

DOMESTIC WORKERS' COMPENSATION BENEFITS

June 2023

COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASE ACT (COIDA)

COIDA is a law that provides employees compensation for work-related injuries or illnesses. Until recently, Domestic Workers employed in **private homes** were unfairly excluded from the protections of COIDA, which left them vulnerable and without recourse. This changed in April 2023, where Domestic Workers can now **register** and claim **benefits** under COIDA.

CATEGORIES OF PEOPLE COVERED BY COIDA:

1. Employees who suffer from **temporary** disability, who eventually recover from their injury or illness.
2. Employees who suffer from permanent **disability**, who never fully recover from their injury or illness.
3. Claims to **dependents** of employees who passes away due to a work-related incident.
Claims for medical expenses and other necessary costs are also covered for Domestic Workers in COIDA

THE AMENDMENTS THAT APPLY TO DOMESTIC WORKERS:

1. The definition of **"employee"** in COIDA now includes Domestic Workers. The previous version excluded Domestic Workers who work in private homes.
2. The definition of **"dependant** of an employee" has been expanded to include the employee's **life partner**. Regarding children, the age limit for **children** claiming dependant benefits has been raised to 25 years if they are attending tertiary education.
3. The amendments now also recognise the importance of mental and psycho-social well-being by including **post-traumatic stress** disorder as an occupational disease.
4. The amendments provide protection for employees who are injured while being **transported** to or from their workplace or on behalf of the employer. This ensures that workers are covered even during their commute to ensure fair and comprehensive protection.

EMPLOYERS' RESPONSIBILITIES UNDER COIDA

- Employers of Domestic Workers now have a **legal obligation** to register their Domestic Worker with the Compensation Act within the first 7 days of their employment, however, given the recent inclusion of Domestic Workers, employers are required to register **as soon as possible**.
- Employers are required to **contribute** to the fund annually. It's a simple process of completing a Return of Earnings form showing the employee's earnings of the previous year and submitting it to the Compensation Fund.
- When a Domestic Worker suffers and injury, illness or disease as a result of their work, the employer must report the accident by completing the Employer's Report of the Accident (W.Cl.2). complete two forms: W.Cl.2 and W.Cl.4*
- These forms contain vital information, including the worker's name, nature of the injury, and medical progress reports. These forms are necessary for the compensation fund to proceed with a **claim**.
- "Part B" of the W.Cl.2 Form (is a carbon copy of "Part A", page 1). The employer must detach "Part B" to the employee/Domestic Worker, and request them to hand it to the medical practitioner/chiropractor or the hospital concerned. This form is important as it contains all the correct information regarding the employer, the employee's full name and how they were injured. It also shows that the employee was injured at work.

- Section 39 of COIDA requires that the employers must report the accident within **seven (7)** days after having received notice of the accident or having learned in some other way than their employee has been injured.
- When an employee is injured and unable to work, the employer must continue to pay their **salary**.
- This is an essential provision of COIDA. The employer can later claim this amount back from the Compensation Fund. It ensures that injured workers still receive their rightful wages during their **recovery** period.
- Employers will be held accountable for **non-compliance**. If they do not adhere to the provisions of COIDA, they can face fines.
- Furthermore, if an employer fails to report the accident, the medical practitioner can report the case by sending a copy of "Part B" to the Compensation Commissioner. The employer will then be **subpoenaed** to submit Part A.
- The Compensation Fund has an online system, Compeasy, where claims should be registered electronically by the employee or designated person.

HOW TO REGISTER YOUR DOMESTIC WORKER WITH COIDA

Step 1: Complete a **CF-1E Form*** (Application for the registration of the Domestic Worker Employer).

Step 2: Include the following documents:

- A copy of the Identification / Passport / Work Permit for both Employer and Employee
- Proof of the employer's residential address
- A copy of the employment contract

You can submit these documents in 2 ways:

1. Visit the nearest Labour Centre and submit them in person.
2. Email the documents to registrationCF@labour.gov.za or CFCallcentre@labour.gov.za.
3. You can register online through the Department of Employment and Labour's COIDA portal.

HOW TO CONTRIBUTE TO THE COMPENSATION FUND

1. File a Return of Earnings (ROE) report: Once a year, before **31 March**, employers must submit the ROE report to the Commissioner. It shows the employee's earnings from 1 March of the previous year to 28/29 February of the current year.
2. Assessing the payment: The Compensation Fund uses the ROE report and a standard **assessment** formula to determine the amount employers should contribute.
3. Direct payment: Employers make the payment directly to the Compensation Fund as determined by the assessment.

