

CLAIMING FOR OCCUPATIONAL DISEASES OF MINERS AND EX- MINERS

This section deals with workers who have an occupational disease from being exposed to hazards in a mine or works.

Compensation claims of workers suffering from occupational diseases are submitted under the Occupational Diseases in Mines and Works Act (ODM&WA) if the disease is listed in this Act, or under the Workmen's Compensation Act (WCA) if the disease is not listed in the ODM&WA

(The term "miner" is used to describe those who suffered the exposure on a mine or works. The term "coloured" is used in the Act and refers to individuals who are neither white nor black.)

SUBMISSION OF CLAIMS UNDER THE WORKMEN'S COMPENSATION ACT (WCA)

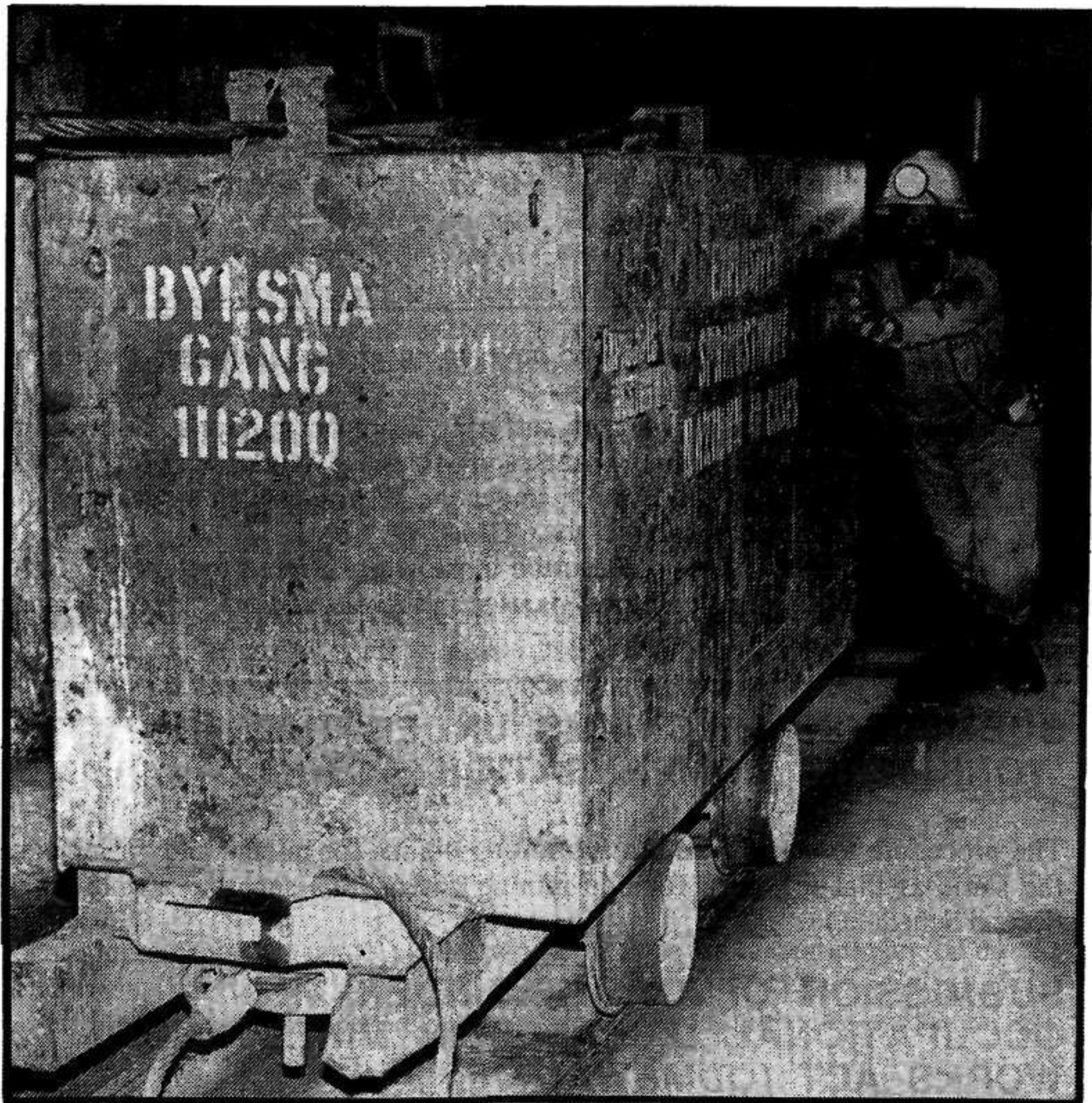
The procedure to be followed in submitting claims for miners and ex-miners is the same as that followed for non-mining cases. (See separate article on the Second Schedule.)

