DEPARTMENT OF LABOUR

NO. 1217 **09 NOVEMBER 2018**

REGULATION ON IOD/OD DOCUMENTS TO BE PROVIDED BY EMPLOYERS TO COMPENSATION FUND IN ADMINISTRATION OF CLAIMS ADJUDICATION PROCESSES AS PER SECTION 6A (b) AND 40(1) OF THE COIDA

Under section 6A (b) and 40 (1) of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993). I Vuyo Mafata, Compensation Commissioner, hereby publish the regulation on IOD/OD documents to be provided by employers to Compensation Fund in administration of the COID Act on claims adjudication processes as per section 38, 39 & 43 and 65 & 68 of COIDA. To inform all Employers and employees of the primary documents needed for the registration, adjudication and processing of IOD/OD claims which will improve the turn-around time and finalization of the claims as indicated I section 40(2) of the COIDA.

The regulation will take effect on the date of publication.

VUYO MAFATA

COMPENSATION COMMISSIONER

DATE: 06/09/2018

This gazette is also available free online at **www.gpwonline.co.za**

DEFINITION OF INJURY ON DUTY/OCCUPATIONAL DISEASE (IOD/OD)

An unexpected occurrence, at a specific date, time and place and arising out of and in the course of the employee's employment, resulting in personal injury or death, or when an occupational disease is contracted due to exposure at the workplace.

1. Registration of a claim:

The employer is responsible to register all accidents with the Compensation Fund within seven (7) days of receiving notice of the accident or 14 days in the case of an occupational disease. Section 38, 39 and 43 has reference to an IOD and Section 65 and 68 in the case of an OD claim.

All documents related to an IOD and OD should be kept safe and must be provided on request.

1.1 Documents required for reporting an Injury on duty (IOD):

- A duly completed Employer's Report on an Accident (W.Cl. 2) (Electronic or manual)
- Valid identity (Certified) information issued by the Department of Home Affairs (Including Foreigners) Identity document, driver's license, passport, birth certificate, work permit
- Relevant questionnaires related to the specific incident, if and where applicable. E.g. transport questionnaire, assault questionnaire

1.2 Documents required for reporting an Occupational disease:

- A duly completed Employer's Report on an Occupational Disease (W.Cl. 1) (Electronic or manual)
- Valid identity information issued by the Department of Home Affairs (Including Foreigners) Identity document, driver's license, passport, birth certificate, work permit
- Notice of an Accident and Claim for Compensation (W.Cl. 14) must be completed (more specifically in the case where the employee is not in the service of the employer anymore)
- Relevant questionnaires/report related to the specific condition, if and where applicable

2. Adjudication Process:

The above information and reports are critical in the adjudication process (determining whether the injury or disease is related to work as per the definition of an Injury on Duty/Occupational Disease), the adjudication process will result to:

- Liability accepted (accept liability for the payment of compensation and medical expenses)
- Liability not accepted (where outstanding information/reports are required by CF) legal opinion with regards to timeframe refer to Section 40(2), (4) and (5)
- Repudiated (where the incident/condition is not work related)
- Under-investigation (where there are suspected misstatements of information) clear process and timeframe

This gazette is also available free online at www.gpwonline.co.za

2.1 Documents/reports required to adjudicate upon liability of a claim:

2.1.1 Injury on duty (IOD):

- First Medical Report (W.Cl. 4) or a valid medical report with a full clinical description by a medical practitioner registered in terms of the Health Professions Act and registered with the relevant medical association(s)
- For claims related to Post Traumatic Stress claims, a First Medical Report by a Psychiatrist (W.Cl. 303) is required
- Any other medical report or comments/information should be provided which can have an influence on the consideration of liability of a claim.
- In the case of Needle prick/exposure to blood injuries by health workers: Pathologist reports

