

COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, NO. 130 OF 1993

South Africa National Acts

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COMPLIANCE PROGRAM: COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, NO. 130 OF 1993 (New Amendments included)

HEALTH AND SAFETY

COIDA - Compensation for Occupational Injuries and Diseases Amendment Act, 2022

Understanding the implications of the **Compensation for Occupational Injuries and Diseases Amendment Act, 2022**, is crucial for guiding organizations and employers toward compliance. This Act, assented to by the President on April 6, 2023, introduces significant changes to the existing framework, impacting various aspects of employer responsibilities. Here's a concise breakdown of the key areas that will affect organizations and the steps employers need to take:

1. Expanded Definitions and Coverage

The Act broadens the definitions of key terms such as "accident," "compensation," and "employee." Notably, domestic employees are now included under the Act, and employers must report or submit claims for accidents involving domestic workers within three years of the Act's commencement. Advisors should ensure their clients update employment contracts and policies to reflect these changes.

2. Employer Registration and Record-Keeping

Employers must register with the Compensation Fund and provide detailed information about their employees, including earnings and other prescribed particulars. Records must now be retained for **five years** (previously four years). Failure to comply may result in penalties of up to **10% of annual assessments**. Advisors should ensure their clients maintain accurate and accessible records, both manually and electronically, and train staff on compliance requirements.

3. Rehabilitation and Reintegration

The Amendment introduces a dedicated framework for **rehabilitation and reintegration** of employees who suffer from occupational injuries or diseases.

This is outlined in the newly added **Chapter VIIA** of the Act.

The Act mandates employers, licensees, and the Compensation Fund to provide rehabilitation services for employees suffering from occupational injuries or diseases. These services include clinical, vocational, and social rehabilitation. Advisors should work with organizations to establish rehabilitation programs and ensure compliance with these new obligations.

Here's how the Act addresses rehabilitation:

Obligation to Provide Rehabilitation

The Act mandates the **Compensation Fund**, employers individually liable, and licensees to provide facilities, services, and benefits aimed at rehabilitating employees. The goal is to help employees return to work or reduce any disability resulting from their injuries or diseases.

Types of Rehabilitation Benefits

Rehabilitation benefits under the Act are categorized into three main types:

- **Clinical Rehabilitation:** Includes physical and psychological recovery services, as well as the provision of assistive devices to reduce disabilities caused by occupational injuries or diseases.
- **Vocational Rehabilitation:** Focuses on helping employees maintain employment, regain employment, or acquire vocational independence.
- **Social Rehabilitation:** Aims to restore an employee's independence and social integration to the maximum extent practicable.

Psychosocial Support

The Act explicitly includes **psychosocial support** as part of the rehabilitation process. This support is provided after an occupational injury or disease and forms part of clinical, vocational, and social rehabilitation services.

Compliance and Enforcement

Employers are required to comply with the rehabilitation provisions, and inspectors appointed under the Act are empowered to monitor and enforce compliance. Non-compliance may result in penalties.

Advisor's Role

Advisors should assist organizations in:

- Establishing rehabilitation programs that meet the Act's requirements.
- Ensuring employees are aware of their rights to rehabilitation services.
- Preparing for inspections and compliance checks related to rehabilitation.

In summary, the Act emphasizes the importance of rehabilitation as a key component of employee recovery and reintegration, ensuring that injured workers receive the necessary support to return to work and regain independence.

4. Compliance and Enforcement

The Act introduces a new chapter on **inspection, compliance, and enforcement**. Inspectors appointed by the Commissioner have the authority to conduct workplace inspections, issue compliance orders, and enforce adherence to the Act. Employers must cooperate fully with inspectors and address compliance orders within the specified timeframe. Advisors should prepare organizations for potential inspections and ensure they understand their rights and obligations during such processes.

5. Penalties for Non-Compliance

The Act replaces criminal penalties with administrative penalties for non-compliance with sections such as record-keeping, reporting accidents, and deducting unauthorized amounts from employee earnings. Penalties can range from **10% of annual earnings** to fines equal to the full amount of compensation payable. Advisors should emphasize the importance of proactive compliance to avoid financial repercussions.

6. Changes to Claims and Compensation

The Act extends the prescription period for lodging claims from **12 months to three years**. Employers must ensure that employees are aware of their rights to file claims within this time frame. Additionally, the Commissioner now has the authority to review pension claims or awards to reassess permanent disablement. Advisors should assist employers in updating their processes for handling claims and communicating these changes to employees.

7. Contractors and Sub-Contractors

The **Amendment Act, 2022** introduces specific requirements for **contractors** and **sub-contractors** under **Section 89**, which outlines their obligations regarding registration and payment of assessments to the Compensation Fund. Here's a detailed breakdown of these requirements:

Registration and Payment of Assessments

- **Sub-contractors** are required to register as employers with the **Compensation Fund** and pay the necessary assessments for their employees who are involved in executing work under the agreement with the contractor.
- If a sub-contractor fails to register or pay assessments, the employees of the sub-contractor will be **deemed employees of the contractor**. In such cases, the contractor becomes responsible for paying the assessments for those employees.

Recovery of Costs

- If a contractor pays assessments or compensation for which they would not have been liable except for the sub-contractor's failure to comply, the contractor has the right to **recover those costs** from the sub-contractor.

Liability for Accidents

- A contractor is **not liable** for accidents that occur at locations outside the premises where the contractor undertook to execute the work or at places not under the contractor's control or management.

Commissioner's Authority

- The **Commissioner** has the discretion to recover compensation directly from the sub-contractor instead of the contractor. If the full amount cannot be recovered from one party, the **shortfall can be recovered from the other**.

