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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GENERAL NOTICE

NOTICE 120 OF 2005

**COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASE ACT,
1993 (Act No. 130 of 1993) AS AMENDED.**

**REGULATIONS UNDER THE COMPENSATION FOR OCCUPATIONAL
INJURIES AND DISEASE ACT, 1993 (ACT No. 130 of 1993) AS AMENDED.**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, after consultation with the Compensation Board, hereby make the amendments to the regulations under section 97 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993) as amended.

The amended regulations will take effect on the date of publication hereof and supersedes the previous regulations under section 97 of the Act No. 130 of 1993.



**M M S MDLADLANA, MP
MINISTER OF LABOUR**

11/01/05

REGULATIONS

Calculation of earnings [section 83 (4)]

1. The earnings of an employee shall be the remuneration that he/she receives from his/her employer or that accrues to him/her and includes-
 - (a) the value of any food or quarters or both supplied by the employer;
 - (b) any overtime payment or other special remuneration in cash or in kind of a regular nature or for work ordinarily performed;
 - (c) any other remuneration in cash or in kind to an employee by virtue of his/her contract of service , including commission , cost of living allowance ,and incentive or other bonuses,but does not include-
 - (i) payment for intermittent overtime;
 - (ii) payment for non-recurrent occasional services;
 - (iii) amounts paid by an employer to an employee to cover any special expenses;
 - (iv) ex gratia payments whether by the employer or any other person;
 - (v) travelling and subsistence allowances.

Percentage fine [section 87 (1)]

2. The percentage for the purposes of section 87 (1) of the Act shall be 10%.

Allowances payable under section 6(6):

3. (1) The allowance payable under section 6(6) shall be –
 - (a) the actual cost of public transport or R1, 80 per kilometer in a case of private transport, whichever is the lesser;
 - (b) in respect of pecuniary loss-
 - (i) R120, 00 per day or the amount of the loss, whichever is the lesser;
 - or
 - (ii) in the case of a professional witness, including a medical practitioner or a chiropractor,

R500, 00 per hour or part of an hour with a maximum of R1 500, 00 per day or the amount of the loss, whichever is the lesser.

(c) In respect of subsistence expense incurred-

R120, 00 for every 24 hours and R5, 00 for every full hour thereafter or actual expenses, provided such expense is in the opinion of the Commissioner reasonable.

Remuneration and traveling and subsistence allowances of assessors [Section 8(6)]:

4. (1) In respect of remuneration-

R500, 00 per hour or part of an hour, with a maximum of R1 500, 00 per day for attending a meeting, a hearing or for the investigation of any matter.

(2) In respect of subsistence-

an allowance at R120, 00 for every 24 hours and R5, 00 for every full hour thereafter or actual expenses, provided such expense is in the opinion of the Commissioner reasonable.

(3) In respect of transport-

the actual costs of public transport or R1, 80 per kilometer in a case of private transport, which ever is the lesser.

(4) An assessor shall travel by the most convenient public conveyance, but if the Commissioner is satisfied that the journey cannot be so undertaken, she/ he may authorize the use of private transport against payment of a transport allowance as prescribed by regulation 4 (3).

(5) Where an assessor travels by a route which results in the journey lasting longer or which involves greater travelling and subsistence allowance than was in the opinion of the Commissioner necessary, she/he may reduce a claim for such allowance to such amount that she/he regards as reasonable.

Compensation payable to assessors [section 9 (1)]

5. (1) The compensation payable to an assessor under section 9 (1) of the Act shall be the maximum benefits calculated in accordance with sections 28,47,48,49 and 65 of the Act; and

(2) The benefits in respect of medical aid in accordance with sections 73 and 76.

