

of the employee and which expires at the end of the month in which the employee dies.

Amendment of Schedule 2

50. The Minister may on the recommendation of the commissioner 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.

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

51. (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 commissioner 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 to which a person of 26 years of age would normally 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.

Payment of lump sum in lieu of pension

52. (1) If a pension does not exceed a prescribed amount, the commissioner 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 commissioner may, upon the application of the pensioner, in lieu of a portion of that pension pay or direct the payment of a lump sum not exceeding the prescribed amount.

(b) If the balance of the pension payable is less than the prescribed amount per month, the commissioner 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 commissioner, and the payment thereof shall be subject to the control of the commissioner as referred to in section 59.

Compensation to employee previously in receipt of compensation

53. (1) In awarding compensation to an employee in respect of permanent disablement or in reviewing an award of compensation, the commissioner 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 commissioner 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. 5

(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.

Amount of compensation if employee dies

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54. (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, subject to a maximum amount prescribed by the Minister by notice in the *Gazette*; 15
- (b) if the employee leaves a widow or widower and a dependant referred to in paragraph (d) of the definition of "dependant of an employee" in section 1, compensation to the widow or widower calculated in accordance with paragraph (a) of this subsection, and in respect of the dependant referred to in paragraph (d) of the said definition 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); 20 25
- (c) if the employee leaves a dependant referred to in paragraph (d) of the definition of "dependant of an employee" in section 1, or a child referred to in paragraph (e) of the said definition who in the opinion of the commissioner is unable to earn an income owing to a physical or mental disability, a pension as set out in item 8 of Schedule 4, subject to a maximum amount prescribed by the Minister by notice in the *Gazette*: Provided that— 30
 - (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 commissioner 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; 35 40
 - (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 commissioner may deem equitable, and the amount and manner of awarding may be reviewed by him from time to time; 45
 - (iv) the pension payable to a dependant referred to in paragraph (d) of the said definition shall lapse at the end of the month in which such dependant reaches the age of 18 years, or dies or marries before reaching the age of 18 years; 50
 - (v) the pension payable to a child referred to in paragraph (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 commissioner when in his opinion it may reasonably have been 55

- 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), excluding a child over the age of 18 years, of the definition of "dependant of an employee" in section 1, 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 commissioner it may reasonably have been expected that the employee would have contributed to the maintenance of that person;
- (e) if the employee leaves no dependant referred to in paragraph (a), (b), (c) or (d) of this subsection but a dependant as defined in paragraph (f) of the definition of "dependant of an employee" in section 1, a lump sum as set out in item 9 of Schedule 4.
- (2) The commissioner 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 commissioner 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 commissioner 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.

Amendment of Schedule 4

55. The Minister may on the recommendation of the commissioner amend Schedule 4 by notice in the *Gazette* in respect of the nature, extent 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.

Increased compensation due to negligence of employer

56. (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 No. 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 No. 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 commissioner 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 commissioner suffered or can reasonably be expected to suffer as a direct result of the said accident or occupational disease.

(5) The commissioner 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 commissioner 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 commissioner 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.

Increase of monthly pensions

57. (1) The Minister may on the recommendation of the commissioner 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.

Advances on compensation

58. In anticipation of the award of compensation the commissioner 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 commissioner may determine. 5

Control over payment of compensation

59. (1) Compensation payable in terms of this Act may for reasons deemed by the commissioner 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; 10
- (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 commissioner; 15
- (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 commissioner may direct such employer or mutual association to pay the whole or any portion of the compensation concerned to the commissioner to be dealt with in terms of subsection (1). 20

(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 commissioner may designate. 25

(b) Where there is no dependant, the commissioner may pay such balance or a portion thereof to the estate of the deceased.