Key Compliance Steps for Contractors

As an advisor, you should guide contractors to:

Ensure Sub-Contractor Registration: Verify that all sub-contractors are registered with the Compensation Fund and have paid their assessments.

Include Compliance Clauses in Contracts: Draft agreements with sub-contractors that explicitly require compliance with COIDA, including registration and payment of assessments.

Monitor Sub-Contractor Compliance: Implement processes to regularly check sub-contractor compliance with COIDA requirements.

Prepare for Liability: Advise contractors on the potential financial risks if sub-contractors fail to comply, and ensure they are prepared to cover assessments or compensation if necessary.

Maintain Records: Keep detailed records of agreements and compliance checks with sub-contractors to demonstrate due diligence in case of inspections or disputes.

Conclusion

The Act places liability on contractors for the actions of sub-contractors who fail to register or pay assessments. Contractors may recover these costs from sub-contractors but must ensure compliance to avoid penalties. Advisors should advise clients to review agreements with sub-contractors and implement measures to verify their compliance.

8. Inspection and Compliance Framework

The Act empowers inspectors to monitor and enforce compliance, including issuing compliance orders and conducting investigations. Inspectors can enter premises, question individuals, and review records. Advisors should ensure organizations are prepared for inspections and have protocols in place to address compliance orders promptly.

9. Transitional Arrangements

Employers must address transitional provisions, such as reporting accidents involving domestic employees that occurred before the Act's commencement within three years. Advisors should guide clients in identifying and addressing any historical claims to ensure compliance.

10. Training and Awareness

The Act emphasizes the importance of educating employees and employers about their rights and obligations. Advisors should recommend regular training sessions and updates to ensure all stakeholders are informed about the new requirements.

Conclusion

The Compensation for Occupational Injuries and Diseases Amendment Act, 2022, introduces a comprehensive overhaul of employer obligations, focusing on rehabilitation, compliance, and enforcement. As an advisor, your role is pivotal in ensuring organizations understand these changes, update their policies, and implement robust compliance measures. By proactively addressing these areas, employers can mitigate risks, avoid penalties, and foster a safer and more compliant workplace.

DETAILED BREAKDOWN OF ALL SECTIONS AMENDED IN THE DOCUMENT:

Section 1: Amendment of Section 1 of Act 130 of 1993

- **Definitions:**

- **Accident:** Expanded to include "incident or occurrence" arising out of employment, resulting in injury, illness, disease, or death.
- **Actuary:** Defined as a Fellow of the Actuarial Society of South Africa (previously approved by the Minister).
- **Assessment:** Includes assessments related to rehabilitation under Section 70A.
- **Compensation:** Includes medical costs, constant attendance care allowance, and funeral costs.
- **Dependent of an Employee:** Expanded to include life partners, children under 18, children under 25 receiving tertiary education, and financially dependent individuals.
- **Earnings:** Defined as remuneration under the Income Tax Act, excluding pensions, allowances, or retiring allowances.
- **Employee:** Includes directors, temporary employment services workers, and domestic employees in private households and dependents of deceased employees. Excludes military personnel, police officers.
- **Employer:** Includes legal persons, temporary employment services, and those controlling businesses.
- **Rehabilitation:** Introduced to include clinical, vocational, and social rehabilitation measures aimed at reintegration and independence.
- **Other Definitions:** Several terms were deleted or amended, including "chiropractor," "serious and willful misconduct," "mandator," and "person under disability."

Section 4: Amendment of Section 12

- The Board can advise the Commissioner on any aspect of their functions.
- The Board must prepare and adopt a Board Charter within three months of appointment.

Section 5: Substitution of Section 13

- **Term of Office:**
 - Members serve for up to four years and can only serve two terms.
 - Vacancies must be filled for the unexpired portion of the term.
 - Members are entitled to prescribed remuneration and allowances.

Section 6: Insertion of Sections 13A, 13B, and 13C

- **Section 13A:** The Commissioner must provide resources and a secretariat for the Board.
- **Section 13B:** Disqualifications for Board members include insolvency, mental illness, dishonesty-related convictions, removal from office for misconduct, or conflicts of interest.
- **Section 13C:** Members may resign with notice or be removed by the Minister for misconduct, incapacity, absence, or undermining activities.

Section 7: Repeal of Section 14

- Section 14 of the principal Act is repealed.

Section 8: Amendment of Section 16

- Adds provisions for:
 - Rehabilitation for work-related injuries and diseases.
 - Psychosocial support as part of rehabilitation services.
 - Prescribed remuneration for Board members, Commissioner, and staff of the Compensation Fund.

Section 9: Amendment of Section 17

- The Commissioner must ensure the assets and liabilities of the Compensation Fund are valued at least every three years by an appointed actuary.

Section 10: Amendment of Section 18

- The Commissioner may transfer funds from the Compensation Fund to the Public Investment Corporation for investment.

Section 11: Amendment of Section 20

- The Commissioner must maintain accounts and records for the Compensation Fund and prepare annual financial statements.
- Annual financial statements must be submitted to the Minister along with the annual report.

Section 12: Amendment of Section 22

- **Compensation for Misconduct:**
 - Compensation is payable even if the accident is due to serious and willful misconduct.
 - Transportation provided by the employer is deemed part of employment.
 - Transportation begins at the designated pick-up point and ends at the drop-off point.

Section 13: Amendment of Section 23

- **Compensation for Employees Outside the Republic:**
 - Compensation is based on earnings the employee would have received if they had remained in the Republic.
 - Employees temporarily employed in the Republic by foreign employers are entitled to compensation only if the employer has agreed with the Commissioner and paid necessary assessments.

