

# COMPENSATION UNDER THE SECOND SCHEDULE OF THE WCA

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Compensation legislation in South Africa is at present complex and non-uniform. At the present time, compensation falls under two Acts of Parliament. They are:

- The Occupational Diseases in Mine and Works Act (ODM&WA), number 78 of 1973.

- The Workmen's Compensation Act (WCA), number 30 of 1941.

Mining diseases are covered in the ODM&WA, but there is no separate legislation for diseases in other industries. This may be due to the fact that up until now, very few claims for occupational diseases have been made under the WCA. It is also for this reason that claims for diseases under this act are considered by the Workmen's Compensation Commissioner (WCC) as accidents.

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## The Second Schedule

The Second Schedule of the WCA contains a list of occupations and related diseases which are compensatable by law. The list of diseases is based on the *principle of presumptive causation*, i.e. if a workman becomes disabled or dies of a scheduled disease and was employed in the corresponding occupational field within the last 24 months, it must be assumed that the disease was due to that occupation even though no incident can be identified.

With occupational lung disease due to mineral dust, the presumption arises from any past occupation of the worker in a dusty environment. For example, a worker who has asbestosis, can claim compensation for work he did 20 years previously at an asbestos mill. The disadvantage to the worker is that compensation will be calculated on his salary at the time of exposure.



Before compensation is awarded, the Commissioner must be satisfied that:

- the workman is suffering from a scheduled disease due to the nature of his/her employment and is unable to work because of the disease, and
- that the workman has not previously suffered from the disease.

The Second Schedule lists diseases considered to be industrial diseases. However, any disease which can be shown to be job-related, will be considered by the Commissioner.



**Byssinosis from exposure to cotton or linen dust is one of the diseases compensatable under the Second Schedule**

## **Procedures for claiming under the Second Schedule**

Any health professional, when dealing with a potential occupational disease, has to have a high index of suspicion. If the doctor decides that the patient may be suffering from an occupational disease, he/she has a choice of two procedures:

- He/she can submit the claim independently with all the necessary documentation to the Commissioner. The Commissioner will usually refer such cases to the Director of the Medical Bureau for Occupational Diseases (MBOD) in Johannesburg.
- The case may be submitted to the National Centre for Occupational Health Clinic (NCOH) in Braamfontein, Johannesburg. The doctors there will then do a full medical occupational check-up on the person and refer the person to appropriate channels if necessary. If the person has a scheduled lung disease, the case will be presented to a joint panel of doctors from the MBOD and NCOH. Because the Director of the MBOD is part of the panel, the Workmen's Compensation Commissioner tends to accept the decision of the panel.

### **Forms for submitting a compensation claim**

In order for a claim to be submitted and processed by the Commissioner, the following forms need to be completed:

- WCL.3 - Claim for compensation completed by worker
- WCL.2/100 - Employer's report of accident
- WCL.4 - First Medical Report
- WCL.111 - Medical Report
- WCL.110 - Industrial History
- SMB 27/9 - Panel Report - this only applies if the person has been seen at the NCOH.
- WCL.53 Dermatological Report
- All medical reports (including x-rays and lung functions) relevant to occupational diseases.

*It is important to note that:*

- The most important forms are the employer's report of the accident (WCL 2/100) and the first medical report (WCL.4)
- Where the form mentions "accident", it also entails "disease". This is because there is no separate form for occupational diseases.
- If the employer refuses to fill in the employer's report, or if the business concerned no longer exists, a claim can still be submitted to the Commissioner provided that the worker makes a sworn statement to that effect at a police station and fills in form WCL.132, and sends in all the other relevant forms (except the employer's report). All this is necessary in order for the Commissioner to proceed with the claim.

All the above forms are available from:  
The Workmen's Compensation Commissioner  
P.O. Box 955  
Pretoria  
0001



**DIRECTIONS TO MEDICAL PRACTITIONER / HOSPITAL**

(-) Only the Workmen's Compensation Commissioner shall decide whether liability in respect of an accident should be accepted in terms of the provisions of the Act.

