all members of the surgical team for after hours emergency surgery shall be calculated by adding 25% to the fee for the procedure or procedures performed (8008).
6. In cases where treatment is not listed in this schedule for general practitioners or specialists, the appropriate fee listed in the medical schedule(s) shall be charged, and the relevant medical tariff item must be indicated (See Rule 0012).

Tariff of Fees in respect of Chiropractic Services

General Rules Governing the Tariff

001 "After hours treatment" shall mean those performed by arrangement at night between 18:00 and 07:00 on the following day or during weekends between 13:00 Saturday and 07:00 on Monday. Public holidays are regarded as Sundays. This rule shall apply for all treatment whether given in the practitioner's rooms, or at a nursing home or private residence only by arrangement when the employee's condition necessitates it.

The fee for all treatment under this rule shall be the total fee for treatment + 50%.

In cases where the chiropractor's scheduled working hours extend after 18:00 during the week or 13:00 on a Saturday the above rule shall not apply and the treatment fee shall be that of the **normal listed tariff**.

002 Travelling Fees

- a) Where in the case of an emergency, a chiropractor was called out from his residence or rooms to an employee's home or the hospital, travelling fees can be charged if he had to travel more than 16 kilometres in total.
 - b) If more than one employee would be attended to during the course of a trip, the full travelling expenses must be divided *pro rata* between the relevant employees.
 - c) A practitioner is not entitled to charge for any travelling expenses to his rooms.
- When a chiropractor has to travel more than 16 kilometres in total to visit an employee, the fees shall be calculated as follows: R1,00 per km for each kilometre in excess of 16 kilometres total travelled in **own car**: 19 km total = 3 x R1,00 = R3,00.

003 If, after a series of 20 treatments for the same condition, further treatment is required, the practitioner must submit a progress report to the Commissioner indicating the necessity for further treatment and the number of further treatments required. Without such a report payment for treatments in excess of 20 shall not be considered.

004 The reports for completion by the practitioner:

a) **The First Report (W.CI.4)**

The form is used for all injured employees of all races. The practitioner should note that the form is in the nature of a signed medical certificate and he should, therefore, observe due care in completing it, dating and signing it.

b) **The Progress or Final Report (W.CI.5)**

This form is used either for progress reports or the final report, the appropriate descriptive title being retained as the case may be. Most of the items in the report are self-explanatory and require no special amplification.

005 No more than four physical procedures and modalities will be reimbursed in one visit.

Multiple physical procedures and modalities shall be reimbursed as follows:

| | |
|---|----------------------|
| Major (highest valued procedures and modality) | 100% of listed value |
| Second (second-highest or equivalent valued procedure and modality) | 50% of listed value |
| Third (third-highest or equivalent valued procedure and modality) | 50% of listed value |
| Fourth (fourth-highest or equivalent valued procedure and modality) | 50% of listed value |

All treatment must be justified by the condition of the employee and the goals and objectives of the treatment plan.

006 Uncancelled appointments - Appointments not cancelled at least four hours before the relevant appointment time - relevant practitioner's fees shall be payable by the employee.

007 Reports

Not applicable in respect of injured workmen covered under the Act.

008 Change of chiropractor / medical practitioner (Supersession):

In the event of a change of chiropractor / medical practitioner attending a case, the first chiropractor / medical practitioner in attendance will, except where the case is handed over to a specialist, be regarded as the principal, and payment will normally be made to him. To avoid disputes, chiropractors / medical practitioners should refrain from treating a case already under treatment without first discussing it with the first chiropractor / medical practitioner. As a general rule, changes of chiropractor / medical practitioner are not favoured, unless there are sufficient reasons for it.

009 Consultations:

No fees may be charged for follow-up consultations within the first *four months* from the date of the first procedure or treatment except as is provided for under item DC02.

Tariff of Fees in respect of Chiropractic Services General Rules Governing the Tariff

001 "After hours treatment" shall mean those performed by arrangement at night between 18:00 and 07:00 on the following day or during weekends between 13:00 Saturday and 07:00 on Monday. Public holidays are regarded as Sundays. This rule shall apply for all treatment whether given in the practitioner's rooms, or at a nursing home or private residence only by arrangement when the employee's condition necessitates it.

The fee for all treatment under this rule shall be the total fee for treatment + 50%.

In cases where the chiropractor's scheduled working hours extend after 18:00 during the week or 13:00 on a Saturday the above rule shall not apply and the treatment fee shall be that of the **normal listed tariff**.

002 Travelling Fees

a) Where in the case of an emergency, a chiropractor was called out from his residence or rooms to an employee's home or the hospital, travelling fees can be charged if he had to travel more than 16 kilometres in total.

b) If more than one employee would be attended to during the course of a trip, the full travelling expenses must be divided *pro rata* between the relevant employees.

c) A practitioner is not entitled to charge for any travelling expenses to his rooms.

When a chiropractor has to travel more than 16 kilometres in total to visit an employee, the fees shall be calculated as follows: R1,00 per km for each kilometre in excess of 16 kilometres total travelled in **own car**: 19 km total = 3 x R1,00 = R3,00.

003 If, after a series of 20 treatments for the same condition, further treatment is required, the practitioner must submit a progress report to the Commissioner indicating the necessity for further treatment and the number of further treatments required. Without such a report payment for treatments in excess of 20 shall not be considered.

004 The reports for completion by the practitioner:

a) **The First Report (W.CI.4)**

The form is used for all injured employees of all races. The practitioner should note that the form is in the nature of a signed medical certificate and he should, therefore, observe due care in completing it, dating and signing it.

b) The Progress or Final Report (W.CI.5)

This form is used either for progress reports or the final report, the appropriate descriptive title being retained as the case may be. Most of the items in the report are self-explanatory and require no special amplification.

005 No more than four physical procedures and modalities will be reimbursed in one visit.

Multiple physical procedures and modalities shall be reimbursed as follows:

| | |
|---|----------------------|
| Major (highest valued procedures and modality) | 100% of listed value |
| Second (second-highest or equivalent valued procedure and modality) | 50% of listed value |
| Third (third-highest or equivalent valued procedure and modality) | 50% of listed value |
| Fourth (fourth-highest or equivalent valued procedure and modality) | 50% of listed value |

All treatment must be justified by the condition of the employee and the goals and objectives of the treatment plan.

006 Uncancelled appointments - Appointments not cancelled at least four hours before the relevant appointment time - relevant practitioner's fees shall be payable by the employee.

007 Reports

Not applicable in respect of injured workmen covered under the Act.

008 Change of chiropractor / medical practitioner (Supersession):

In the event of a change of chiropractor / medical practitioner attending a case, the first chiropractor / medical practitioner in attendance will, except where the case is handed over to a specialist, be regarded as the principal, and payment will normally be made to him. To avoid disputes, chiropractors / medical practitioners should refrain from treating a case already under treatment without first discussing it with the first chiropractor / medical practitioner. As a general rule, changes of chiropractor / medical practitioner are not favoured, unless there are sufficient reasons for it.