Section 14: Amendment of Section 25

- Compensation is extended to employees undergoing work-related training in furtherance of the employer's business.

Section 15: Amendment of Section 26

- The Commissioner may refuse awards if the employee unreasonably refuses medical aid or rehabilitation programs.

Section 16: Amendment of Section 30

- **License to Carry Out Business of Compensation Fund:**
 - The Minister may issue licenses to legal entities to insure employers against liabilities to employees under the Act.
 - Licensees must deposit securities with the Compensation Fund to cover liabilities.
 - Licensees are accountable to the Minister.

Section 17: Amendment of Section 32

- Compensation may be paid to a court-appointed curator.

Section 18: Amendment of Section 36

- The Road Accident Fund is not considered a third party from which the Compensation Fund can recover damages.
- Employees involved in road accidents outside the course of employment are not entitled to compensation under the Act.

Section 19: Amendment of Section 39

- Employers who fail to comply with reporting requirements face penalties of 10% of annual earnings or the full amount of compensation payable plus interest.

Section 20: Amendment of Section 40

- The Commissioner must investigate accidents to determine liability.
- Employers who fail to comply face penalties of 10% plus interest on actual earnings declared.

Section 21: Amendment of Section 41

- Employees must provide prescribed information and documents when reporting accidents.
- If an employee obtains a medical report at their own cost, the Commissioner must reimburse the expenses if the report is accepted.

Section 22: Amendment of Section 42

- Employees must submit to medical examinations and rehabilitation if required.
- Costs for medical examinations or rehabilitation are paid by the party requiring them.

Section 23: Amendment of Section 43

- The heading is changed to "Lodging of claim for compensation."

Section 24: Substitution of Section 44

- The right to benefits lapses if an accident is not reported within three years of its occurrence.

Section 25: Amendment of Section 45

- Subpoenas may be issued for persons with sufficient interest in formal hearings.
- Records of formal hearings must be kept, and copies can be obtained upon payment of prescribed fees.

Section 26: Amendment of Section 46

- Only legal practitioners as defined in the Legal Practice Act, 2014, may claim fees or remuneration for representation.
- The Commissioner may order legal practitioners to submit statements of fees for taxation.

Section 27: Substitution of Heading to Chapter VI

- The heading is changed to "Determination and calculation of compensation and assessment of disablement."

Section 28: Amendment of Section 47

- Employers who fail to pay compensation for the first three months are liable to penalties.

Section 29: Amendment of Section 48

- **Termination of Disablement Compensation:**
 - Compensation ceases when an employee is declared medically fit to resume work or starts another job with the same or greater earnings.

Section 30: Amendment of Section 49

- **Review of Pension Claims:**
 - The Commissioner may review pension claims or awards at any time to reassess permanent disablement.
- **Subsection Removed:**
 - Subsection (4) is deleted.

Section 31: Insertion of Section 49A

- **Commencement of Monthly Pension:**
 - Monthly pension payments begin from the date a medical practitioner certifies that the employee has reached maximum medical intervention.

Section 32: Amendment of Section 54

- **Compensation for Employee Death:**
 - If an employee dies due to an occupational injury or disease, compensation is payable as specified in the Act.

Section 33: Amendment of Section 56

- **Engineers and Assistants:**
 - Updates the definition of engineers and assistants in charge of machinery.
- **Application of Rules:**
 - Sections 6, 7, 45, 46, and 93D apply to applications under this section.
- **Costs:**
 - Costs in proceedings under this section are subject to the provisions of Section 46(7).

Section 34: Amendment of Section 57

- **Increase in Monthly Pensions:**
 - The Minister may increase monthly pensions after consulting the Commissioner and the Board.
 - Notice of the increase must be published in the Gazette at least 30 days before implementation.

Section 35: Amendment of Section 59

- **Payment of Compensation:**
 - Compensation may be paid to the Master of the High Court, a trustee, or another person as determined by the Commissioner.

Section 36: Substitution of Section 64

- **Prohibition on Employer Deductions:**
 - Employers are prohibited from deducting or receiving any amount from employees to compensate themselves for liabilities under the Act.

- **Penalties:**

- Employers who violate this provision are liable to penalties as specified in subsection (2).

Section 37: Amendment of Section 65

- **Occupational Diseases:**

- Diseases listed in Schedule 3 must arise out of and during employment to qualify for compensation.
- The Commissioner may approve medical costs for other diseases delaying recovery or prolonging disablement.
- The commencement date of a disease is deemed to be the date of the first diagnosis or an earlier date if favorable to the employee.

Section 38: Substitution of Section 67

- **Calculation of Compensation for Diseases:**

- Compensation is calculated based on the employee's earnings at the time of disease commencement or an earlier date if proven favorable to the employee.
- If the employee is no longer employed, earnings are calculated based on what they would likely have earned if still employed.

Section 39: Amendment of Section 69

- **Amendment of Schedule 3:**

- The Minister may amend Schedule 3 (description of diseases and work) after consulting the Board and medical advisory panel chairpersons.
- Notice of amendments must be published in the Gazette at least 60 days before implementation.

Section 40: Amendment of Section 70

- **Performance of Functions:**

- The Commissioner may remove a person from their role if they are unable to perform their functions satisfactorily.