Pensioner resident outside Republic

60. (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 totalling more than six months, the commissioner 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. 30

(2) Before the commissioner 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 commissioner within the period specified by the commissioner. 35

Recovery of compensation or other benefits

61. (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 commissioner may issue an order in the prescribed form for the payment thereof. 40

(2) The commissioner 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 commissioner shall have all the powers of a judgment creditor. 45

(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. 50

Provisional settlements

62. (1) Notwithstanding any provision to the contrary contained in this Act, the commissioner 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. 5

(2) An employer or association referred to in subsection (1) shall report provisional settlements to the commissioner at such intervals and with such particulars as the commissioner may determine, and the commissioner 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. 10

Manner of calculating earnings

63. (1) In order to determine compensation, the commissioner 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— 15

- (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, 20

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; 25
- (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. 30

(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. 35

(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. 40

(5) If in the opinion of the commissioner it is not practicable to calculate the earnings of an employee in accordance with the preceding provisions, the commissioner may calculate those earnings in such manner as he may deem equitable, but with due regard to the principles laid down in those provisions. 45

(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. 50

Certain compensation to employers prohibited

64. (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 55

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). 5

(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. 10

(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. 15

CHAPTER VII

Occupational diseases

Compensation for occupational diseases

65. (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 commissioner— 20

(a) that an employee has contracted an occupational disease; or

(b) that an employee has contracted a disease other than an occupational disease and such disease has arisen out of and in the course of his employment. 25

(2) If an employee has contracted a disease referred to in subsection (1) and the commissioner 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. 30

(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 commissioner 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. 35

(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 commissioner may determine if it is more favourable to the employee. 40

(6) Subject to the provisions of this Chapter, the provisions of this Act regarding compensation in respect of an accident shall apply *mutatis mutandis* to a claim for compensation for a disease referred to in subsection (1), except where such provisions are clearly inappropriate. 45

Presumption regarding cause of occupational disease

66. 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. 50

Calculation of compensation

67. (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 55

employee at the time of the commencement of the disease or such earlier date as the commissioner 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. 5

Notice of occupational disease by employee and employer

68. (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. 10

(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. 15

(3) An employer who fails to comply with subsection (2) shall be guilty of an offence. 20

Amendment of Schedule 3

69. The Minister, after consultation with the Minister for National Health and Welfare, may on the recommendation of the commissioner 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*— 25

- (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. 30

Appointment of medical advisory panels

70. (1) The commissioner may, after consultation with the Director-General: National Health and Population Development, on a regional basis appoint medical advisory panels which shall consist of as many members as he may deem necessary to— 35

- (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. 40

(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 commissioner shall designate a member of a medical advisory panel as chairman thereof. 45

(4) The members of medical advisory panels shall be appointed by the commissioner for such period and on such conditions as he may determine, but the commissioner 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. 50

(5) The provisions of section 9 shall apply *mutatis mutandis* to members of medical advisory panels.

CHAPTER VIII*Medical aid***First aid**

71. (1) An employer shall furnish and maintain the prescribed equipment and services for first aid to employees injured in accidents. 5

(2) Any employer who fails to comply with subsection (1) shall be guilty of an offence.

(3) The provisions of this section shall not apply to an employer who in accordance with a requirement of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), or the Minerals Act, 1991 (Act No. 50 of 1991), maintains equipment and services for first aid to his employees in case of accidents or who has been exempted from such requirements in terms of one of the said Acts. 10

Conveyance of injured employee

72. (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. 15

(2) The commissioner or the employer individually liable or mutual association concerned, as the case may be, shall pay the reasonable cost (as determined by the commissioner) incurred in respect of that conveyance. 20

(3) Any employer who fails to comply with subsection (1) shall be guilty of an offence.

Medical expenses

73. (1) The commissioner 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. 25

(2) If, in the opinion of the commissioner, 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. 30

Submission of medical report

74. (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. 35 40

(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. 45

(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 50

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

(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).

Commissioner to decide on need for, and nature and sufficiency of, medical aid

75. 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 commissioner. 10

Fees for medical aid

76. (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 commissioner. 15

(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 commissioner 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— 20

(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 commissioner, 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. 25

Contributions by employees towards cost of medical aid prohibited

77. (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. 30

(2) If an employer has been convicted of contravening subsection (1), the commissioner 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. 35

Medical aid provided by employers

78. (1) If an employer makes arrangements to provide to his employees injured in accidents medical aid which in the opinion of the commissioner is not less favourable to the employees than that provided for in this Chapter, the commissioner may, subject to such conditions as he may determine, approve such arrangements. 40

(2) If the commissioner has approved the arrangements referred to in subsection (1)—

(a) the employees concerned shall be entitled to medical aid in accordance with the arrangements; 45

(b) the employer concerned shall not be required to provide or pay for medical aid except in accordance with the said arrangements;

(c) the commissioner 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. 50

(3) The commissioner may at any time withdraw the approval or amend the conditions referred to in subsection (1).