Remuneration and travelling and subsistence allowances of members of Compensation Board [Section 13(3)]:

6. (1) In respect of remuneration-
- R500, 00 per hour or part of an hour, with a maximum of R1 500, 00 per day for attending a meeting, a hearing or for the investigation of any matter.
- (2) In respect of subsistence-
- an allowance R120, 00 for every 24 hours and R5, 00 for every full hour thereafter or actual expenses, provided such expense is in the opinion of the Commissioner reasonable
- (3) In respect of transport-
- the actual costs of public transport or R1, 80 per kilometer in a case of private transport, which ever is the lesser.
- (4) A member of the Board shall travel by the most convenient public conveyance, but if the Commissioner is satisfied that the journey cannot be so undertaken, she/ he may authorise the use of private transport against payment of a transport allowance as prescribed by regulation 6 (3).
- (5) Where a member of the Board travels by a route which results in the journey lasting longer or which involves greater traveling and subsistence allowance than was in the opinion of the Commissioner necessary, she/he may reduce a claim for such allowance to such amount that she/he regards as reasonable.

Commutation of pension [section 52]

7. The amounts for the purposes of section 52 (1) and (2) (b) shall be R400 and R100 per month, respectively.

Copy of record [section 45(7)]

8. The copy of a record referred to in section 45(7) shall be R0, 50.

Disposal of unclaimed moneys [section 97 (1) (f)]

9. (1) If money owing by an employer individually liable or a mutual association to an employee or his dependant has remained unpaid after three months because it has not been claimed and the person in question has not been traced, the money shall be paid to the Commissioner quarterly under cover of a statement with the necessary particulars.

- (2) (a) If money owing to an employee or his/her dependant has remained unpaid after 12 months because it has not been claimed and the person in question has not been traced, the Commissioner shall cause a notice to be published annually in the *Government Gazette* with particulars of every unclaimed amount of more than R100 and in which any person claiming the amount shall be called upon to submit his/her claim to the Commissioner within one month after the date of the notice.
- (b) If at the expiration of the said month no claim has been submitted or a claim has been submitted but has been rejected by the Commissioner, the said amount shall be paid into the reserve fund.
- (c) Unclaimed amounts of R100 or less shall be retained by the Commissioner for the purpose of section 4 (2) (d).

Moneys payable to medical practitioners [Sections 42(2), 8(4), 52 and 97(1) (b)]

10. (1) The fees payable to medical practitioners for the other services than medical aid rendered in terms of this Act, including the furnishing of a report, shall be –
- (a) in respect of an occupational injury or disease or disablement for the purpose of section 42(2): R1 800, 00
- (b) in respect of an application for the commutation of a pension in terms of section 52 of the Act: The tariff for a consultation in terms of section 76 (2).
- (2) The fees for medical assessors and other medical services for a medical practitioner shall be-
- R600, 00 per hour or part of an hour, with a maximum of R1 800, 00 per day for attending a meeting, a hearing or for the investigation of any matter.
- (3) The travelling allowance payable to a medical practitioner who travels more than 10 kilometers in total from his consulting rooms to examine the employee shall be the actual cost of public transport or R1,80 per kilometer travelled with own transport, which ever is the lesser.

Remuneration and travelling and subsistence allowance of members of medical advisory panels [section 70]

11. A member of a medical advisory panel shall be entitled to the following remuneration and allowances for the performance of his functions:
- (a) in respect of the diagnosis of an occupational disease, the fees are determined under section 76;
- (b) in respect of attendance at a meeting for the purposes of section 70 (1) (b) and (c), the fees payable to an assessor are in terms of regulation 4

Remuneration and traveling and subsistence allowances of presiding officers:**12. (1) In respect of remuneration-**

R600, 00 per hour or part of an hour, with a maximum of R1 800, 00 per day for attending a meeting, a hearing or for the investigation of any matter.

(2) In respect of signed copy of Reasons for Finding when requested-

R400 per hearing.

(3) In respect of subsistence-

an allowance R120, 00 for every 24 hours and R5, 00 for every full hour thereafter or actual expenses, provided such expense is in the opinion of the Commissioner reasonable.

(4) In respect of transport-

the actual costs of public transport or R1, 80 per kilometer in a case of private transport, which ever is the lesser.

(5) In respect of entitlement to claim, cancellations or postponement of hearing, late submission of reasons of finding and claim form –

The Compensation Commissioner shall develop the rules and guidelines for entitlement to claim, penalty for late submission of reasons of findings and cancellation and/or postponement or adjournments.

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