Section 41: Insertion of Chapter VIIA

- **Rehabilitation and Reintegration:**
 - The Compensation Fund, employer, or licensee must provide facilities, services, and benefits for rehabilitating employees with occupational injuries or diseases.
- **Rehabilitation Benefits:**
 - Clinical rehabilitation: Physical and psychological recovery, assistive devices.
 - Vocational rehabilitation: Employment assistance, vocational independence.
 - Social rehabilitation: Restoring independence and social integration.

Section 42: Amendment of Section 72

- **Conveyance of Injured/Diseased Employees:**
 - The Commissioner, employer, or licensee may pay reasonable costs for conveyance.
 - Employers failing to comply with conveyance requirements face penalties equal to the full cost of conveyance.

Section 43: Amendment of Section 73

- **Reopening Claims:**
 - Medical practitioners may apply to reopen claims and request payment for further medical costs after a claim is finalized.
- **Third-Party Registration:**
 - Third parties transacting with the Compensation Fund must register within six months of the Act's commencement.
 - Third parties include entities assisting employees, employers, medical service providers, or pensioners with claims processing.

Section 44: Amendment of Section 74

- **Medical Reports:**
 - Medical practitioners must provide employees or their dependents with copies of medical reports upon request.

Section 45: Amendment of Section 75

- The Commissioner decides on the need, nature, and sufficiency of medical aid.

Section 46: Amendment of Section 76

- **Medical Aid Tariffs:**
 - Tariffs for medical aid are determined after consultation with the Health Professions Council of South Africa and registered Medical Associations.

Section 47: Amendment of Section 78

- **Reimbursement to Employers:**
 - The Commissioner may reimburse non-individually liable employers for costs incurred or reduce their assessments.

Section 48: Substitution of Section 79

- **Consultation with Medical Authorities:**
 - The Commissioner may consult with the Health Professions Council of South Africa, registered Medical Associations, and other medical authorities regarding medical aid matters.

Section 49: Amendment of Section 80

- **Employer Registration:**
 - Employers must register with the Compensation Fund and provide details of their business and employees.
 - Non-resident persons or legal entities must provide their head office address and chief officer's name and address in the Republic.

Section 50: Substitution of Section 81

- **Record-Keeping:**
 - Employers must keep records of employee earnings and other prescribed details for at least five years.
 - Failure to comply results in penalties of up to 10% of annual assessments.

Section 51: Amendment of Section 83

- **Adjustments to Assessments:**

- The Commissioner may adjust assessments if actual earnings differ from estimated earnings.
- Penalties of 10% may be imposed for discrepancies.

Section 52: Amendment of Section 85

- **Rebates for Employers:**

- Employers with favorable accident records or those participating in rehabilitation programs may receive rebates on assessments.

Section 53: Substitution of Section 86

- **Payment of Assessments:**

- Employers must pay assessments to the Compensation Fund within 30 days of notice or in installments approved by the Commissioner.
- Interest is payable on overdue assessments at a rate not exceeding the prescribed standard rate.

Section 54: Amendment of Section 87

- **Penalties for Non-Payment of Assessments:**

- Employers failing to pay assessments may face a penalty of 10% of actual or estimated earnings for the year or on the outstanding amount.
- Employers failing to register employees or pay assessments may face penalties equal to the full amount of compensation payable for accidents.
- The Commissioner may waive penalties in whole or in part if the failure was not willful or due to circumstances beyond the employer's control.
- Employers refusing or failing to pay assessments or penalties are liable to a penalty of 10% of actual or estimated earnings for the year.
- The Commissioner may handle employer non-compliance under Sections 93F and 93G.

Section 55: Amendment of Section 88

- **Contributions by Employers and Licensees:**
 - Employers individually liable and licensees must pay annual contributions to the Compensation Fund for administrative expenses and losses incurred by the Fund.

Section 56: Substitution of Section 89

- **Contractors and Sub-Contractors:**
 - Sub-contractors must register as employers and pay assessments for their employees.
 - If a sub-contractor fails to register or pay assessments, their employees are deemed employees of the contractor, who must pay the assessments.
 - Contractors who pay assessments or compensation for sub-contractors may recover those amounts from the sub-contractor.
 - The Commissioner may recover compensation from either the contractor or sub-contractor, and any shortfall can be recovered from the other party.
 - Contractors are not liable for accidents occurring outside their premises or areas under their control.

Section 57: Amendment of Section 90

- **Variation of Decisions:**
 - The Commissioner may vary decisions related to claims or awards for compensation either on their own accord or upon application by the affected party.
 - Notice must be given to the affected party, and they must be allowed to submit representations.

Section 58: Amendment of Section 91

- **Objections and Appeals:**
 - The period for lodging objections against the Commissioner's decisions is extended to 12 months (previously 180 days).
 - Objections are heard by a presiding officer and three assessors (one representing employees, one representing employers, and one medical assessor).
 - At least two assessors must agree with the presiding officer's decision.

- The Commissioner may extend the objection period by six months if good cause is shown.

Section 59: Insertion of Chapter XA

- **Inspection, Compliance, and Enforcement:**

- **Appointment of Inspectors:**

- The Commissioner may appoint inspectors to monitor and enforce compliance with the Act.
- Inspectors are provided with certificates detailing their authority and functions.

- **Functions of Inspectors:**

- Promote compliance, conduct inspections, investigate complaints, issue compliance orders, and perform other related functions.

- **Powers of Entry:**

- Inspectors may enter premises with consent or written authorization from the Labour Court.
- Employers and trade union representatives must be notified of inspections when practical.

- **Powers to Question and Inspect:**

- Inspectors may question individuals, inspect records, copy or remove documents, inspect workplaces, and perform other necessary functions.