009 Consultations:

No fees may be charged for follow-up consultations within the first *four months* from the date of the first procedure or treatment except as is provided for under item DC02.

Tariff of Fees in respect of Medical Aid

Notes

(i) The Employee and the Doctor

The employee is permitted to choose freely his own doctor, and no interference with this privilege is permitted as long as it is exercised reasonably and without prejudice to the employee himself or the Compensation Fund. The only exceptions to this rule are those cases where employers, with the Compensation Commissioner's approval, provide their own medical aid facilities in toto, i.e. including hospital, nursing and other services - section 78 of the Act.

In terms of section 42 either the Compensation Commissioner or an employer may send the injured employee to another doctor chosen by him (Compensation Commissioner or employer) for a special examination and report. Special fees are payable for this service.

In the event of a change of doctors attending a case, the first doctor in attendance will, except where the case is handed over to a specialist, be regarded as the principal, and payment will normally be made to him. To avoid disputes, doctors should refrain from treating a case already under treatment without first discussing it with the first doctor.

As a general rule, changes of doctor are not favoured, unless there are sufficient reasons therefore.

If an injured employee is in need of emergency treatment, the doctor should act in the same manner as he would to any patient who needs his urgent help. He should not, however, ask the Compensation Commissioner to authorise such treatment before the claim has been admitted as falling within the scope of the Act. It should be remembered that an employee seeks medical advice at his own risk. If, therefore, an employee represents to his doctor that he is a Compensation for Occupational Injuries and Diseases Act case and yet fails to claim the benefits of the Act, leaving the Compensation Commissioner, or his employer, in ignorance of any possible grounds for a claim, the insurance fund concerned cannot accept any responsibility for any medical expenses incurred. In such circumstances the employee would be in the same position as any other member of the public as regards payment of his medical expenses.

- (ii) Except where otherwise stated the fees charged for services of a general practitioner shall be two-thirds of the fees of the specialist for the same service.

- (iii) Monetary values have been rounded off to the nearest 10 cents on the basis that monetary values ending with a 1 to 4 cents value must be rounded off to the lower zero, and that 5 to 9 cents must be rounded off to the upper zero.

Tariff of Fees in respect of Medical Aid

General Rules Governing the Tariff

A. Consultations: Definitions

- (i) **First consultation:** Refers to a situation where a medical practitioner personally takes down a patient's medical history, performs an appropriate clinical examination and, if indicated, prescribes or administers treatment.
- (ii) **Subsequent consultation:** Refers to a voluntarily scheduled consultation performed for the same condition within four (4) months after the first consultation (although the symptoms or complaints may differ from those presented during the first consultation). It may imply taking down a medical history and/or a clinical examination and/or prescribing or administering of treatment and/or counselling.
- (iii) **Hospital visits:** Where a procedure or operation was done, hospital visits are regarded as part of the normal after-care and no fees may be levied. Where no procedure or operation was carried out fees may be charged for hospital visits according to item 0109. Dates of hospital visits must be specified.

B. *Normal hours versus after-hours:* Normal working hours refer to the period 08:00 to 17:00 on Mondays to Fridays; the period 08:00 to 13:00 on Saturdays; as well as all other periods voluntarily scheduled (even when for the convenience of the patient) by a medical practitioner for the rendering of services. All other periods are regarded as after-hours. Public holidays are not regarded as normal working days and involuntarily scheduled work performed on such days is regarded as after-hours work. Services are scheduled involuntarily for a specific time, if for medical reasons the doctor should not render the service at an earlier or later opportunity.

C. The fee that may be charged in respect of the rendering of a service not listed in this tariff of fees shall be based on the fee in respect of a comparable service.

- D. Unless timely steps are taken to cancel an appointment for a consultation the relevant consultation fee shall be payable by the employee. In the case of a general practitioner "timely" shall mean two hours and in the case of a specialist 24 hours prior to the appointment. Each case shall however, be considered on merit and, if circumstances warrant, no fee shall be charged.
- E. The appropriate fee may be charged for all pre-operative consultations with the exception of a routine pre-operative visit at the hospital.
- F. Where applicable fees for administering injections and/or infusions may only be charged when done by the practitioner himself.
- G.
- (a) Unless otherwise stated, the fee in respect of an operation or procedure shall include normal after-care for a period not exceeding four months (after-care is excluded from pure diagnostic procedures during which no therapeutic procedures were performed).
 - (b) If the normal after-care is delegated to any other registered health professional and not completed by the surgeon, it shall be his/her own responsibility to arrange for this to be done without extra charge.
 - (c) When the care of post-operative treatment of a prolonged or specialised nature is required, such fee as may be agreed upon between the surgeon and the scheme or the patient (in case of a private account) may be charged.
 - (d) Normal after-care refers to an uncomplicated post-operative period not requiring any further incisions.
- H. Items involving removal of lesions include follow-up treatment for four months.
- I. Fees for all pathology investigations performed by members of other disciplines (where permissible): See section for Pathology. (Refer to M 0097).
- J. In exceptional cases where the tariff fee is disproportionately low in relation to the actual services rendered by a medical practitioner, a higher fee may be negotiated. Conversely, if the fee is disproportionately high in relation to the actual services rendered, a lower fee than that in the tariff should be charged.
- K. Save in exceptional cases the services of a specialist shall be available only on the recommendation of the attending general practitioner. Medical practitioners referring cases to other medical practitioners shall, if known to them, indicate in the reference that the patient was injured in an "accident" and this shall also apply in respect of specimens sent to pathologists.
- L. If a procedure is performed at the time of an initial or subsequent consultation, the fee for the consultation plus the fee for the procedure is charged.
- M. If such a procedure, planned at an initial or subsequent consultation, is performed at another time, the fee for the procedure only is charged.
- N.
- (a) No additional fee may be charged for a service for which the fee is indicated as "**per consultation**". Such services are regarded as part of the consultation performed at the time the condition is brought to the doctor's attention.
 - (b) Where a fee for any service is prescribed herein, the medical practitioner shall not be entitled to payment calculated on a basis of visits or examinations made where such calculation would result in the prescribed fee being exceeded.