W.C.L. 2/100 (E)

(For official use only)

Claim No. \_\_\_\_\_

by the Workmen's Compensation Commissioner shall be required to be filled in. It is to be taken to ensure that the full report must be sent to the employer together with this form. If the account is still unpaid after the specified account must be

PHONE 323-9911  
X 3-20171

**WORKMEN'S COMPENSATION ACT, 1941.**  
(Section 51 - Regulation 9(2) - Annexure 10)

**EMPLOYER'S REPORT OF ACCIDENT**

**DIRECTIONS FOR COMPLETING OF FORM BY EMPLOYER**

1.0 Whenever a workman meets with an accident arising out of and in the course of his employment resulting in a personal injury for which medical treatment is required, this form must be completed by the employer in the following manner:-

- Step 1 Complete "Part A".
- Step 2 Sign and date form.
- Step 3 Detach "Part B" (an
- Step 4 Hand "Part B" to the medical practitioner.
- Step 5 Fill in page 2 of
- Step 6 Forward filled in

The Workmen's  
P.O. Box 955,  
PRETORIA  
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in the case must be sent to the Commissioner.

Employer's Division:

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**WORKMEN'S COMPENSATION ACT, 1941.**  
(Section 51 - Regulation 9(2) - Annexure 10)

**EMPLOYER'S REPORT OF ACCIDENT**

**DECLARATION BY EMPLOYER**

I/We hereby declare that the particulars, shown in items 1 to 14 of this report, of an alleged injury on duty, are to the best of my/our knowledge and belief true and accurate

Signed on this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

**IMPORTANT** → **SIGNATURE OF EMPLOYER**

**1. EMPLOYER:-**

Registered name with Workmen's Compensation Commissioner (block letters) \_\_\_\_\_

Address \_\_\_\_\_

Postal Code \_\_\_\_\_

Tel. Address \_\_\_\_\_

Nature of business, trade or industry \_\_\_\_\_

Telephone \_\_\_\_\_

Telex No. \_\_\_\_\_

Plant, or particular section in which workman is employed \_\_\_\_\_

Situation of business/farm \_\_\_\_\_

Your registration number as allocated by the Workmen's Compensation Commissioner to this Business/Farming undertaking must be filled in \_\_\_\_\_

**2. WORKMAN:-** (Indicate race with an X)

Surname (block letters) \_\_\_\_\_

First names (block letters) \_\_\_\_\_

Residential Address \_\_\_\_\_

Identity No. \_\_\_\_\_

Date of birth \_\_\_\_\_

Sex \_\_\_\_\_

Married or Single \_\_\_\_\_

Company No. \_\_\_\_\_

Occupation \_\_\_\_\_

**EARNINGS (at the time of the accident):-**

(a) Cash wages/salary (excluding allowances) \_\_\_\_\_

(b) Cost of living allowance (paid in cash) \_\_\_\_\_

(c) Other allowances: Overtime pay, etc., (specify and indicate whether they are of a regular and constant nature) \_\_\_\_\_

(d) Value of free food \_\_\_\_\_

(e) Value of free quarters \_\_\_\_\_

	If paid per WEEK R	If paid per MONTH R

**3. ACCIDENT:-**

(a) Date of accident \_\_\_\_\_ 19\_\_\_\_ Time \_\_\_\_\_

(b) Place of accident \_\_\_\_\_ District \_\_\_\_\_

(c) Date workman reported the accident \_\_\_\_\_ 19\_\_\_\_ Time \_\_\_\_\_

(d) How did the accident occur and what was the workman doing at the time? \_\_\_\_\_

(Describe the accident fully, stating whether the injured person fell or was struck, etc., and all the factors contributing to the accident.)

(e) Was his action at the time of the accident in connection with your trade or business? \_\_\_\_\_

(f) Are you satisfied that the workman was injured in the manner alleged by him? (If not, please give reasons) \_\_\_\_\_

(g) Nature of injury sustained by workman (e.g. broken left leg, index finger of right hand crushed, cut to head or piece of metal in eye) \_\_\_\_\_

4 Is the injured person a working director or the owner of, or a partner in the business? \_\_\_\_\_

← **PART A PAGE 2** Must also be completed, please.







Reference No. \_\_\_\_\_

**WORKMEN'S COMPENSATION ACT 1941 (ACT 39 OF 1941) AS AMENDED**  
**MEDICAL REPORT**

NAME OF WORKMAN .....  
 RACE OF WORKMAN .....  
 IDENTITY OR NATIONAL IDENTITY NO. ....