- **Cooperation with Inspectors:**

- Employers and employees must cooperate with inspectors and answer questions truthfully.

- **Compliance Orders:**

- Inspectors may issue compliance orders to employers who fail to comply with the Act.
- Compliance orders may be converted into court orders by the Labour Court if employers fail to comply.

Section 60: Amendment of Section 97

- **Additional Regulations:**

- The Minister may make regulations regarding:
 - Rehabilitation, reintegration, and return to work.
 - Inspection, compliance, and enforcement.
 - Determination and calculation of permanent disablement.
 - Appointment of assessors, presiding officers, and interpreters.

Section 61: Substitution of Section 99

- **Penalties:**

- Any person failing to comply with Sections 39, 40, 47, 64, 68, 81, 82, and 83 is liable to penalties as specified in those sections.

Section 62: Substitution of Certain Expressions

- **Terminology Updates:**

- "Airman" replaced with "air personnel."
- "Commissioner" replaces "commissioner."
- "Compensation Fund" replaces "compensation fund."
- "Commissioner" replaces "Director-General," except in specific sections (1, 18, 30, 50, 55, and 69).
- "Labour Court" replaces "provisional or local division of the Supreme Court."
- "Labour Appeal Court" replaces "Appellate Division of the Supreme Court."

Section 63: Transitional Arrangements

- **Domestic Employees:**

- Domestic employees and employers must report or submit claims within three years of the Act's commencement for accidents occurring before the Act's implementation.

- **Existing Licenses:**

- Licenses issued to Mutual Associations under the previous Act remain valid until new agreements are established.

Section 64: Short Title and Commencement

- **Title:**

- The Act is called the **Compensation for Occupational Injuries and Diseases Amendment Act, 2022.**

- **Commencement:**

- The Act takes effect on a date fixed by the President through proclamation in the Gazette.
- Different provisions may commence on different dates.

SECTIONS THAT COME INTO EFFECT AFTER JANUARY 2026

- **1 February 2026:** Sections 3 to 6
- **1 April 2026:** Sections 19(a) and (b), 20(c), 28(c), 36(1), 50(3), 52, 54(1) and (2)
- **Commencement to be announced:** Section 1(g) and (h) in relation to subparagraphs (i), (ii), and (iii) of the definition of 'employee'.

Here are the provisions of the sections referred to:

1 February 2026: Sections 3 to 6

1. **Section 3:** Amendment of Section 11 of Act 130 of 1993

- The Board is appointed by the Minister and consists of:
 - An independent chairperson (non-voting).
 - 16 voting members:
 - 5 members and 2 alternate members nominated by NEDLAC to represent organized labor.
 - 5 members and 2 alternate members nominated by NEDLAC to represent business.
 - 5 members and 2 alternate members appointed by the Minister to represent state interests.
 - The Commissioner as an ex-officio member.
- If a member vacates office before their term ends, the Minister must appoint another member to fill the vacancy for the remainder of the term.
- The Minister may appoint additional Board members with relevant qualifications, skills, and expertise for efficient governance of the Fund.

2. **Section 4:** Amendment of Section 12 of Act 130 of 1993

- The Board may advise the Commissioner on the performance of any aspect of their functions under the Act.
- The Board must prepare and adopt a Board Charter within three months of the appointment of its members.

3. **Section 5:** Substitution of Section 13 of Act 130 of 1993
 - Members of the Board appointed by the Minister:
 - Serve for a term not exceeding four years.
 - Cannot serve more than two terms.
 - Vacancies must be filled by the Minister for the unexpired portion of the term.
 - Members are entitled to prescribed remuneration and allowances from the Compensation Fund.
4. **Section 6:** Insertion of Sections 13A, 13B, and 13C in Act 130 of 1993
 - **Section 13A:** The Commissioner must provide resources and a secretariat to enable the Board to fulfill its functions.
 - **Section 13B:** Disqualifications for Board members include insolvency, mental illness, dishonesty-related convictions, removal from office for misconduct, or conflicts of interest.
 - **Section 13C:** Board members may resign with one month's notice or less with Ministerial approval. The Minister may remove members for serious misconduct, incapacity, absence from three consecutive meetings without cause, or activities undermining the Board's functions. The procedure for removal will be prescribed by the Minister.

1 April 2026: Sections 19(a) and (b), 20(c), 28(c), 36(1), 50(3), 52, 54(1) and (2)

1. **Section 19(a) and (b):** Amendment of Section 39 of Act 130 of 1993
 - Employers who fail to comply with subsection (1) are liable to a penalty of 10% of the actual or estimated annual earnings for that year.
 - Employers who fail to report an accident within seven days may face a penalty equal to the full amount of compensation payable plus interest from the date of the accident.
2. **Section 20(c):** Amendment of Section 40 of Act 130 of 1993
 - The Commissioner must investigate accidents to determine liability under the Act.
 - Employers who fail to comply with the provisions of this section are liable to a penalty of 10% plus interest on actual earnings declared to the Compensation Fund.

3. Section 28(c): Amendment of Section 47 of Act 130 of 1993

- Employers who fail to comply with the requirement to pay compensation for the first three months are liable to a penalty equal to double the full amount of three months' compensation payable plus interest.

4. Section 36(1): Amendment of Section 64 of Act 130 of 1993

- Employers are prohibited from deducting or receiving any amount from employees to compensate themselves for liabilities under the Act.
- Employers who violate this provision are liable to penalties as specified in subsection (2).

5. Section 50(3): Substitution of Section 81 of Act 130 of 1993

- Employers must keep a register or record of employees' earnings and other prescribed particulars for at least five years after the last entry.
- Failure to comply results in a penalty not exceeding 10% of actual or estimated annual assessments for the period of non-compliance.