- (c) The number of consultations must be in direct relation to the seriousness of the injury and should more than 20 consultations be necessary, the Compensation Commissioner must be furnished, with a detailed motivation.
 - (d) A single fee for a consultation/visit shall be paid to a medical practitioner who gives a single treatment to an injured employee who thereafter passes to the permanent care of another medical practitioner, not being a partner or assistant of the first. The responsibility for furnishing the first medical report in such a case ordinarily rests with the second practitioner.
- O.
- (a) An employee should be hospitalised only if and for such a period his condition justifies full-time "medical aid".
 - (b) Occupational therapy/Physiotherapy. The same principles set out in modifier 0077 will apply when an employee is referred to a therapist.
 - (c) In the case of costly or prolonged medical services or procedures the medical practitioner shall first ascertain in writing from the Compensation Commissioner for what amount the Compensation Commissioner will accept responsibility in respect of such treatment.
- P. Travelling fees
- (a) Where, in cases of emergency, a practitioner was called out from his residence or rooms to an employees home or the hospital, travelling fees can be charged according to Section IV if he had, to travel more than 16 kilometres in total.
 - (b) If more than one employee would be attended to during the course of a trip, the full travelling expenses must be divided pro rata between the relevant employees.
 - (c) A practitioner is not entitled to charge for any travelling expenses or travelling time to his rooms.
 - (d) Where a practitioner's residence would be more than 8 kilometres away from a hospital, no travelling fees may be charged for services rendered at such hospitals, except in cases of emergency (services not voluntarily scheduled).
 - (e) Where a practitioner conducts an itinerant practice, he is not entitled to charge fees for travelling expenses except in cases of emergency (services not voluntarily scheduled).

Tariff of Fees in respect of Medical Aid

Rules Governing this Specific Section of the Tariff

Intensive Care

- Q. Units in respect of items 1204 to 1210 exclude the following:
- (a) Anaesthetic and/or surgical fees for any condition or procedure, as well as a first consultation, which is regarded as the assessment of the patient, while the daily intensive fee covers the daily care in the intensive care unit.
 - (b) Costs of any drugs and/or materials.
 - (c) Any other cost which may be incurred before, during or after the consultation and/or the therapy.
 - (d) Blood gasses and chemistry tests, including the arterial puncture to obtain the specimen.
 - (e) Procedural items 1212 to 1219.
- but including the following:
- (f) Performing and interpretation of a resting ECG.
 - (g) Interpretation of chemistry test and x-rays.
 - (h) Intravenous treatment (items 0206 and 0207).

- R. Units for items 1208, 1209 and 1210 include resuscitation (i.e. item 1211).
- S. Units for items 1212, 1213 and 1214 include the following:
- (a) Measurement of minute volume, vital capacity, time and vital capacity studies.
 - (b) Testing and connecting the machine.
 - (c) Putting patient on machine: Setting machine, synchronising patient with machine.
 - (d) Instruction to nursing staff.
 - (e) All subsequent visits within 24 hours.
- T. Ventilation (items 1212 to 1214) does not form a part of normal post-operative care.

U. Magnetic Resonance Imaging

Note: In cases where a second Magnetic Resonance Imaging of the spine (items 6210, 6211, 6212 and 6213 refers) is deemed necessary, or a Magnetic Resonance Imaging of another anatomical region is requested, proper motivation must be submitted upon which the Commissioner will consider approval.

Item 6270 - Proper motivation must be submitted upon which the Commissioner will consider approval.

**Tariff of Fees in respect of Medical Aid
General Modifiers Governing the Tariff**

- 0001 For involuntarily scheduled after-hours emergency radiological services, the additional premium shall be 50% of the fee for the particular services (section 19.12 excluded). See general rule B.
For after-hours MR scans, a maximum levy of 100,00 radiological units (R781.10) is applicable.
- 0002 Item 38/0101: First consultation: Normal hours: At a doctor's room or home: Radiologist, is applicable only where a radiologist is requested to give a written report on x-rays taken elsewhere and submitted to him. This item and item 0103 are not to be used for routine reporting of x-rays taken elsewhere.
- 0005 Multiple procedures/operations under the same anaesthetic.
- (a) Unless otherwise identified in the tariff when multiple procedures/operations add significant time and/or complexity, and when each procedure/operation is clearly identified and defined, the following values shall prevail: 100% (full value) for the first or major procedure/operation, plus 50% (half of) the tariff fee in respect of each additional operation or procedure with a maximum of four additional operations or procedures.
 - (b) In the case of multiple fractures and/or dislocations the same values shall prevail.
 - (c) When purely endoscopic diagnostic procedures or diagnostic endoscopic procedures unrelated to any therapeutic procedures performed, are performed under the same general anaesthetic, modifier 0005 is not applicable to the fees for such diagnostic endoscopic procedures as the fees for endoscopic procedures do not provide for after-care. Specify unrelated endoscopic procedure and provide diagnosis to indicate diagnostic endoscopic procedure(s) unrelated to other (therapeutic) procedures performed under the same anaesthetic.

- (d) Please note: When more than one small procedure is performed and the tariff makes provision for items for "subsequent" or "maximum for multiple additional procedures" (see section 2. Integumentary System) modifier 0005 is not applicable as the fee is already a reduced fee.

Note: In the case of multiple fractures and/or dislocations the same values shall prevail.

0006 A 25% reduction in the fee for a subsequent operation for the same condition within one month shall be applicable if the operations are performed by the same surgeon (an operation subsequent to a diagnostic procedure is excluded). After a period of one month the full fee is applicable.

0007

- (a) Remuneration for the use of any type of own equipment in the rooms for procedures performed under intravenous sedation or for procedures performed in a hospital or day-clinic theatre when appropriate equipment is not provided by the hospital - 15,00 clinical procedure units (R114.00) irrespective of the number of items of equipment provided.
- (b) Remuneration for the use of any type of own equipment for procedures performed in a hospital theatre or unattached theatre unit when appropriate equipment is not provided by the hospital - 15,00 clinical units (R114.00) irrespective of the number of items of equipment provided.

0008 Where a procedure requires a registered specialist surgeon assistant, the fee is 33,33% (1/3) of the fee for the specialist surgeon.

0009 The fee for an assistant is 20% of the fee for the specialist surgeon, with a minimum of 36,00 clinical procedure units (R273.50).

0010 A fee for a local anaesthetic administered by the operator may only be charged for an operation or a procedure having a value greater than 30,00 clinical procedure units (i.e. 31,00 or more units - R235.50 - allocated to a single item). The fee shall be calculated according to the basic anaesthetic fees for the specific operations. Anaesthetics time may not be charged for, but the minimum fee as per modifier 0036 shall be applicable in such a case. Not applicable to radiological procedures (such as angiography and myelography). No fee may be levied for topical application of local anaesthetic. Please note: modifier 0010 may not be added to the surgeon's account for procedures that were performed under general anaesthetic.

0011 Emergency surgery for theatre procedures: Any bona fide, justifiable emergency procedure (all hours) (for IOD patients only applicable during after-hour periods only - see general rule B) undertaken in an operating theatre will attract an additional 12,00 clinical procedure units (R91.20) per half-hour or part thereof of the operating time for all members of the surgical team. This does not apply in respect of patients on scheduled lists.

0013 Endoscopic examinations done at operations: Where a related endoscopic examination is done at an operation by the operating surgeon or the attending anaesthesiologist, only 50% of the fee for the endoscopic examination may be charged.