SUBMISSION OF CLAIMS UNDER THE OCCUPATIONAL DISEASES IN MINES AND WORKS ACT (ODM&WA)

An outline of the submission procedures is as follows:

- An examination to determine whether a compensatable disease is present is performed by a doctor. This examination is called a benefit examination.
- The doctor sends the details of the benefit examination to the Medical Bureau for Occupational Diseases (MBOD) in Johannesburg (address given at the end of this section).
- A Medical Certification Committee based at the MBOD reviews the details of the benefit examination and decides whether a compensatable disease is present; and for whites and coloureds, the Committee decides on the severity of the disease.

Since the ODM&WA discriminates on the basis of race, the method of submitting claims for compensation and the amount of money awarded is determined by the miner's race.



Compensation under the ODM&WA is determined by the miner's race

Diseases compensatable under the Occupational Diseases in Mines and Works Act (ODM&WA)

The following diseases are compensatable under the Occupational Disease in Mines and Works Act:

- Pneumoconiosis*
- Tuberculosis**
- Pneumoconiosis and tuberculosis
- Chronic obstructive airways disease*
- Progressive systemic sclerosis*
- Chronic Manganese poisoning*
- Any other permanent disease of the cardio-respiratory organs* (e.g. mesothelioma and cancer of the lung of workers exposed to asbestos)
- Any other disease which the Minister of Health declares a compensatable disease
(* Which in the opinion of the Certification Committee arises from doing "risk work").

** Contracted while the worker was doing risk work, or within 12 months after he was last doing risk work. The Certification Committee may certify tuberculosis contracted in non-risk work, if it decides that the tuberculosis arose from workplace exposure, for example, hostel cleaners who are in contact with miners).

"Risk work" means any work declared risk work by the Minister in consultation with the risk committee. In general, all underground work is risk work. For further details, contact the Director of the MBOD.



Mesothelioma is compensatable under the ODM&WA

Benefit examinations

An examination to determine whether a miner is suffering from a compensatable disease is called a benefit examination. A miner may apply at any time for a benefit examination. He/she is entitled to this examination at six-monthly intervals until he/she dies, or until he/she receives full compensation. The attending medical practitioner is responsible for ensuring that patients who may have a compensatable disease, receive a benefit examination.

The Certification Committee

The medical assessment of the results of the benefit examinations is performed by the Certification Committee of the MBOD in Johannesburg. This committee decides whether the worker concerned suffers from a disease that is compensatable. In the case of coloured and white miners, the Committee decides on the degree of impairment. There is a possibility of appeal to review the Certification Committee's decision. (Contact the MBOD for details). A patient's doctor may ask or be asked to attend the Certification Committee's meeting.

Benefit Examinations for whites and coloureds

A standard procedure is required for these examinations. For this reason, it is preferred that the examination is undertaken at the MBOD in Johannesburg. If the miner or ex-miner cannot travel to Johannesburg, for example when he is ill, the benefit examination may be undertaken at one of the sub-bureaux (addresses of these sub-bureaux are given at the end of this section), or by any other doctor. The doctor referring the case must include in the report:

- an adequate work history of the worker at the particular mines or works where he/she has worked. The report must include the name of the mines or works, and the duration and period of service at these workplaces, together with the worker's medical history and the results of his/her examination*
- chest radiographs (if relevant)
- lung function tests
- other relevant medical information; for example histology reports, sputium MC&S.

(* A special form, the MD 512 "Benefit Examination", is available from the MBOD and, if possible, should be used when referring cases.)