6. Section 52: Amendment of Section 85 of Act 130 of 1993

- The Commissioner may grant a rebate on assessments paid or payable by employers with favorable accident records or those participating in employee rehabilitation programs.

7. Section 54(1) and (2): Amendment of Section 87 of Act 130 of 1993

- Employers who fail to pay assessments may face a penalty of 10% of actual or estimated earnings for that year.
- Employers who fail to comply with Section 80(1) and have employees involved in accidents may face a penalty equal to the full amount of compensation payable for the accident.

(iii) of the definition of 'employee'

1. Section 1(g) and (h): Amendment of Section 1 of Act 130 of 1993

- The definition of "employee" excludes:
 - (i) Persons performing military service or training under the Defence Act, 2002, who are not members of the Permanent Force of the South African Defence Force.
 - (ii) Members of the Permanent Force of the South African Defence Force.
 - (iii) Members of the South African Police Force employed under the South African Police Service Act, 1995, while on service in defense of the Republic.

These provisions will come into effect on dates announced by the President in the Government Gazette.

EXECUTIVE SUMMARY

The Compensation for Occupational Injuries and Diseases Act (COIDA) provides a framework for compensating employees who suffer injuries, diseases, or death in the course of employment.

This compliance program outlines the Act's applicability, obligations, risks, controls, policies, reporting requirements, and an action plan to ensure adherence to the Act. It aims to mitigate risks, ensure legal compliance, and protect employees and employers.

SECTION-BY-SECTION SUMMARY

1. Chapter I: Interpretation of Act

Defines key terms such as "accident," "employee," "employer," and "disablement."

Key Compliance Point: Understand definitions to correctly identify covered incidents and parties.

2. Chapter II: Administration of Act

Details the roles of the Commissioner and assessors.

Key Compliance Point: Ensure proper delegation and adherence to administrative processes.

3. Chapter III: Compensation Fund and Reserve Fund

Establishes the Compensation Fund and its application.

Key Compliance Point: Employers must register and contribute to the Fund.

4. Chapter IV: Compensation for Occupational Injuries

Outlines employee rights to compensation for injuries or death.

Key Compliance Point: Employers must ensure timely reporting and payment of compensation.

5. Chapter V: Claims for Compensation

Specifies procedures for lodging claims and reporting accidents.

Key Compliance Point: Employers must adhere to reporting timelines and provide necessary documentation.

6. Chapter VI: Determination and Calculation of Compensation

Provides formulas for calculating compensation for injuries and disablement.

Key Compliance Point: Ensure accurate calculation and payment of compensation.

7. Chapter VII: Occupational Diseases

Covers compensation for diseases contracted due to employment.

Key Compliance Point: Employers must report occupational diseases within 14 days.

8. Chapter VIIA: Rehabilitation and Reintegration

Introduces rehabilitation benefits for employees.

Key Compliance Point: Employers must support rehabilitation efforts.

9. Chapter VIII: Medical Aid

Details obligations for providing medical aid to injured employees.

Key Compliance Point: Employers must ensure medical aid is provided and costs are covered.

10. Chapter IX: Obligations of Employers

Requires employers to register, keep records, and furnish returns of earnings.

Key Compliance Point: Maintain accurate records and submit annual returns.

11. Chapter X: Legal Procedures

Provides mechanisms for objections, appeals, and variation of decisions.

Key Compliance Point: Understand legal recourse and procedures for disputes.

12. Chapter XA: Inspection, Compliance, and Enforcement

Introduces inspectors and compliance orders.

Key Compliance Point: Cooperate with inspections and comply with orders.

13. Chapter XI: General Provisions

Includes regulations, penalties, and repeal of previous laws.

Key Compliance Point: Adhere to regulations and avoid penalties.

WHO THE ACT APPLIES TO

- **Employers:** All employers operating in South Africa, including government entities, local authorities, and municipalities.
- **Employees:** All individuals working under a contract of service, apprenticeship, or learnership, including casual workers, directors, and temporary employees.
- **Exemptions:** Certain government employees, military personnel, and police force members are excluded.

COMPLIANCE OBLIGATIONS

1. **Employer Registration:** Register with the Compensation Fund and provide business particulars.
2. **Record-Keeping:** Maintain accurate records of employee earnings and other prescribed details for at least five years.
3. **Reporting:** Notify the Commissioner of accidents within seven days and occupational diseases within 14 days.
4. **Claims Management:** Assist employees in lodging claims within 12 months of the incident.
5. **Compensation Payments:** Ensure timely payment of compensation for injuries, diseases, or death.
6. **Rehabilitation Support:** Provide clinical, vocational, and social rehabilitation services.
7. **Medical Aid:** Cover medical expenses for up to two years post-incident.
8. **Compliance with Inspectors:** Cooperate with inspections and comply with compliance orders.

RISKS AND NON-COMPLIANCE CONSEQUENCES

1. **Penalties:** Fines or penalties for failure to report accidents, maintain records, or pay assessments.
2. **Legal Action:** Liability for compensation claims and potential legal disputes.
3. **Reputational Damage:** Non-compliance may harm the employer's reputation.
4. **Operational Disruption:** Non-compliance may lead to inspections, fines, or legal proceedings, disrupting business operations.

CONTROLS

1. **Internal Audits:** Regular audits of compliance with COIDA requirements.
2. **Training:** Educate employees and management on their rights and obligations under COIDA.
3. **Accident Reporting System:** Implement a system for timely reporting of workplace accidents and diseases.
4. **Record Management:** Use digital tools to maintain accurate employee records.
5. **Compliance Monitoring:** Appoint a compliance officer to oversee adherence to COIDA.