14 Where an operation is performed which has been previously performed by another surgeon, e.g. a revision or repeat operation, the fee shall be calculated according to the tariff for the full operation plus an additional fee to be negotiated under General Rule J, except where already specified in the tariff.

**Tariff of Fees in respect of Medical Aid
Modifiers Governing this Specific Section of the Tariff
Injections, Infusions and Inhalation Sedation**

- 0015 Where intravenous infusions (including blood and blood cellular products) are administered as part of the after-treatment after operation, no extra fees will be charged as this is included in the global operative fees. Should the practitioner doing the operation prefer to ask another practitioner to perform post operative intravenous infusions, then the practitioner himself (and not the patient) is responsible for remunerating such practitioner for the infusions.
- 17 Where desensitisation, intravenous, intra-muscular or subcutaneous injections are administered by the doctor himself in respect of patients who attend the consulting rooms, a first injection forms part of the consultation and all subsequent injections for the same condition should be charged at 50% of the appropriate consultation fee in accordance with general practice schedule.

**Tariff of Fees in respect of Medical Aid
Modifiers Governing the Administration of Anaesthetic for all the Procedures
and Operations included in this Tariff**

- 0021 Anaesthetic fees are determined by obtaining the sum of the BASIC ANAESTHETIC UNITS AND THE TIME UNITS. IN CASES OF OPERATIVE PROCEDURES ON THE MUSCULO-SKELETAL SYSTEM, OPEN FRACTURES AND OPEN REDUCTION OF FRACTURES OR DISLOCATIONS ADD FEES AS LAID DOWN BY MODIFIERS 5441 TO 5448.
- 0023 The basic anaesthetic units are laid down in the tariff. These basic anaesthetic units reflect the additional anaesthetic risk, the technical skill required of the anaesthesiologist and the scope of the surgical procedure, but exclude the value of the actual time spent administering the anaesthetic. The time units (indicated by "T") will be added to the listed basic anaesthetic units in all cases on the following basis:
Anaesthetic time: The remuneration for anaesthetic time shall be per 15 minute period or part thereof, calculated from the commencement of the anaesthetic e.g. 2,00 anaesthetic units (R71.00) per 15 minute period or part thereof, provided that should the duration of the anaesthetic be longer than one hour the fee shall, after one hour be 3,00 anaesthetic units (R106.60) per 15 minute period or part thereof.
- 0024 If a pre-operative assessment of a patient by the anaesthesiologist, is not followed by an operation it will be regarded as consultation at the hospital or nursing home.
- 0025 Anaesthetic time is calculated from the time the anaesthesiologist begins to prepare the patient for the induction of anaesthesia in the operating theatre or in a similar equivalent area and ends when the anaesthesiologist is no longer required to give his personal professional attention to the patient, i.e. when the patient may, with reasonable safety, be placed under the customary post-operative supervision. Where prolonged personal professional attention is necessary for the well-being and safety of such patient, the necessary time will be valued on the same basis as indicated above for anaesthetic time. The anaesthesiologist must show in his account the exact anaesthetic time and the supervision time spent with the patient.
- 0027 Where more than one operation is performed under the same anaesthetic, the basic value will be that of the major operation with the highest unit value.

- 0029 When rendered necessary by the scope of the anaesthetic an assistant anaesthesiologist may be employed. The remuneration of the assistant anaesthesiologist shall be calculated on the same basis as in the case where a general practitioner administers the anaesthetic.
- 0031 Treatment with intravenous drips and transfusions is considered part of the normal treatment in administering an anaesthetic. No additional fees may be charged for such services when rendered either prior to, or during actual theatre or operating time.
- 0032 Anaesthesia administered to patients in the prone position shall have a minimum of 4,00 basic anaesthetic units (R142.10).
- 0033 When an anaesthesiologist is required to participate in the general care of a patient during a surgical procedure, but does not administer the anaesthetic, such services may be remunerated at full anaesthetic rate, subject to the provisions of modifier 0035.
- 0034 All anaesthetic administered for diagnostic, surgical or X-ray procedures on the head and neck shall have a minimum of 4,00 basic anaesthetic units (R142.10). When the basic anaesthetic units for the procedure is 3,00, one extra anaesthetic unit should be added. If the basic anaesthetic units for the procedure is 4,00 or more, no extra units should be added.
- 0035 No anaesthetic administered by a specialist anaesthesiologist shall have a total value of less than 7,00 anaesthetic units (R248.70).
- 0036 Fees for an anaesthetic administered by a general practitioner shall be two-thirds of the total number of units applicable to the specialist anaesthesiologist provided that no anaesthetic shall have a total value of less than 6,00 anaesthetic units (R213.10). The monetary value of the unit is the same for both a specialist anaesthesiologist and a general practitioner anaesthesiologist.
Note: Modifying units may be added to the basic unit value according to the following table.
- 0037 Utilisation of total body hypothermia: Add 3,00 anaesthetic units (R106.60).
- 0038 Peri-operative blood salvage: Add 4,00 anaesthetic units (R142.10) for intraoperative blood salvage and 4,00 anaesthetic units for post-operative blood salvage.
- 0039 Deliberate control of the blood pressure: All cases up to one hour add 3,00 anaesthetic units (R106.60) thereafter add 1 (one) additional anaesthetic unit (R35.50) per quarter hour or part thereof.
- 0041 Utilisation of hyperbaric pressurisation: Add 3,00 basic anaesthetic units (R106.60).
- 0042 Utilisation of extracorporeal circulation: Add 3,00 anaesthetic units (R106.60).

Modifiers 5441 to 5448 - General practitioners refer to M 0036 (two-thirds).

Modification of the anaesthetic fee in cases of operative procedures on the musculo-skeletal system, open fractures and open reduction of fractures and dislocations is governed by adding units indicated by modifiers 5441 to 5448. (The letter "M" is annotated next to the number of units of the appropriate items, for facilitating identification of the relevant items).

- 5441 In all cases of open fractures, open reduction of fractures and dislocations: Add ONE anaesthetic unit (R35.50) except where the procedure refers to the bones named in Modifiers 5442 to 5448.

5442 Shoulder, scapula, clavicle, humerus, elbow joint, upper 1/3 tibia, knee joint, patella, mandible and temporo-mandibular joint: Add TWO anaesthetic units (R71.00).

5443 Maxillary and orbital bones: Add THREE anaesthetic units (R106.60).

5444 Shaft of femur: Add FOUR anaesthetic units (R142.10).

5445 Spine (except coccyx), pelvis, hip, neck of femur: Add FIVE anaesthetic units (R177.60).

5448 Sternum and/or ribs and musculo-skeletal procedures which involve an intra-thoracic approach: Add EIGHT anaesthetic units (R284.20).

Tariff of Fees in respect of Medical Aid Post-Operative Alleviation of Pain

0045 Where the anaesthesiologist has personally administered the anaesthetic, post-operative alleviation of pain, where special techniques are required, shall be charged according to item 0109 (subsequent visit at the hospital).

