

# COMPENSATION FOR DECEASED MINERS AND EX-MINERS



## INFORMATION



Department of Health



NATIONAL INSTITUTE FOR OCCUPATIONAL HEALTH



NATIONAL HEALTH  
LABORATORY SERVICE



*The meanings of words underlined in the text are given at the bottom of the page.*

### **What is this document? Who is it for?**

This document was developed to make current miners, ex-miners, their families and communities aware of the right of miners and ex-miners to have their lungs and heart submitted for examination after they die. These examinations are done to determine the presence of compensable lung diseases which may occur as a result of working on the mines.

### **Why has this document been written?**

According to laws of South Africa, that is, the Occupational Disease in Mines and Works Act of 1973 (ODMWA), anyone who has been exposed to risk work while working on the mines or classified works, has the right to have his or her lungs and heart examined after death. It does not matter what the cause of death is. According to this law, it is the duty of the last doctor who attends to the deceased person to arrange for the removal of the lungs and heart.

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- Compensation is the payment of money for injury to health as a result of performing risk work.
  - An ex-miner is anyone who has ever worked on a mine and has left the mines.
  - A compensable lung disease is a disease of the lungs that is related to the work that a miner does and for which a miner can receive compensation.
  - ODMWA is the Act of government that governs the lifelong monitoring and surveillance of miners for compensable occupational lung diseases.
  - Risk work includes work done underground and on some surface works such as reduction plants and laboratories.
  - A classified work is any place that is not a mine or part of a mine that is covered by ODMWA.

## **Why is there compensation and what diseases are compensated?**

On the mines, workers may be exposed to dust (e.g. silica dust), fibers (e.g. asbestos fibres) and/or fumes (e.g. diesel fumes). These are inhaled (breathed in) and may cause damage to the lungs. With time, the damaged areas may get bigger and eventually take up a lot of space in the lungs, making it difficult for the lungs to work normally.

While working on the mines, miners have regular medical examinations (check ups). In retirement, ex-miners have benefit medical examinations. Many tests are done during these examinations. Damaged areas of the lung (if present) may show up on a chest X-ray. However, sometimes the damage is not seen on the X-ray. The best way to see if damage has occurred is by examining the lung itself. This can only be done after a person has died.

## **Which diseases are considered for compensation?**

Compensation may be given for:

- pneumoconiosis (silicosis, asbestosis and coal workers pneumoconiosis)
- tuberculosis
- joint tuberculosis and pneumoconiosis (phthisis)
- obstructive airways disease (emphysema) and
- asbestos-related lung cancer and mesothelioma

Besides the presence of disease, there are other requirements that must be met for the disease to be considered compensable, such as, severity of disease, length of service, etc.

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## **Definitions of compensable lung diseases:**

**Silicosis** is a lung disease which develops after prolonged exposure to silica (quartz) dust

**Pneumoconiosis** is fibrosis and scarring of the lungs caused by long-term inhalation of dust such as silica, asbestos and coal dust.

**Pulmonary tuberculosis (PTB)** is an infection of the lungs by a bacterium (germ) called Mycobacterium tuberculosis causing progressive wasting of the body.

**Mesothelioma** is a form of cancer which is usually associated with previous exposure to asbestos. It grows in the pleura, which surrounds the lungs

**Emphysema** is a lung disease in which the air sacs (spaces) in the lung are enlarged and damaged, making it difficult to breathe

**Lung cancer** is caused by the uncontrolled growth of cells in the lung giving rise to a tumour

## Who examines the lungs?

Doctors in the Pathology Division at the National Institute for Occupational Health (NIOH) examine the lungs and hearts on behalf of the Medical Bureau for Occupational Diseases (MBOD). About 2000 postmortem examinations are done each year, resulting in benefit payments to many families.

## Who gives permission for the lungs to be examined?

The lungs and heart of a deceased miner will only be removed if the miner had given consent while alive or if his relatives do this after his death.

Consent is given in writing by the signing of a consent form.

The signed consent form, together with other documents and the lungs and heart, are sent to the NIOH for examination.

**NB. Without a signed consent form, the lungs and heart will not be examined.**

The NIOH consent form is provided on the following page.