Consultation of representative medical authorities by commissioner

79. The commissioner may consult the South African Medical and Dental Council referred to in the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), 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. 5

CHAPTER IX

10

Obligations of employers**Employer to register with commissioner and to furnish him with particulars**

80. (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. 15

(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. 20

(4) The commissioner 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. 25 30

(6) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

Employer to keep record

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81. (1) An employer shall in respect of all of his employees keep a register or other record of wages, time worked, payment for piece work and overtime and all other prescribed particulars, and he 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. 40

(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. 45

Employer to furnish returns of earnings

82. (1) An employer, excluding an employer referred to in section 84(1)(a) and (b), shall before the thirty-first day of March in each year or, if he began carrying on business after that date, within one month after so beginning, furnish the commissioner with a return in the prescribed form, certified by him as correct, showing— 50

(a) the amount of earnings paid by him to his 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 commissioner may require.

(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 is less than the amount actually paid, the commissioner may impose a fine not exceeding 10 per cent of the difference between the amount shown and the actual amount.

(4) The commissioner 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 commissioner too low, the commissioner 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.

Assessment of employer

83. (1) Subject to the provisions of this section, an employer shall be assessed by the commissioner according to the tariff of assessment calculated on the basis of such percentage of the annual earnings of his employees as the commissioner with due regard to the requirements of the compensation fund for the year of assessment may deem necessary.

(2) Notwithstanding subsection (1), the commissioner 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 commissioner 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 commissioner shall adjust his assessment accordingly.

(6) If an employer fails to furnish the commissioner within the prescribed period with a return in terms of section 82 in respect of a particular period, the commissioner may—

- (a) assess the employer on the basis of the earnings estimated in accordance with section 82(4), and such an assessment shall not be subject to adjustment; and
- (b) impose upon and recover from the employer a fine not exceeding 10 per cent of the amount so assessed.

(7) An assessment of an employer shall be paid at such time and in such manner as the commissioner may determine.

(8) The Minister may prescribe by notice in the *Gazette* a maximum amount of earnings on which an assessment of an employer shall be calculated by the commissioner.

Certain employers exempt from assessment

84. (1) No assessment in favour of the compensation fund shall be payable in respect of employees—

(a) in the employ of—

- (i) the State, including Parliament and the provincial authorities, and the government of a territory which in terms of any law is a self-governing territory within the Republic; and
- (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 commissioner 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;

- (b) whose employer has with the approval of the commissioner 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. 5

(2) The commissioner may exempt a local authority referred to in subsection (1)(a)(ii) from the obligations of an employer in terms of this Act on such conditions as he may think fit. 10

(3) Notwithstanding the provisions of this section, the commissioner 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. 15

Variation of tariff of assessment

85. (1) If in the opinion of the commissioner 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 commissioner may assess that employer at a lower tariff of assessment than the tariff of assessment for employers in like businesses. 20

(2) If the accident record of an employer during a particular period is in the opinion of the commissioner less favourable than those of employers in comparable businesses and the commissioner is of the opinion that such state of affairs will probably continue, the commissioner may assess such employer at a higher tariff of assessment than the tariff of assessment for employers in like businesses. 25

(3) If the accident record of an employer during a particular period is in the opinion of the commissioner more favourable than those of employers in comparable businesses, the commissioner may give such employer a rebate on any assessment paid or payable by him. 30

Assessment to be paid by employer to commissioner

86. 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. 35

Failure to pay assessment or other moneys

87. (1) If an employer fails to pay an assessment in accordance with section 86, the commissioner may impose a fine at the prescribed percentage on the outstanding amount upon him. 40

(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 commissioner 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. 45

(b) If the commissioner is of the opinion that such failure was not wilful 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 commissioner may— 50

(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. 5

(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. 10

(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 commissioner 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. 15

Contributions by employers individually liable and mutual associations

88. (1) Notwithstanding any provision to the contrary contained in this Act, the employers individually liable and the mutual associations shall pay annually to the commissioner 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. 20

(2) (a) The commissioner 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. 25

(b) Such loss shall be estimated on the basis of the difference between the compensation referred to in paragraph (a) as calculated by the commissioner, 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. 30

(c) The loss for any particular financial year may be revised by the commissioner 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 commissioner, in such manner and at such times as he may determine, such portion of the said loss as he may deem equitable. 35