Where the anaesthetic was administered by another anaesthesiologist post-operative alleviation of pain employing special techniques shall be charged according to the particular procedure for instituting the therapy. Revisits shall be charged according to item 0109.

None of the above is applicable to routine post-operative pain management.

Tariff of Fees in respect of Medical Aid Modifiers Governing this Specific Section of that Tariff Musculo-Skeletal System

0046 Where in the treatment of a specific fracture or dislocation (compound or closed) an initial procedure is followed within one month by an open reduction, internal fixation, external skeletal fixation or bone grafting on the same bone, the fee for the initial treatment of that fracture or dislocation shall be reduced by 50%. Please note: This reduction does not include the assistant's fee or the after-hours levy where applicable. After one month, a full fee as for the initial treatment, is applicable.

0047 A fracture NOT requiring reduction shall be charged on a fee for service basis PROVIDED that the cumulative amount does NOT exceed the charges for a reduction.

0048 Where in the treatment of a fracture or dislocation an initial closed reduction is followed within one month by further closed reductions under general anaesthesia, the fee for such subsequent reductions will be 27,00 clinical procedure units (R205.10) (not including after-care).

0049 Except where otherwise specified, in cases of compound fractures, 77,00 clinical procedure units (R585.00) (specialists) and 51,00 clinical procedure units (R387.40) (general practitioners) are to be added to the fees for the fractures, including debridement.

- 0050 In cases of a compound fracture where a debridement is followed by internal fixation (excluding fixation with Kirschner wires and excluding fractures of hands and feet), the full amount according to either modifier 0049 or 0051 may be added to the fee for the procedure involved, plus half of the amount according to the second modifier (either 0049 or 0051 as applicable).
- 0051 Except where otherwise specified in cases of fractures requiring open reduction, internal fixation, external skeletal fixation and or bone grafting: Add 77,00 clinical procedure units (R585.00) (specialists) and 51,00 clinical procedure units (R387.40) (general practitioners).
- 0053 Fractures requiring percutaneous internal fixation: [Insertion and removal of fixatives (wires) in respect of fingers and toes included]: Add 32,00 clinical procedure units (R243.10) (specialists) and (general practitioners) add 21,00 clinical procedure units (R159.60).
- 0055 Dislocation requiring open reduction: Fee for the specific joint plus 77,00 clinical procedure units (R585.00) (specialists) and 51,00 clinical procedure units (R387.40) (general practitioners).
- 0057 In multiple procedures on feet, fees for the first foot are calculated according to modifier 0005. Calculate fees for the second foot in the same way, reduce the total to 50% and add to the total for the first foot.
- 0058 Revision operation for total joint replacement and immediate resubstitution (infected or non-infected): Per fee for total joint replacement + 100%.

Tariff of Fees in respect of Medical Aid
Modifier Governing combined Procedures on the Spine

- 0061 In cases of combined procedures on the spine, both the orthopaedic surgeon and the neurosurgeon are entitled to the full fee for the relevant part of the operation performed.

Tariff of Fees in respect of Medical Aid
Modifier Governing the Subsection Replantation Operation

- 0063 Where two specialists work together on a replantation procedure, each shall be entitled to two-thirds of the fee for the procedure.
- 0064 Where the replantation or toe to thumb transfer is unsuccessful, no further surgical fee is payable for amputation of the non-viable parts.

Tariff of Fees in respect of Medical Aid
Modifier Governing the Section Larynx

- 0067 Micro-surgery of the larynx: To the fee of the operation performed add 25%. For other operations requiring the use of an operation microscope, the fee shall include the use of the microscope, except where otherwise specified elsewhere in the Tariff.
- 0069 When endoscopic instruments are used during intra-nasal surgery: Add 10% of the fee of the procedure performed. Only applicable to items 1025, 1027 and 1035.

Tariff of Fees in respect of Medical Aid
Modifier Governing the Subsection Intensive Respiratory Therapy

0070 A reduction of 33,33% (1/3) of the fee will apply to the pulmonary function tests as indicated in section 4.6.2 where hospital equipment is used.

Tariff of Fees in respect of Medical Aid
Modifier Governing Gastroenterology Procedures

0074 A reduction of 33,33% (1/3) (one third) of the fee will apply to all fibre optic procedure performed by means of hospital equipment.

Tariff of Fees in respect of Medical Aid
Modifier Governing Fees for Fibre Optic Procedures

0075 The fee plus 21,00 clinical procedure units (R159.50) will apply where fibre optic procedures are performed in rooms with own equipment. *Please note:* Modifier 0075 is not applicable to any of the items for diagnostic procedures in the otorhinolaryngology sections of the tariff.

Tariff of Fees in respect of Medical Aid
Specific Modifier: Section on Physical Treatment

0077

- a) When two separate areas are treated simultaneously for totally different conditions, such treatment shall be regarded as two treatments for which separate fees may be charged. (Only applicable if services are provided by a specialist in physical medicine).
- b) The number of treatments to a patient for which the Commissioner shall accept responsibility is limited to 20. If further treatments are necessary payment therefore must be arranged with the Commissioner.

Tariff of Fees in respect of Medical Aid
Modifier Governing the Section Medical Psychotherapy

0079 If a first consultation proceeds into, or is immediately followed by a medical psychotherapeutic procedure, fees for the procedure shall be calculated at 24,00 clinical procedure units (R182.30) per 20 minute session or part thereof, provided that such a part comprises 50% or more of the time of a session.

Tariff of Fees in respect of Medical Aid
Modifiers Governing the Section Pathology

0097 Where items under Pathology and Anatomical Pathology fall within the province of other specialists or general practitioners, the fee is to be charged at two thirds of the pathologist's fee.

- 0099 For tests performed on a *stat* basis, an additional premium of 50% of the fee for the particular pathology service shall apply, with the following provisos:
- *Stat* test requesting may only be done by the referring practitioner and not by the pathologist.
 - Specimens must be collected on a *stat* basis where applicable.
 - Test must be performed on a *stat* basis.
 - Documentation (or a copy thereof) relating to the request of the referring practitioner must be retained.
 - This modifier will only apply during normal working hours and will never be used in combination with item 4547.

Tariff of Fees in respect of Medical Aid Modifiers Governing the Section Pathology

0097 Where items under Pathology and Anatomical Pathology fall within the province of other specialists or general practitioners, the fee is to be charged at two thirds of the pathologist's fee.

- 0099 For tests performed on a *stat* basis, an additional premium of 50% of the fee for the particular pathology service shall apply, with the following provisos:
- *Stat* test requesting may only be done by the referring practitioner and not by the pathologist.
 - Specimens must be collected on a *stat* basis where applicable.
 - Test must be performed on a *stat* basis.
 - Documentation (or a copy thereof) relating to the request of the referring practitioner must be retained.
 - This modifier will only apply during normal working hours and will never be used in combination with item 4547.