**N.B. IT IS ABSOLUTELY ESSENTIAL THAT THIS FORM SHOULD BE COMPLETED IN DETAIL.**

1. What are the workman's general complaints?
  - (a) Always - even when at rest?
  - (b) After exertion, for example, after walking 100 yards on the level?
  - (c) After walking 500 yards?
  - (d) Only after walking up hill?
2. Has he any pain in the chest?
  - (a) On exertion?
  - (b) Without exertion?
3. Is his cough dry or with phlegm?
  - (a) Clear?
  - (b) Yellowish green?
  - (c) Dark?
  - (d) Blood stained?
  - (e) What is the amount produced?
4. Do his feet swell? .....
5. On how many pillows does he sleep? .....

**VERY IMPORTANT** To what extent is the workman disabled?

6. (a) Ordinary heavy work? .....
- (b) Moderate work? (less than ordinary heavy work) .....
- (c) Light work (that is, less than moderate work) .....
- (d) No work? .....

7. What other factors have contributed to the disability?
  - (a) Heart ailment? .....
  - (b) Emphysema? .....
  - (c) Other ailments? .....
  - (d) Arthritis? .....

DATE .....  
 WCA/.....

**ONGEVALLEWET, 1941 - WORKMEN'S COMPENSATION ACT, 1941**  
 (Artikel 54 Regulasie 10-Aanhangsel 11 / Section 54-Regulation 10-Annexure 11)  
**EIS OM SKADELOOSSTELLING - CLAIM FOR COMPENSATION**  
 Hierdie vorm moet deur of ten behoeve van die beseerde werksman ingevul en aan die Ongevallekommissaris, Posbus 955, Pretoria, 0001 gestuur word / This form must be completed by or on behalf of the injured workman and sent to the Workmen's Compensation Commissioner, P.O. Box 955, Pretoria 0001

Eisnommer  
Claim number \_\_\_\_\_

(BLOKLETTERS/BLOCK LETTERS)

1 WERKSMAN - WORKMAN  
 Van/Surname \_\_\_\_\_  
 Voornaam/First Name \_\_\_\_\_  
 Persoonsnommer/Identity Number \_\_\_\_\_  
 Adres/Address \_\_\_\_\_  
 Geboortedatum Date of birth \_\_\_\_\_  
 Beroep/Occupation \_\_\_\_\_ Geslag Sex \_\_\_\_\_  
 Getroud of ongetroud Married or Single \_\_\_\_\_

2 WERKGEWER - EMPLOYER  
 (i) Naam/Name \_\_\_\_\_  
 (ii) Adres/Address \_\_\_\_\_  
 Ras van werksman Race of workman \_\_\_\_\_  
 Poskode Postal Code \_\_\_\_\_

3 VERDIENSTE - EARNINGS

	Poskode Postal Code _____	
	Indien per week If paid per week	Indien per maand If paid per month
(a) Loon (uitgesonderd toelaes)/Wages (excluding allowances)		
(b) Lewenskostoelaes /Cost of living allowance		
(c) Ander toelaes (vermeld aard)/Other allowances (specify nature)		
(d) Waarde van vry voedsel/Value of free food		
(e) Waarde van vry huisvesting/Value of free quarters		

4 ONGEVAL - ACCIDENT

(i) Wanneer en waar het die ongeval voorgekom?/When and where did the accident occur? Datum Date \_\_\_\_\_ Tyd Time \_\_\_\_\_ Plek Place \_\_\_\_\_

(ii) Wat het die werksman op daardie tydstip gedoen en hoe het dit plaasgevind?/What was the workman doing at the time and how did it occur?

(iii) Gee 'n volledige beskrywing van die aard en omvang van die besering/  
Describe in detail the nature and extent of the injury

(iv) (a) Het iemand die ongeval sien gebeur?/Did anybody see the accident happen? Naam/Name \_\_\_\_\_ Adres/Address \_\_\_\_\_  
 (b) Het iemand anders op daardie tydstip geweet dat dit gebeur het?/Was any other person aware of its occurrence at the time? Naam/Name \_\_\_\_\_ Adres/Address \_\_\_\_\_

5 (a) As die ongeval die DOOD van die werksman ten gevolge gehad het, moet onderstaande inligting betrefende sy naasbestaendes ten behoeve van wie die eis ingestel word, verstrek word./If the accident resulted in the DEATH of the workman, the following information relating to his dependants, on whose behalf the claim is made, should be given.