2.1.2 Occupational disease (OD):

- First Medical Report (W.Cl. 22) and/or valid medical report with a full clinical description by a medical practitioner registered in terms of the Health Professions Act and registered with the relevant medical health council including practice number.
- First Medical Report (W.Cl. 303) in the case of Post Traumatic Diseases claims by a Psychiatrist health council including practice number.
- Notice of an Accident and Claim for Compensation (W.Cl. 14) must be completed (Employee report to employer)
- Any other medical reports or comments/information should be provided which can have an influence on the consideration of liability of a claim.
- Work exposure reports
- Medical Report detailing the symptoms & clinical features
- Industrial History (W.Cl.110)
- Biopsy / Histology Results / Cytology Report where necessary
- Radiologist reports confirming a diagnosis, Chest X-Ray reports
- Lung Function tests in the case of a lung condition
- Laboratory Investigations confirming the diagnosis
- In the case of Noise Induce Hearing Loss:
  - Baseline audiograms, pre-employment report (Medical Services advice on adjudication) and exposure report.
  - Two diagnostic audiograms.
  - Ear, Nose and Throat Specialist Report (ENT) where necessary
- In the case of Repetitive Strain injuries:
  - A detailed description by the employer of the specific work that the employee does, including number of repetitious movements involved and force required in the movements, and time exposed to these and other factors predisposing to the development of WRULDs.

This gazette is also available free online at www.gpwonline.co.za

- A full medical report detailing symptoms and signs and a specific diagnosis, together with reports of any special investigations that support the diagnosis, together with detail of treatment administered and / or planned.

3. Benefits management:

The adjudication process must have been completed and liability must have been accepted before the processing of any benefits commences.

In all cases where a benefit is payable, the Compensation Fund will require the banking details of the beneficiary. Please note that the documents submitted, must be original/certified documents, not older than three months.

Employers individually liable in terms of Section 84 (1) (a) of the Act are all National and Provincial spheres of government, local authorities and certain Municipalities which are exempted of paying annual assessments and do they not submit any banking details or that of their employees.

Banking details of all other employers are required and in the case where an employee is entitled to a benefit payable to them.

3.1 Banking detail documents required:

The following banking details are required by the beneficiary and must not be older than three months and must be the ORIGINAL documents:

- W.Ac. 33 in respect the banking details, by the beneficiary, duly completed, dated and signed
- Confirmation of proof of residence (Municipal account etc.).
- Copy of the first page of the bank statement's indicating the name of the bank account holder, address and bank account number or a letter by the bank confirming the details of the holder of the bank account.
- Recent certified copy of the beneficiary's ID document.

4. Medical aid:

Section 73 (1) of the COID Act allows the medical service provider to administer treatment and stabilize the patient for a period up to a maximum of two years (twenty-four (24) months) and the service provider(s) must submit monthly Progress Medical Reports and the Final Medical Report as soon as the condition stabilizes.

All Provincial departments and Exempted Municipalities are responsible to pay for all medical bills claims where liability has been accepted by the Fund. Medical invoices must be processed in accordance to the tariffs as published in the relevant Government Gazettes. Add Public Service Act and SAP Act, Correction Service Act & Defence act

This gazette is also available free online at **www.gpwonline.co.za**

5. Re-opening of claims:

In terms of Section 73(2) the case where further medical treatment after the condition became stabilized, is necessary and which will reduce the disablement of an employee, the claim may be re-opened upon receipt of a report from the treating doctor. Once authorization has been given, the Fund will pay medical expenses for the treatment and may pay further compensation.

6. Awarding a Claim and different types of benefits:

Compensation is based on the earnings as at the time of the accident or date of diagnosis (including minimum and maximum earnings) as published in the relevant Government Gazette related to the specific date of accident and year.

6.1 Temporary Total Disablement (TTD and **Temporary Partial Disablement (TPD)** – performing light duty during period of recuperation:

TTD is payable when an employee was booked off from 3 days by the treating doctor to recuperate from the injuries/condition in respect of the occupational diseases suffered at the time of the accident/diagnosis.

PLEASE NOTE THAT EXEMPTED EMPLOYERS ARE EXCLUDED FROM PAYING TTD/TPD BENEFITS TO THEIR EMPLOYEE'S

6.1.1 Documents/information required for processing TTD/TPD benefits:

- Pay slip of the employee's earnings as at the time of accident/diagnosis. In the case where the employee is earning allowances of a regular nature, these allowances should also be indicated – please refer to Section 63 of COIDA.
- Duly completed, dated and signed Resumption Report (W.Cl.6) by the employer indicating the period the employee was off duty as a result of the accident/occupational disease and the amount of advances paid during this period.
- In the case where the employee is not in the service of the employer anymore or where the employer is not claiming benefits on behalf of the employee, the employee needs to submit a duly completed, dated and attested Affidavit (W.Cl. 132) claiming compensation. This needs to be submitted on a monthly basis until the employee's condition stabilizes.
- Progress Medical Reports (W.Cl. 5P) indicating the treatment administered and period(s) the employee is unfit for work, including Operation reports, if applicable.
- As soon as the employee's condition stabilizes, a Final Medical Report (W.Cl. 5F) indicating the date on which the employee was fit to return to work or the date on which the employee's condition has stabilised, should be submitted.