Tariff of Fees in respect of Medical Aid Modifier Governing fees for an Anaesthesiologist Operating Intra-Aortic Balloon Pump (Cardiovascular System)

0100 Where an anaesthesiologist would be responsible for operating an intra-aortic balloon pump, a fee of 75,00 clinical procedure units (R569.80) is applicable.

0102 Pre-operative assessment in ward (includes emergency cases where doctor does not travel) (includes the interpretation of an ECG and/or lung function test).

0105 Pre-operative assessment inside theatre suite (includes emergency cases where doctor does not travel) (includes the interpretation of an ECG and/or lung function test).

Emergency visit (may not be charged together with any first or subsequent consultation item).

0104 Emergency attendance where doctor does not travel (all hours) (not applicable to facilities offering 24 hour services) (For IOD patients only applicable during after-hour periods - see general rule B).

0106 Emergency attendance at facilities offering 24 hour services (all hours) (For IOD patients only applicable during after-hour periods - see general rule B).

Where, in cases of emergency, a practitioner was called and has to travel to the patient at all hours.

0119 Doctor has to travel due to an emergency (all hours)*

* Footnote: Pre-anaesthetic assessment (all hours) (for IOD cases during after-hour periods - see general rule B) in cases of emergency. May be charged by an anaesthesiologist in cases of emergency where doctor has to travel (would replace items 0102 and 0105) irrespective of whether evaluation is followed by an anaesthetic or not.

Tariff of Fees in respect of Medical Aid

II. Cost of Material

0200 Cost of prostheses and/or internal fixation cost price + 20% with a maximum markup of R1 650.00.

0201 Cost of material: This item provides for a charge for material and special medicine used in treatment. Material to be charged for at cost price plus 35%. Charges for medicine used in treatment not to exceed the retail Ethical Price List.

- a) External fixation apparatus (disposable): An amount equivalent to 25% of the purchase price of the apparatus may be charged where such apparatus is used.
- b) External fixation apparatus (non-disposable): An amount equivalent to 20% of the purchase price of the apparatus may be charged where such apparatus is used.
- c) In case of minor injuries requiring additional material (e.g. suturing material) payment shall be considered provided the claim is motivated.
- d) Note
- e) Medicine, bandages and other essential material for home-use by the patient must be obtained from a chemist on prescription or, if a chemist is not readily available, the practitioner may supply it from his own stock provided a relevant prescription is attached to his account. Charges for medicine used in treatment not to exceed the retail Ethical Price List.

0202 Setting of sterile tray: A fee of 10,00 clinical procedure units (R76.00) may be charged for the setting of a sterile tray where a sterile procedure is performed in the rooms. Cost of stitching material, if applicable, shall be charged for according to item 0201.

Tariff of Fees in respect of Medical Aid

IV. Travelling Expenses

Refer to General Rule P

When in cases of emergency (refer to general rule P), a doctor has to travel more than 16 kilometres in total to visit an employee, travelling costs can be charged and shall be calculated as follows:

Consultation, visit or surgical fee: Plus:

5001 Cost of public transport and travelling time or item 5003.

5003 R4.00 per km for each kilometre in excess of 16 kilometres total travelled in own car:
19 km total = 3 x R4.00 = R12.00 (no travelling time).

Travelling time (Only applicable when public transport is used)

- 5005 Specialist: 18,00 clinical procedure units (R136.80) per hour or part thereof.
- 5007 General Practitioner: 12,00 clinical procedure units (R91.20) per hour or part thereof.
- 5009 After hours: Specialist: 27,00 clinical procedure units (R205.20) per hour or part thereof.
- 5011 After hours: General Practitioners: 18,00 clinical procedure units (R136.80) per hour or part thereof.
- 5013 Travelling fees are not payable to medical practitioners when they travel from a distance to assist at an operation on cases referred to surgeons by them.
- 5015 Travelling expenses may be charged from the medical practitioner's residence for calls received at night or during weekends in cases where travelling fees are allowed (For distances of 8 kilometres or more from starting point).

Tariff of Fees in respect of Medical Aid

V. Unit Values

The unit values for the various groups and sections as from 1 January 2000 are as follows:

| | Various Groups and Sections | VAT Exclusive |
|----|------------------------------------|----------------------|
| 1. | Consultation services | R 7.597 |
| 2. | Clinical procedure | R 7.597 |
| 3. | Anaesthetists | R 35.524 |
| 4. | Radiology | R 7.811 |
| 5. | Radiation Oncology | R 8.239 |
| 6. | Ultrasound | R 7.490 |
| 7. | Computed tomography | R 7.490 |
| 8. | Clinical Pathology | R 7.490 |
| 9. | Anatomical Pathology | R 7.811 |

The VAT inclusive amounts are calculated at 14% and not 13% as the previous year

Regulations under the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1 993)

The Minister of Manpower has under section 97 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), made the regulations contained in the Schedule.

Regulations under the COID Act

1. Calculation of earnings [section 83(4)]

The earnings of an employee shall be the remuneration that he receives from his employer or that accrues to him and includes-

- a) the value of any food or quarters or both supplied by the employer;

- b) any overtime payment or other special remuneration in cash or in kind of a regular nature or for work ordinarily performed;
- c) any other remuneration in cash or in kind to an employee by virtue of his contract of service, including commission, cost of living allowance, and incentive or other bonuses,

but does not include-

- i) payment for intermittent overtime;
- ii) payment for non-recurrent occasional services;
- iii) amounts paid by an employer to an employee to cover any special expenses;
- iv) *ex gratia* payments whether by the employer or any other person;
- v) travelling and subsistence allowances.

Regulations under the COID Act

2. Percentage fine [section 87(1)]

The percentage for the purposes of section 87(1) of the Act shall be 10%.

Regulations under the COID Act

3. Allowances payable under section 6(6)

- 1) The allowances payable under section 6(6) shall be-
 - a) the actual cost of public transport or R0,63 per kilometer in the case of private transport, whichever is the lesser;
 - b) in respect of pecuniary loss-
 - i) R73,00 per day or the amount of the loss, whichever is the lesser; or
 - ii) in the case of a professional witness, including a medical practitioner or a chiropractor, R204,00 per hour or part of an hour with a maximum of R612,00 per day or the amount of the loss, whichever is the lesser.
 - c) in respect of subsistence expense incurred-
R73,00 for every 24 hours and R3,04 for every full hour thereafter or the actual expenses, provided such expense is in the opinion of the commissioner reasonable.
- 2) The provisions of regulations 4(4), and (5) shall apply *mutatis mutandis* to a witness.

Regulations under the COID Act

4. Remuneration and travelling and subsistence allowances of assessors [section 8(6)]

- 1) In respect of remuneration-
R204,00 per hour or part of an hour with a maximum of R612,00 per day for attending a meeting, a hearing or for the investigating of any matter.
- 2) In respect of subsistence-
an allowance at R73,00 for every 24 hours and R3,04 for every full hour thereafter or the actual expenses, provided such expense is in the opinion of the commissioner reasonable.

