



Compensation for deceased miners and ex-miners

According to the Occupational Diseases 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 Act it is the duty of the last doctor who attends to the deceased person to arrange for the removal of the lungs and heart.

On the mines, workers may be exposed to dust (e.g. silica dust), fibres (e.g. asbestos fibres) and/or fumes (e.g. diesel fumes). These are inhaled and may cause damage to the lungs. In time, the damaged areas may enlarge 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 (checkups). 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)
- 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, and length of service.

Definitions of compensable lung diseases

Silicosis is a lung disease that 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 called *mycobacterium tuberculosis*, causing progressive wasting of the body.

Mesothelioma is a form of cancer that 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 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).

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 relatives do this after his or her 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.

Who pays for the examination of the lungs and heart?

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

Who decides if the disease is compensable?

The pathologist at the NIOH writes a report on each case, which is sent to the MBOD where the Certification Committee studies it, together with the service (occupational) history and any previous certification awarded to the deceased. The Committee decides if the disease in the lungs is compensable according to the ODMWA.

The findings of the Certification Committee are provided in a compensation certificate that states whether or not the deceased had an occupational lung disease and how severe it was.

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 (cardio-respiratory disability) is 10% to 40%; and
- iii. Second degree disease, where the damage is more than 40%.

Who is responsible for compensation payments?

The compensation certificate is sent to the Compensation Commissioner for Occupational Disease in Johannesburg, who then pays 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.

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 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.

For more information, contact the NIOH at +27 (0)11 712 6519/6444.

Report by: Dr Lindi Mokwena
Occupational Medical Practitioner
Kriel Occupational Health Centre
e-mail: doctor@krielhealthcentre.co.za