This gazette is also available free online at **www.gpwonline.co.za**

- Where the employee is off duty for a prolonged period due to injury(ies) a Progress Medical Report (W.Cl.5) should be submitted on a monthly basis together with the Resumption Report (W.Cl. 6) until the employee's condition stabilizes.

6.2 Permanent Disablement: (PD)

PD is payable when the employee has a permanent anatomical defect/and or impairment of function as a result of an accident/occupational disease. It can only be assessed when employee's condition has become stabilized and on the submission of a Final Medical Report or any other medical report confirming that the employee's condition stabilized.

A lump sum payment is payable when the PD is between 1% and 30% and when the PD % is higher than 30%, the employee will be entitled to the payment of a monthly pension, which will be paid until the date of death of such employee.

PERMANENT DISABLEMENT (LUMP SUMS AS WELL AS MONTHLY PENSIONS) FOR EXEMPTED EMPLOYEE'S ARE BEING PAID THROUGH THE GPAA, COMPENSATION FUND ISSUES AN AWARD.

6.2.1. Documents/information required for processing PD benefits:

- Pay slip of the employee's earnings as at the time of accident/diagnosis. In the case where the employee is earning allowances of a regular nature, these allowances should also be indicated – please refer to Section 63 of COIDA.
- Final Medical Report (W.Cl. 5F)
- Additional reports such as Hand Report (W.Cl 31), Foot Report (W.Cl. 221) or an Eye Report (W.Cl.52)
- Occupational Therapist Report, duly completed, dated and signed by the therapist and confirmed by the treating doctor/specialist.
- Final Medical Report by the Psychiatrist (W.Cl. 304) for PTSD claims
- Final Medical Report (W.Cl.26) for Occupational Diseases
- Final Medical Report (W.Cl.26) with the most recent lung function tests, which includes pre- and post-administration of a bronchodilator, and medication prescribed.
- Two diagnostic audiograms for claims where the employee has suffered hearing loss

6.2.2 Calculation of PD lump sum

This gazette is also available free online at **www.gpwonline.co.za**

PD is calculated on the earnings as at the time of the accident/death

6.3 Fatal Claims:

In the case where an employee dies as a result of an accident or their deaths are as a result of injuries that had been sustained from an IOD/OD, a pension becomes payable to the surviving spouse(s) and dependent children under the age of 18 at the time of death.

6.3.1 The following documents are required to consider payment of compensation to the dependents of the deceased:

- Pay slip of the employee's earnings as at the time of accident/diagnosis. In the case where the employee is earning allowances of a regular nature, these allowances should also be indicated – please refer to Section 63 of COIDA.
- Death certificate indicating the cause of death or the Notice of death/post mortem citing the cause of death presumption of death from the Department of Home Affairs if the body could not be found
- Marriage certificate or Customary Union Certificate
- Un-abridged birth certificates of children under the age of 18 and in the case of disabled children, who can claim beyond the age of 18.
- Duly completed, dated and signed declaration by dependant Widow/widower/guardian (W.CL.32) attested by a Commissioner of Oaths,
- Notice of Accident and Claim for Compensation (W.CL.3/14), page one and two,
- Certified copy of the widow/widower's ID document,
- Specified Burial Expenses Account (W.Cl.46) with receipt(s) if paid.

6.4 Commutation of pensions:

In terms of Section 52/60 of the Act, the DG may direct the payment of a lump sum or a portion thereof upon receipt of an application by the pensioner. This forms part of the discretionary powers of the DG and the payment of such lump sum shall be subject to the control of the DG.

Commutation of the pension of a child may not be considered.

COIDA BENEFITS DO NOT FORM PART OF A DECEASED'S ESTATE-SECTION 34.

VUYO MAFATA

COMPENSATION COMMISSIONER

DATE: 06/09/2018

This gazette is also available free online at **www.gpwonline.co.za**