- 3) In respect of transport-
the actual cost of public transport or R0,63 per kilometer in the case of private transport, whichever is the lesser;
- 4) An assessor shall travel by the most convenient public conveyance, but if the commissioner is satisfied that the journey cannot be so undertaken, he may authorise the use of private transport against payment of a transport allowance as prescribed by regulation 4(3).
- 5) Where an assessor travels by a route which results in the journey lasting longer or which involves greater travelling and subsistence allowance than was in the opinion of the commissioner necessary, he may reduce a claim for such allowance to such amount that he regards as reasonable

Regulations under the COID Act

5. Compensation payable to assessors [section 9(1)]

- 1) The compensation payable to an assessor under section 9(1) of the Act shall be the maximum benefits calculated in accordance with sections 28, 47, 48, 49 and 65 of the Act; and
- 2) the benefits in respect of medical aid in accordance with sections 73 and 76.

Regulations under the COID Act

6. Remuneration and travelling and subsistence allowances of members of Compensation Board [section 13 (3)]

- 1) In respect of remuneration-
R50,00 per hour or part of an hour with a maximum of R396,00 per day for attending a meeting or where the presence of a member is required in connection with any other official function of the Board.
- 2) In respect of subsistence-
an allowance at R73,00 for every 24 hours and R3,04 for every full hour thereafter or the actual expenses, provided such expense is in the opinion of the commissioner reasonable.
- 3) In respect of transport-
the actual cost of public transport or R0,63 per kilometer in the case of private transport, whichever is the lesser.
- 4) A member of the Board shall travel by the most convenient public conveyance, but if the commissioner is satisfied that the journey cannot be so undertaken, he may authorise the use of private transport against payment of a transport allowance as prescribed by regulation 6(3).
- 5) Where a member of the Board travels by a route which results in the journey lasting longer or which involves greater travelling and subsistence allowance than was in the opinion of the commissioner necessary, he may reduce a claim for such allowance to such amount that he regards as reasonable

Regulations under the COID Act

7. Commutation of Pension [section 52]

The amounts for the purposes of section 52(1) and (2)(b) shall be R400 and R100 per month, respectively.

Regulations under the COID Act

8. Copy of record [section 45(7)]

The fees for a copy of a record referred to in section 45(7) shall be R0,25 per page.

Regulations under the COID Act

9. Disposal of unclaimed moneys [section 97(1)(f)]

- 1) If money owing by an employer individually liable or a mutual association to an employee or his dependant has remained unpaid after three months because it has not been claimed and the person in question has not been traced, the money shall be paid to the commissioner quarterly under cover of a statement with the necessary particulars.
- 2)
 - a) If money owing to an employee or his dependant has remained unpaid after 12 months because it has not been claimed and the person in question has not been traced, the commissioner shall cause a notice to be published annually in the Government Gazette with particulars of every unclaimed amount of more than R100 and in which any person claiming the amount shall be called upon to submit his claim to the commissioner within one month after the date of the notice.
 - b) If at the expiration of the said month no claim has been submitted or a claim has been submitted but has been rejected by the commissioner, the said amount shall be paid into the reserve fund.
 - c) Unclaimed amounts of R100 or less shall be retained by the commissioner for the purpose of section 4(2)(d).

Regulations under the COID Act

10. Moneys payable to medical practitioners [sections 42(2), 52 and 97(1)(b)]

- 1) The fees payable to medical practitioners for other services than medical aid rendered in terms of this Act, including the furnishing of a report, shall be-
 - a) in respect of an occupational injury or disease or disablement for the purpose of section 42(2): R612,00;
 - b) in respect of an application for the commutation of a pension in terms of section 52 of the Act-
 - general practitioner: R48,00.
 - specialist: R83,00.
- 2) The fees for other medical services for a medical practitioner shall be- R204,00 per hour or part of an hour with a maximum of R612,00 per day.

- 3) The travelling allowance payable to a medical practitioner who travels more than 10 kilometers in total from his consulting rooms to examine an employee shall be entitled to the payment of the cost of public transport or R0,90 per kilometer travelled with own transport.

Regulations under the COID Act

11. Remuneration and travelling and subsistence allowance of members of medical advisory panels [section 70]

A member of a medical advisory panel shall be entitled to the following remuneration and allowances for the performance of his functions:

- a) in respect of the diagnosis of an occupational disease, the fees determined under section 76;
- b) in respect of attendance at a meeting for the purposes of section 70(1)(b) and (c), the fees payable to an assessor in terms of regulation 4.

Regulations under the COID Act

12. First aid [section 71]

- 1) An employer shall take all reasonable steps necessary under the circumstances to ensure that an employee injured at his place of employment shall forthwith receive first aid.
- 2) Where less than five employees are employed at a place of employment, the employer shall supply a first aid box or boxes at or near the place of employment which shall be available and accessible for the treatment of injured persons at such place of employment and the first aid box or boxes shall contain at least the following:

| | |
|---------|---|
| Item 1 | Wound cleaner/antiseptic (100 ml) |
| Item 2 | Swabs for cleaning wounds |
| Item 3 | Cotton wool for padding (100 g) |
| Item 4 | Pair of forceps for splinters |
| Item 5 | Pair of scissors (minimum size 100 mm) |
| Item 6 | One set of safety pins |
| Item 7 | Four triangular bandages |
| Item 8 | Four roller (crepe) bandages (75 mm x 5 m) |
| Item 9 | One roll of elastic adhesive (25 mm x 3 m) |
| Item 10 | One non-allergenic adhesive strip (25 mm x 3 m) |
| Item 11 | One packet of adhesive dressing strips (minimum quantity, ten assorted sizes) |
| Item 12 | Four first aid dressings (75 mm x 100 mm) |
| Item 13 | Two straight splints |
| Item 14 | Two pairs large and two pairs medium disposable latex gloves |
| Item 15 | One CPR mouth piece or similar device. |

Regulations under the COID Act

13. Commencement

These regulations shall come into operation on 1 March 1994.

Rules, Forms and Particulars which shall be furnished in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993)

I, Louis van Assen, Compensation Commissioner, hereby prescribe under section 4(2)(e) of the Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), the following:

Rules and Particulars

1. Application for increased compensation (section 56)

An application for increased compensation shall be submitted to the Commissioner on Form WG 30 (Annexure 1) with the particulars required therein and such other information and documents as the applicant may consider necessary.

Rules to facilitate the consideration of applications under section 56.