Volle Naam/Full Name	Adres/Address	Datum van geboorte Date of birth	Verwantskap met werksman Relationship to workman

(b) In die geval van alle ANDER ongevallen, moet die onderstaande inligting betrefende die naasbestaendes van die werksman verstrek word./In the case of all OTHER accidents, the following information should be furnished in regard to the next-of-kin of the workman:

Volle Naam/Full Name	Adres/Address	Verwantskap/Relationship

6 Skadeloosstelling ingevolge die Ongevallewet, 1941, word hierby geëis ten opsigte van die ongeval wat hierin beskryf is./Compensation in terms of the Workmen's Compensation Act, 1941, is hereby claimed in respect of the accident described above.

DATUM/DATE \_\_\_\_\_

WCL3

Handtekening van eiser of persoon wat ten behoeve van hom optree  
Signature of claimant or person acting on his behalf.

## **Problems after the submission of a claim**

One hopes that the problem is over once all the forms have been completed. But in many respects, this is only the beginning and this has to be fully explained to workers when submitting a claim. Some of the problems experienced are listed below:

- Claims can take up to two years before they are processed. this delay often causes increased hardship for workers who may well be unemployed and in need of medical care. It is important to note that medical costs are refunded only if the claim is accepted, but until such time, the costs have to be borne by the worker (or doctors).
- Money may stop coming after the compensation has been awarded. One reason for this is that the Commissioner's office may require a copy of the birth certificate; it can save a lot of time and effort if this documentation is submitted along with the claim.
- Migrant workers face particular problems
  - Bureaucratic problems in relation to receipt of benefit.
  - Occupational lung diseases in particular have a long latency period. These workers may live in the "homelands" where health services are patchy. Though health professionals there might have a high index of suspicion for TB, a low index may well exist for occupational lung diseases.
  - Workers who have been diagnosed as having occupational diseases may well be lost to follow-up.

## **Extending the range of scheduled occupational diseases**

The number of diseases in the Second Schedule are relatively few. Notable omissions are TB, Chronic Obstructive Airways Disease (COAD) (compensatable on the mines), occupational asthma, and occupational cancer, in particular lung cancer.

It appears that the only way to extend the existing list is to submit cases to the Commissioner. If a number of cases with the same disease and proposed aetiology are submitted, the Commissioner is required to hold an enquiry to assess whether it should be included on the Schedule. This would undoubtedly make it easier for the claimant as well as the health professional.



## THE SECOND SCHEDULE: OFFICIAL LIST OF COMPENSATABLE OCCUPATIONAL DISEASES

DESCRIPTION OF DISEASE	DESCRIPTION OF OCCUPATION
Ankylostomiasis (hookworm) in workmen other than Asiatics or Blacks .. .. .	Mining carried on underground.
Anthrax .. .. .	The handling of wool, hair, bristles, hides and skins. Work in connection with animals infected with anthrax. Loading, unloading or transport of goods.
Arsenical poisoning .. .. .	Any work involving the use of arsenic or its preparations or compounds.
Poisoning by benzene or its homologues and their nitro and amino derivatives and its sequelae	Any work involving the production or use of or contact with benzene or its homologues or their nitro and amino derivatives.
Cyanide rash .. .. .	The handling of cyanide or any work involving the use of cyanide.
Dermatitis due to dust, liquids or other external agents present in the specific process or processes of the workman's occupation .. .. .	
Halogen derivatives of hydro-carbons, poisoning by the	Any work involving the manufacture or use of or contact with the halogen derivatives of hydro-carbons.
Lead poisoning or its sequelae .. .. .	The handling of lead or its preparations or compounds or any work involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelae .. .. .	Any work involving the use of mercury or its preparations or compounds.
Pathological manifestations due to radium and other radioactive substances or X-rays	Any work involving the use or exposure to the action of radium or other radioactive substances or X-rays.
Phosphorus poisoning .. .. .	Any work involving the use of phosphorus or its preparations or compounds.
Silicosis, asbestos or other fibrosis of the lungs caused by mineral dust	Any occupation (other than a "dusty atmosphere" as defined in the Pneumoconiosis Act, 1956), in which workmen are exposed to the inhalation of silica dust, asbestos dust or other mineral dust.
Primary epitheliomatous cancer of the skin ..	Any work involving the handling or use of tar, pitch, bitumen, mineral oil or paraffin.
Manganese poisoning .. .. .	Any work involving the use or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of or substance containing manganese.
Byssinosis .. .. .	Any occupation in which a workman is exposed to the inhalation of cotton or linen dust.
Mesothelioma .. .. .	Any work which involves the handling or use of asbestos or exposing the workman to asbestos dust caused by the use of asbestos in connection with the employer's business.

(Workmen's Compensation Act, 1941; Second Schedule)



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