(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 case of a pension, the capitalized value as determined by the commissioner 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. 40 45

Mandators and contractors

89. (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. 50

(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. 5

(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 commissioner 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. 10

(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. 15

CHAPTER X

Legal procedures

Review of decisions by commissioner

90. (1) The commissioner 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— 20

(a) that the employee has not submitted himself to an examination referred to in section 42; 25

(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; 30

(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 commissioner made the decision or award. 35

(2) The commissioner 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. 40

Objections and appeal against decisions of commissioner

91. (1) Any person affected by a decision of the commissioner or a trade union or employers' organization of which that person was a member at the relevant time may, within 90 days after such decision, lodge an objection against that decision with the commissioner in the prescribed manner. 45

(2) (a) An objection lodged in terms of this section shall be considered and decided by the commissioner 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 commissioner considers it expedient, he may, notwithstanding paragraph (a), call in the assistance of a medical assessor. 50

(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 commissioner 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 commissioner, the commissioner shall submit the dispute in terms of section 92 to the Supreme Court for decision. 5

(4) The commissioner 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— 10

- (i) the interpretation of this Act or any other law;
- (ii) the question whether an accident causing the disablement or death of an employee was attributable to his serious and wilful misconduct; 15
- (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. 20

(6) Except where the commissioner orders otherwise, no obligation to pay any assessment, compensation or any other amount to the commissioner or to the compensation fund, or to pay any periodical payments to or on behalf of an employee under a decision of the commissioner, 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). 25

Commissioner may state case for Supreme Court 30

92. (1) If any question of law arises in the performance of the functions of the commissioner, the commissioner may of his own motion or at the request of a party with a sufficient interest in any proceedings before the commissioner, state a case for decision by a provincial or local division of the Supreme Court having jurisdiction. 35

(2) The commissioner 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 commissioner 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. 40

Evidence 45

93. (1) The record of any decision or award made by the commissioner, and a copy of or extract from a record or document kept by the commissioner or lodged with him, which purports to be certified by the commissioner 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. 50

(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 commissioner 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; 55
- (b) that any person is or was required in terms of this Act to pay an amount to the commissioner or to an employee or other person specified in the statement;

- (c) that an amount referred to in paragraph (b), 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

Arrangements with foreign states regarding compensation

94. 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 commissioner 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.

Certain documents exempt from stamp duty

95. 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.

Disclosure of information

96. (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.

Regulations

97. (1) The Minister may make regulations regarding—
- (a) the place of meeting and the procedure to be followed at any meeting of the commissioner 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 commissioner;
- (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 commissioner 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; 5
- (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 in respect thereof differentiate in such manner as he may deem expedient. 10

(3) Any regulation made under subsection (1) may in respect of any contravention thereof or failure to comply therewith prescribe a penalty of a fine, or imprisonment for a period not exceeding six months. 15

False statements

98. 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. 20

Penalties

99. 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.

Repeal of laws

100. (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. 25

(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. 30

(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. 35

Short title and commencement

101. (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*. 40

(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

Schedule 1**LAWS REPEALED**

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

Schedule 2

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

Schedule 3

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 the lung	organic or inorganic fibrogenic dust
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, nitro- and amino-derivatives of benzene or its homologues, nitroglycerine or other nitric acid esters, hydrocarbons, trinitro-toluol, 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, baro-trauma or osteonecrosis	abnormal atmospheric or water pressure
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	4-amino-diphenyl, benzidine, beta naphthylamine, 4-nitro-diphenyl
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

Act No. 130, 1993

COMPENSATION FOR OCCUPATIONAL INJURIES AND
DISEASES ACT, 1993

Diseases	Work
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 tendinous insertions	repetitive movements

Schedule 4

MANNER OF CALCULATING COMPENSATION

(i) Item	(ii) Section	(iii) Nature and degree of disablement	(iv) Nature of benefits	(v) 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
2.	49(1)	Permanent disablement of 30%	Lump sum	15 times the monthly earnings of the employee at the time of the accident
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
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

Act No. 130, 1993

COMPENSATION FOR OCCUPATIONAL INJURIES AND
DISEASES ACT, 1993

(i) Item	(ii) Section	(iii) Nature and degree of disablement	(iv) Nature of benefits	(v) Manner of calculating benefits
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)(e)	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 R4 000 or the actual amount, whichever is the lesser