Adequate lung function measurements are required to determine the degree of impairment.

Benefit examinations for blacks

Black miners and ex-miners are barred from using the facilities of the MBOD and sub-bureaux on the basis of race. This means that black miners do not have access to the sophisticated diagnostic facilities available to white miners, and that

they may be examined by medical practitioners less experienced in assessing occupational disease.

The "benefit" is usually performed on the mine where the worker or ex-worker is or was employed. The benefit examination may also be undertaken by the National Centre for Occupational Health (NCOH) (address given at the end of this section), the local Employment Bureau of Africa (TEBA) office, the district surgeon, or by any other doctor.

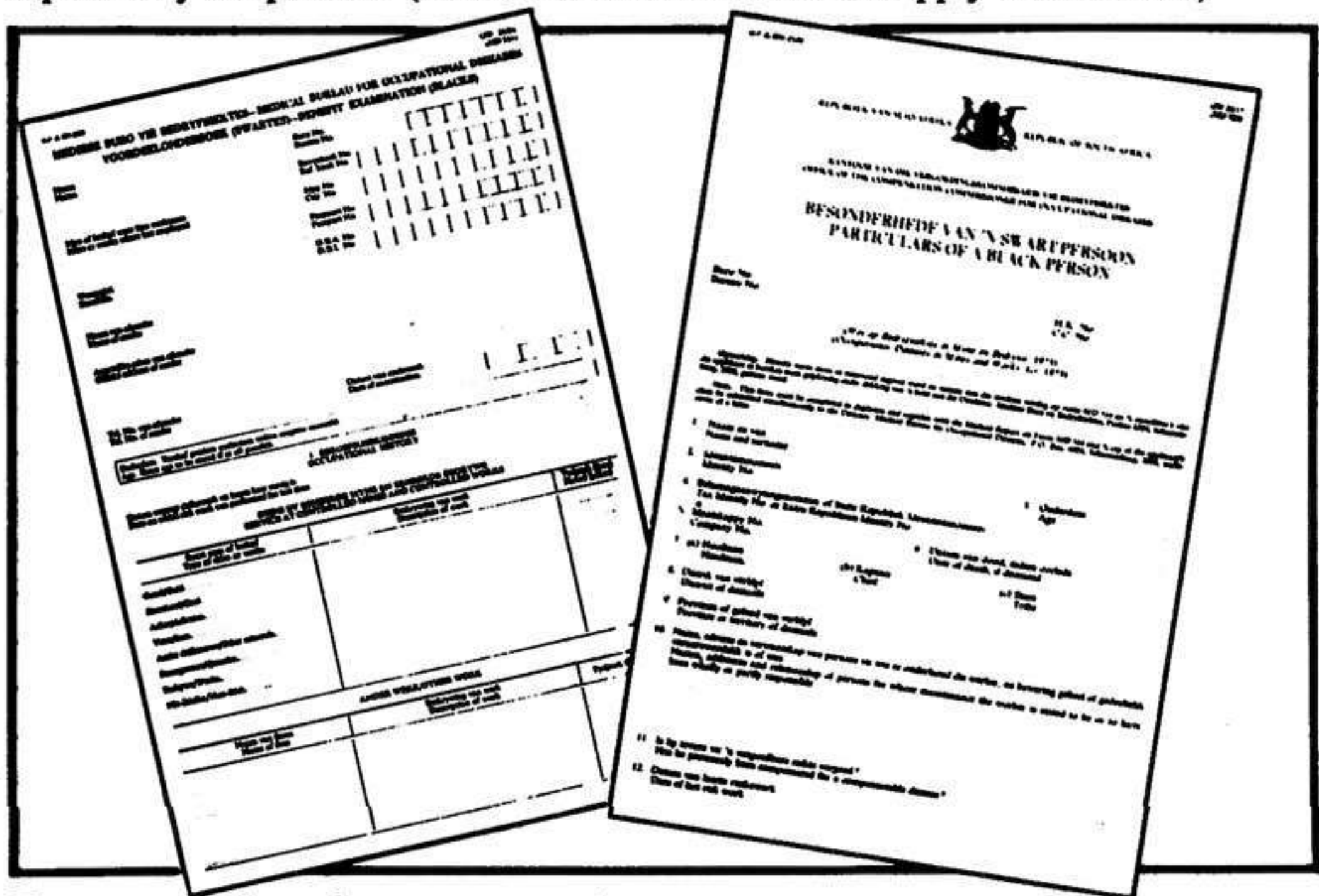
The information required for the report is the same as for whites and coloureds. However, additional documents are to be completed in the case of blacks. These are:

- MD 514 - particulars of the medical examination
- MD 519 - application for a benefit
- MD 520 - Particulars of a black person

The MD 512 is not required.

The MD 520 includes the fingerprints of the miner/ex-miner. This can be done at a mine, police station, or "black affairs" department.

For all races, a "mine number" is helpful in confirming the work history reported by the patient. (The miner should be able to supply this number.)



Deceased miners

If a compensatable disease is diagnosed at a post mortem examination, the dependants of the deceased miner are entitled to an award. For whites and coloureds, the amount awarded is the same had the diagnosis been made in life. For black deceased miners, the amount is less than that awarded in life (see end of the section for exact amounts).

The ODM&WA states that the attending medical practitioner is responsible for ensuring that a post mortem examination is performed on deceased miners; the widow or relative must consent to the examination. The Act states:

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

If a white or coloured miner dies within 100 km of the centre of Johannesburg, the cardio-respiratory organs need not be removed, as the whole body can be sent to the prescribed place. The prescribed place for both cardio-respiratory organs and complete bodies is usually the NCOH in Johannesburg. The method of removing and transporting the deceased miner's organs (or body) can be requested from the director of the MBOD.

Compensation awards

Whites and coloureds

These miners are certified as either 1st degree or 2nd degree by the Certification Committee depending on the degree of impairment. The degree of impairment may be increased from 1st degree to 2nd degree at subsequent benefit examinations or at a post mortem examination.

Amounts

	whites	coloureds
TB	R 8 386	R 4 474
1st degree	R20 126	R10 734
2nd degree	R33 207	R17 711