POLICY AND PROCEDURE TO MANAGE COMPLIANCE

1. **Policy:** Develop a COIDA compliance policy outlining employer and employee responsibilities.
2. **Procedure:** Create step-by-step procedures for accident reporting, claims management, and record-keeping.
3. **Training:** Conduct regular training sessions for employees and management.
4. **Emergency Response:** Establish protocols for handling workplace accidents and diseases

LICENSES

- Employers may require a license to carry out the business of the Compensation Fund.
- Ensure compliance with licensing conditions and maintain valid licenses.

REPORTING REQUIREMENTS

1. **Accidents:** Report workplace accidents to the Commissioner within seven days.
2. **Occupational Diseases:** Report diseases within 14 days of notification.
3. **Annual Returns:** Submit returns of employee earnings by March 31 each year.
4. **Medical Reports:** Ensure medical practitioners submit reports within 14 days of examination.

RESPONSIBLE PARTY

- **Advisor/Compliance Officer:** Oversee compliance program implementation.
- **HR Department:** Manage employee records, reporting, and claims.
- **Finance Department:** Ensure timely payment of assessments and compensation.
- **Operations Team:** Implement workplace safety measures and accident response protocols.

COMPLIANCE ACTION PLAN

1. **Step 1: Conduct a Compliance Audit**
 - Review current practices against COIDA requirements.
 - Identify gaps and areas for improvement.
2. **Step 2: Develop Policies and Procedures**
 - Draft and implement policies for accident reporting, claims management, and record-keeping.
3. **Step 3: Train Employees and Management**
 - Conduct training sessions on COIDA obligations and procedures.
4. **Step 4: Establish Reporting Systems**
 - Implement systems for timely reporting of accidents and diseases.
5. **Step 5: Monitor Compliance**
 - Conduct regular audits and inspections to ensure adherence to COIDA.
6. ****Step 6: Address Non-Compliance**

WHAT ARE THE CONSEQUENCES OF NON-COMPLIANCE WITH THE ACT?

The consequences of non-compliance include:

1. Financial Penalties

- Employers who fail to comply with reporting requirements, such as reporting accidents or submitting annual returns, may face fines or penalties. For example:
 - Failure to report an accident within seven days can result in a penalty of up to 10% of the actual or estimated annual earnings of the relevant year.
 - Failure to report occupational diseases within 14 days can lead to fines.
 - Employers who fail to pay assessments to the Compensation Fund may face penalties of up to 10% of the outstanding amount.

2. Liability for Compensation

- Employers who fail to register with the Compensation Fund or pay assessments may be held personally liable for compensation claims made by employees. This includes:
 - Full payment of compensation for injuries, diseases, or death.
 - Covering medical aid costs and funeral expenses.

3. Legal Consequences

- Non-compliance may lead to legal action, including:
 - Prosecution for offences such as failure to report accidents, maintain records, or pay assessments.
 - Imprisonment for up to six months for certain offences, such as making false statements or failing to comply with regulations.

4. Reputational Damage

- Non-compliance can harm the employer's reputation, leading to loss of trust among employees, clients, and stakeholders.

5. Operational Disruption

- Inspections and compliance orders issued by inspectors can disrupt business operations.
- Failure to comply with compliance orders may result in the Commissioner applying to the Labour Court to enforce the order.

6. Increased Financial Burden

- Employers with poor accident records may face higher tariffs of assessment or lose eligibility for rebates.
- The Commissioner may impose additional penalties or fines for repeated non-compliance.

7. Loss of Licenses

- Employers who fail to meet licensing conditions for the Compensation Fund may have their licenses suspended or revoked.

8. Employee Disputes

- Non-compliance may lead to disputes with employees, including objections and appeals against the employer's decisions, which can result in further legal and financial consequences.

9. Criminal Offences

- Employers or individuals who threaten, compel, or influence employees to relinquish their rights under COIDA may be guilty of an offence.
- Making false statements or failing to cooperate with inspectors can also result in criminal charges.

10. Loss of Exemptions

- Employers who fail to comply with COIDA may lose exemptions from assessments or other benefits provided under the Act.

By adhering to COIDA, employers can avoid these consequences and ensure a safe and compliant workplace for their employees.

RISKS ASSOCIATED WITH NON-COMPLIANCE WITH COIDA

1. Financial Risks

- **Fines and Penalties:** Employers may face significant financial penalties for failing to comply with reporting, registration, or payment obligations. For example:
 - Up to 10% of actual or estimated annual earnings for failure to report accidents or submit returns.
 - Penalties for late or non-payment of assessments to the Compensation Fund.

- **Liability for Compensation:** Employers may be required to pay compensation directly to employees for workplace injuries, diseases, or death, including medical aid costs and funeral expenses.

2. Legal Risks

- **Prosecution:** Non-compliance can lead to criminal charges, with penalties including fines or imprisonment for up to six months for certain offences (e.g., making false statements or failing to cooperate with inspectors).
- **Litigation:** Employees or their dependents may initiate legal action against employers for failure to comply with COIDA provisions.

3. Operational Risks

- **Business Disruption:** Inspections, compliance orders, and legal proceedings can disrupt business operations and lead to delays in productivity.
- **Loss of Licenses:** Employers may lose their license to operate under the Compensation Fund if they fail to meet licensing conditions.