In these rules a word or expression to which a meaning has been assigned in the Act shall have that meaning and, unless the context indicates otherwise-

"applicant"

means the person making application;

"application"

means an application in terms of section 56 of the Act for increased compensation;

"the Act"

the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), and also the Workmen's Compensation Act, 1941 (Act No. 30 of 1941);

"respondent"

means-

- a) in the cases where the compensation fund is liable for the payment of compensation-
 - i) the Legal Officer or any other person appointed by the Commissioner; and
 - ii) as second respondent, the employer of the employee concerned unless the said employer has notified the Commissioner that he does not intend to intervene in the matter or fails to comply with paragraph (f) of these rules;

- b) in the case where a mutual association is liable for the payment of compensation-
 - i) the mutual association; and
 - ii) as second respondent, the employer of the employee concerned unless the said employer has notified the Commissioner that he does not intend to intervene in the matter or has failed to comply with paragraph (f) of these rules;

- c) in the case where an employer referred to in section 84(1)(a)(i) of the Act is liable for the payment of compensation, the person concerned mentioned in section 39(2) of the Act;
- d) in any other case where an employer individually liable is liable for the payment of compensation, such employer.
- e) The Commissioner shall as soon as practicable after an application has been submitted to him send a copy thereof to the employer in question and, where appropriate, the mutual association.
- f) Within three months after a copy has so been sent, every respondent shall deliver a document to the Commissioner and the applicant in which he states-
 - i) whether he contests the application and, if so,
 - ii) which allegations by the applicant he admits and which allegations he denies, together with such explanations and information that he may deem relevant.
- g) The applicant shall within three months after the document referred to in paragraph (f) has been delivered to him deliver a document to the Commissioner and every respondent in which he states-
 - i) whether he intends to proceed with his application and, if so,
 - ii) which allegations by the respondent he admits and which allegations he denies, together with such explanations and information that he may deem relevant.
- h) The Commissioner may at any time request any party to supply further particulars and such party shall within the period determined by the Commissioner deliver a document with such particulars to the Commissioner.
- i) The Commissioner may at any time permit any party to amend or supplement any allegation, explanation or information in terms of paragraphs (f), (g) or (h) of these rules.
- j) The Commissioner may at any time extend the period prescribed by paragraphs (f), (g) or determined in terms of paragraph (h) of these rules.
- k) If the Commissioner decides upon a formal hearing, he shall send a document to every party in which-
 - i) he sets out the facts which have been admitted and for which there is *prima facie* evidence in his opinion;
 - ii) he formulates the issue.
- l) The Commissioner may at any time before or during the hearing of his own accord or on application by one of the parties amend the formulation of the issue.
- m) A formal hearing shall not be set down or be proceeded with earlier than 30 days after the dispatch of the documents referred to in paragraph (k) of these rules or the amendment of the formulation of the issue as contemplated in paragraph (l), save with the consent of all the parties.

Rules and Particulars

2. Registration of employers [section 80]

- i) An employer shall register with the Commissioner by submitting Form W As 2 (Annexure 7) with the particulars required therein to the Commissioner.
- ii) An employer shall register with the Commissioner within seven days after the day on which he employs his first employee.
- iii) Any employer who at the commencement of the Act has not been registered with the Workmen's Compensation Commissioner in terms of section 96 of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), shall within 14 days of such commencement register with the Commissioner

Rules and Particulars

3. Return of earnings [section 82(1)]

The return of earnings shall be on Form W As 8 (Annexure 8) with the particulars required therein, as the case may be.

Rules and Particulars

4. Notice of accident by the employer [section 39(1) and (5)]

An accident shall be reported to the Commission in terms of section 39(1) and (5) of the Act submitting Form W CI 2 (E) (Annexure 13) to the Commissioner or the mutual association with the particulars required therein as the case may be.

Rules and Particulars

5. Notice of accident and claim for compensation [sections 38(1) and 43(1)]

Notice of an accident and claim for compensation in terms of sections 38(1) and 43(1) of the Act shall be given by or on behalf of an employee to the employer or mutual association or the Commissioner as the case may be by submitting Form W CI 3 (Annexure 14) with the particulars required therein.

Rules and Particulars

6. Notice of an occupational disease and claim for compensation [section 65(6) and 68(1)]

- i) Notice of an occupational disease or a claim for compensation shall be lodged by submitting to the employer, Commissioner or mutual association Form W CI 14 (Annexure 18) with the particulars required therein, together with such other documents that may be regarded as necessary to corroborate the claim.
- ii) If the claimant becomes aware of information or acquires possession of a document which in his opinion is relevant for the decision of the claim and which is not at the disposal of the Commissioner, he shall forthwith lay such information or document before the Commissioner.

Rules and Particulars

7. Notice of an occupational disease by the employer [section 68(2)]

Notice of an occupational disease shall be given in terms of section 68(2) to the Commissioner or mutual association as the case may be by submitting Form W CI 1 (E) (Annexure 12) with the particulars required therein.

Rules and Particulars

8. Witnesses [sections 6 and 45]

- i) A subpoena in terms of section 6 or 45 of the Act shall be on Form WG 28 (Annexure 2) and shall be signed by the Commissioner.
- ii) A subpoena can be served on the person to whom it is addressed-
 - a) by delivering a copy thereof to him;
 - b) by leaving a copy thereof at his place of abode, business or employment with some person apparently not less than 16 years of age and apparently residing or employed there; or
 - c) by dispatching a copy thereof to him by registered or certified post at his place of abode, business or employment, or to his post office box number.

Rules and Particulars

9. Objection against decision of Commissioner [section 91]

An objection against a decision of the Commissioner shall be submitted on Form WG 29 (Annexure 3) with the particulars required therein.

Rules and Particulars

10. Submission of medical reports [section 74]

- 1) A medical report in respect of an accident shall be on Form W CI 4 (Annexure 15) and shall be posted to the employer with the particulars required therein.
- 2) A medical report in respect of an occupational disease shall be on Form W CI 22 (Annexure 19) and shall, with the particulars required therein, be posted to the employer or, where applicable, submitted to the Commissioner.
- 3) When so required further medical reports in respect of an accident shall be submitted monthly on Form W CI 5 (Annexure 16) to the Commissioner or the mutual association or employer individually liable concerned, as the case may be.
- 4) When so required further medical reports in respect of an industrial disease shall be submitted monthly on Form W CI 26 (Annexure 20) to the Commissioner or the mutual association or employer individually liable concerned, as the case may be.

Rules and Particulars

11. Orders by Commissioner [sections 61(1), 77(2) and 87(4)]

Orders by the Commissioner under sections 61(1), 77(2) and 87(4) shall be on Forms W Ac 61 (Annexure 5), W CI 9 (Annexure 17) and W Ac 60 (Annexure 4), respectively, and shall be signed by him.

Rules and Particulars

Other particulars

Notification of name of responsible person [section 39(3)].

The Commissioner shall be notified in writing of the full name, postal address, telephone and fax number of the responsible person.

Rules and Particulars

Notice of formal hearing [section 45(2)]

The Commissioner shall notify the claimant in writing of the date, time and place of the formal hearing.