Blacks

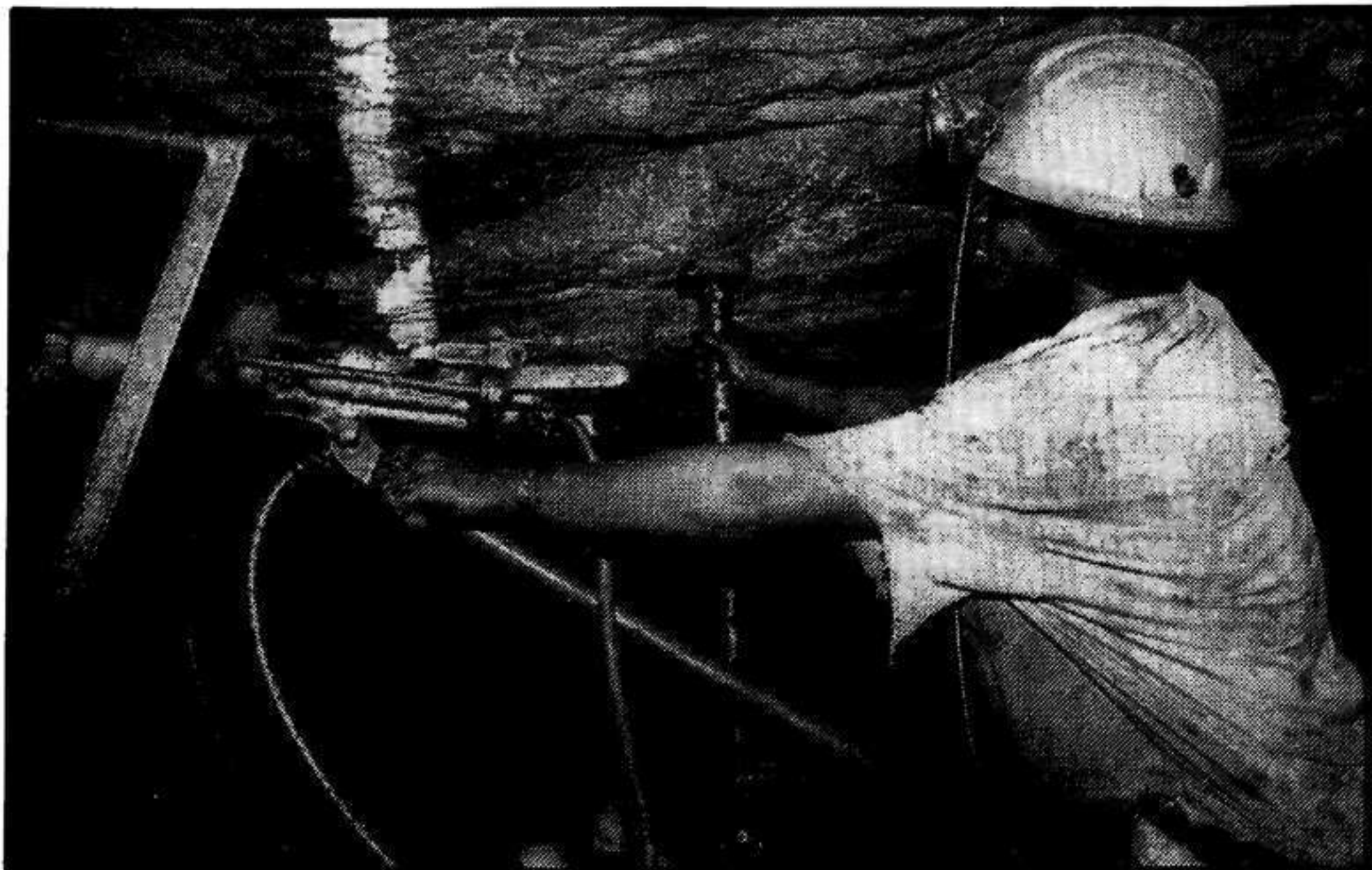
Impairment is not assessed and diagnosis at a post mortem examination reduces the award.

TB	R1 119 (half if diagnosed at P.M)
Certification	R2 052 (two-thirds if diagnosed at P.M.)
Certification plus TB	R2 462

A black miner who develops a mesothelioma is therefore entitled to R2 052 to compensate him for pain and suffering, loss of earnings, medical expenses, and to support his family after his death.

Summary of duties of medical practitioners

- Medical practitioners are responsible for ensuring that a miner or ex-miner receives a benefit examination. The medical practitioner can refer his/her patient to an appropriate place for a benefit examination or perform the examination him/herself.
- Medical practitioners are responsible for ensuring that a post mortem examination is performed on deceased ex-miners.
- Medical practitioners who submit cases for compensation may attend or be asked to attend the meeting of the Medical Certification Committee.



Doctors should ensure that miners and ex-miners receive benefit examinations

Addresses

National Centre of Occupational Health (NCOH)

P.O. Box 4788

Johannesburg

2000

Tel. 724-1844

Medical Bureau for Occupational Diseases (MBOD)

P.O. Box 4584

Johannesburg

2000

Tel. 724-1451

Sub-Bureaux

Dundee

The Director
P. Bag 236
Dundee
3000

Beaconfield Street
Dundee

Witbank

The Director
P.O. Box 145
Witbank
1035

Witbank Sentrum 311
President Street
Witbank
Tel: (0351) 64260

Rustenburg

The Director
P.O. Box 1339
Rustenburg
0300

Drosdy Building
Cr Boom and Kroep Streets
Rustenburg
Tel: (01421) 24827

Klerksdorp

The Director
P.O. Box 679
Klerksdorp
2570

PC Pelsier Building
Cr Anderson and Voortrekker Streets
Klerksdorp
Tel: (018) 23361

Kuruman

The Director
P.O. Box 106
Kuruman
8460

Government Building
Voortrekker Road
Kuruman
Tel: (01471) 21156

Welkom

The Director
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Welkom
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New State Building
Grotiusingel
Welkom
Tel: (0171) 27697

Belville

The Director
P.O. Box 572
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7530
Tel: 974754/5/6