4. Reputational Risks

- **Damage to Employer Reputation:** Non-compliance can harm the employer's reputation, leading to loss of trust among employees, clients, and stakeholders.
- **Negative Publicity:** Legal disputes or penalties may attract media attention, damaging the employer's public image.

5. Employee Relations Risks

- **Employee Disputes:** Non-compliance may lead to disputes with employees, including objections and appeals against decisions, which can result in further legal and financial consequences.
- **Loss of Employee Trust:** Failure to provide compensation or medical aid may lead to dissatisfaction and loss of trust among employees.

6. Regulatory Risks

- **Increased Scrutiny:** Non-compliance may result in heightened inspections and monitoring by COIDA inspectors, increasing the risk of further penalties.
- **Loss of Exemptions:** Employers may lose exemptions from assessments or other benefits provided under the Act.

7. Health and Safety Risks

- **Increased Workplace Accidents:** Failure to comply with COIDA may indicate broader issues with workplace safety, leading to higher accident rates and associated costs.
- **Inadequate Medical Aid:** Non-compliance may result in employees not receiving necessary medical aid, leading to prolonged recovery times and potential legal claims.

8. Compliance Risks

- **Failure to Meet Reporting Deadlines:** Missing deadlines for accident reporting, disease notification, or annual returns can result in penalties and legal consequences.
- **Inadequate Record-Keeping:** Failure to maintain accurate records for at least five years can lead to penalties and difficulty in defending against claims.

9. Increased Costs

- **Higher Tariffs:** Poor accident records or non-compliance may result in higher tariffs of assessment, increasing the financial burden on employers.
- **Loss of Rebates:** Employers may lose eligibility for rebates on assessments due to non-compliance.

10. Criminal Risks

- **Offences:** Threatening or influencing employees to relinquish their rights under COIDA, making false statements, or obstructing inspectors can result in criminal charges.

Summary

Non-compliance with COIDA exposes employers to significant financial, legal, operational, reputational, and employee relations risks. These risks can lead to penalties, legal disputes, loss of licenses, and damage to the employer's reputation. Implementing robust compliance measures is essential to mitigate these risks and ensure adherence to the Act.

COMPLIANCE QUESTIONS, MODEL ANSWERS, AND RISK RATINGS

Compliance Question	Model Answer	Risk Rating (Low/Medium/High)
1. Is the employer registered with the Compensation Fund?	Yes, the employer must register with the Compensation Fund within the prescribed period.	High (Non-registration leads to liability for compensation and penalties.)
2. Are annual returns of earnings submitted by the employer on time?	Yes, annual returns must be submitted by March 31 each year, showing accurate employee earnings.	High (Late or non-submission results in fines and penalties.)
3. Are workplace accidents reported to the Commissioner within seven days?	Yes, all accidents must be reported within seven days of the employer becoming aware of them.	High (Failure to report can result in penalties of up to 10% of annual earnings.)
4. Are occupational diseases reported within 14 days of notification?	Yes, employers must report occupational diseases within 14 days of receiving notice from employees.	High (Non-compliance leads to fines and legal consequences.)
5. Are accurate records of employee earnings and other prescribed details maintained?	Yes, records must be kept for at least five years and be available for inspection.	Medium (Failure to maintain records can result in penalties of up to 10% of annual assessments.)
6. Are assessments paid to the Compensation Fund within 30 days of notice?	Yes, assessments must be paid within 30 days or as per agreed instalments with the Commissioner.	High (Non-payment results in penalties and interest charges.)
7. Are employees provided with medical aid for workplace injuries or diseases?	Yes, medical aid must be provided for up to two years or longer if deemed necessary by the Commissioner.	High (Failure to provide medical aid can lead to liability for costs and penalties.)

Compliance Question	Model Answer	Risk Rating (Low/Medium/ High)
8. Are compliance orders issued by inspectors adhered to within the specified time?	Yes, compliance orders must be followed within the time period stated in the order.	High (Non-compliance may result in court enforcement and additional penalties.)
9. Are employees informed of their rights under COIDA?	Yes, employees must be informed of their rights to compensation for workplace injuries or diseases.	Medium (Failure to inform employees can lead to disputes and reputational damage.)
10. Are contractors and sub-contractors registered and compliant with COIDA?	Yes, contractors and sub-contractors must register and pay assessments for their employees.	High (Non-compliance may result in liability for the contractor and penalties.)
11. Are workplace safety measures in place to prevent accidents and diseases?	Yes, the workplace must be designed and managed to minimize risks and prevent accidents.	High (Poor safety measures increase accident rates and financial liability.)
12. Are employees provided with transportation for medical treatment after accidents?	Yes, employers must provide transportation to hospitals or medical practitioners when necessary.	Medium (Failure to provide transportation can result in penalties and liability for costs.)
13. Are objections or appeals against Commissioner decisions handled appropriately?	Yes, objections must be lodged within 12 months, and appeals must follow Labour Court procedures.	Medium (Failure to address objections or appeals can lead to legal disputes.)
14. Are inspectors allowed access to workplace records and premises?	Yes, inspectors must be allowed to inspect records and premises as per COIDA provisions.	High (Obstructing inspectors can result in criminal charges.)
15. Are employees prohibited from contributing to the cost of medical aid?	Yes, employers cannot demand or receive contributions from employees for medical aid costs.	High (Non-compliance is a criminal offence.)

Risk Rating Explanation

- **Low:** Minimal consequences; unlikely to result in significant penalties or legal action.
 - **Medium:** Moderate consequences; may lead to fines, disputes, or operational disruptions.
 - **High:** Severe consequences; likely to result in significant financial penalties, legal action, or reputational damage.
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