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- A postmortem is that which is done after death.
  - Consent is the granting of permission to have a person's lungs removed and submitted for examination.

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## CONSENT FOR A POST-MORTEM EXAMINATION

I \_\_\_\_\_  
\*myself or the spouse / major child / parent / guardian / major brother / major  
sister (\* Delete whichever is not applicable)

Name of miner/ deceased miner \_\_\_\_\_

ID number \_\_\_\_\_ Age \_\_\_\_\_ Sex \_\_\_\_\_

hereby consent to a post-mortem examination and the removal of such tissues as may be considered necessary for the purpose of the requirements of the Occupational Diseases in the Mines and Works Act (No. 78 of 1973) and for diagnostic, medical education, research and scientific purposes.

Signature \_\_\_\_\_

Witness 1 \_\_\_\_\_

Witness 2 \_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

## How are the lungs and heart sent to the NIOH?

When a miner or ex-miner dies, the family can ask a doctor to arrange for the removal of the lungs and heart of the person.



The lungs and heart are removed from the body and are put into a special liquid (formalin) so that they will be preserved (kept 'fresh'). The lungs and heart are then placed in red containers and sent to the NIOH in Johannesburg for examination. For miners and ex-miners who die in and around Johannesburg, the bodies can be sent to the NIOH for the lungs and heart to be removed.

## Who pays for the examination of the lungs and heart?

The MBOD receives money from government to pay for the removal and examination of the lungs and heart.

## Who decides if the disease is compensable?

The doctors at the NIOH write a report on each case. It is sent to the MBOD where the Certification Committee studies the report, the service (occupational) history and any previous certification of the deceased. The Committee decides if the disease in the lungs is compensable according to ODMWA.

The findings of the Certification Committee are given in a compensation certificate which states whether or not the deceased had an occupational lung disease and how bad it was (that is, severity)

There are three categories of findings:

- i) no compensable lung disease, where no disease is found;
- ii) first degree disease, where the damage to the lungs (cardiorespiratory disability) is between 10 and 40% and
- iii) second degree disease, where the damage is more than 40%.

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- Certification is a process that verifies or a document that states that a deceased miner has or does not have an occupational lung disease

## **Who is responsible for compensation payments?**

The compensation certificate is sent to the Compensation Commissioner for Occupational Diseases in Johannesburg who then pays out money to the family of the deceased.

### **Please note:**

- 1. Not every case that is examined qualifies for compensation.**
- 2. Compensation is only paid if there is compensable occupational lung disease.**

## **Why is it that every miner does not develop an occupational lung disease?**

Exposure to mining dust, fumes and fibers does not always result in the development of occupational lung diseases, even if a person has worked on the mines for many, many years. On the other hand, some people work on the mines for a short time and develop severe disease at a young age. This is because people respond differently to agents that cause disease.

## What can you do now?

- I i. Make sure that you understand all that is written in this booklet.

For more information please contact

The Pathology Division (NIOH) on:  
Tel: 011 712 6519 or 011 712 6444  
Fax: 011 712 6450

the MBOD on Tel: 011 403 6322

- ii. Discuss the information in this booklet with your relatives and friends.
  - iii. Make sure that they understand what they must do in the event of your death.
  - iii. Let your relatives know if you want to have your heart and lungs examined when you die. If you do, make sure that they understand what they must do.
- 2 If you are a miner or ex-miner and would like to have your heart and lungs examined and would like to give consent now:
    - i sign the consent form and place it in a safe place,
    - ii let a relative or friend that you trust know where you keep your signed consent form and
    - iii ask this person to take the consent form to the doctor, hospital or undertaker **before burial** in the event of your death.
- 3 If a member of your family or friend, who has worked on the mines passes away:
    - i Let the family know that the deceased has the right to have his heart and lungs examined for possible compensation.
    - ii If the family would like to have the deceased's heart and lungs examined they must inform the doctor, hospital or undertaker of their wishes and ask for their assistance **before burial**.
    - iii A close relative of the deceased will be required to sign a consent form.



## **FOR MORE INFORMATION**

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