Here is a simple example of how to calculate your annual contribution:

Employers calculate this based on their Domestic Worker's annual earnings. It includes regular payments before deductions, like salaries, overtime, and bonuses (such as Christmas bonuses) If a Domestic Worker is paid R3000 per month, multiply this by 12 to get the annual earnings. Then multiply the total annual earnings by the contribution rate of 1.04%.

R3000 x 12 months = R36,000 Annual Earnings
 R36,000 / 100 x 1.04 = R374,40 Annual Contribution

If your Domestic Worker earns an annual bonus of R1500, add the bonus to the annual earnings:
 R3000 x 12 = R36,000 + R1500 = R37,500
 R37,500 / 100 x 1.04 = R390 Annual Contribution

HOURLY RATES

The National Minimum Hourly Rates for Domestic Workers:

- As of 01 March 2023, the new National Minimum Wage for Domestic Worker is **R25,42** per hour, for each ordinary hour worked.
- This hourly rate does not include additional **allowances** for transport, meals, accommodation, and bonuses. It's important to consider these extras to ensure fair compensation. Every little helps.
- Paying below the National Minimum Wage is a **criminal** offense and by adhering to this law, we're creating a better and more just working environment for our valued Domestic Workers.

WORKING HOURS:

- Ordinary working hours is a maximum of 45 hours per week
- Overtime cannot exceed three hours in any day
- A meal interval of one hour is essential if an employee worked continuously for more than five hours.

EMPLOYEES (DOMESTIC WORKERS) RESPONSIBILITIES UNDER COIDA

(Employees and **Dependants*** of an employee who is fatally injured can also claim compensation.)

If you suffer an injury or illness due to your work, here's what you need to do:

1. In terms of section 38 of COIDA The employee must either **verbally** or in **writing** report the accident to their employer, as soon as possible after the accident happened.
2. Notice may also be given to the **Compensation Commissioner**. Failure to provide notice to the employer, shall not necessarily bar the employee from the right to compensation if it is proven that the employer had knowledge of the accident from any other source at or about the time of the accident.
3. If an employer fails to report the accident, the employee has to complete a Notice of Accident and Claim for Compensation (W.Cl. 3)*.
4. The employee/Domestic Worker must **assist** the employer in obtaining the medical reports as the employee has chosen the doctor, sees the doctor regularly and it is his (the employee's) case that has to be finalised. It is important that the employee must get involved and drive his/her case.

**Definition of dependant of employee who can claim from the fund:*

"dependant (a) a widow of or an widower employee" who means at the time of the accident was ~ married to the employee; 40 (b) a widow or widower who was a party to a marriage according to indigenous law and custom, if neither the husband nor the wife was a party to a subsisting marriage; (c) if there is no widow or widower referred to in paragraph (a) or (b), a woman or man with whom the employee was in the 45 opinion of the commissioner at the time of the accident living as wife or husband; (d) a child under the age of 18 years of the employee or of his or her spouse, and includes a posthumous child, a step-child, an adopted child and an illegitimate child; 50 (e) a child over the age of 18 years of the employee or of his or her spouse, and a parent, a brother, a sister, a half-brother or half-sister, a grandparent or a grandchild of the employee; (f) a parent of the employee or any person who in the opinion of the commissioner was acting in the place of the parent, 55 and who was in the opinion of the commissioner at the time of the accident wholly or partly financially dependent upon the employee;

MEDICAL REPORTS TO BE SUBMITTED TO THE COMPENSATION FUND

Medical reports is vital when liability for the payment of compensation is considered:

1. The employer or doctor must submit the **First Medical Report (W.Cl.4)**. The First Medical Report is important to the Compensation Fund because the Doctor provides a detailed clinical description of the injury or disease.

2. **Progress Medical Reports (W.Cl. 5):** When an employee is receiving prolonged medical treatment and is off duty as a result of injuries sustained in an accident, progress medical reports should be submitted on a monthly basis to the Compensation Fund to ensure that compensation in respect of temporary total disablement is paid timeously.
3. **Final Medical Report (W.Cl. 5)** – should be submitted as soon as the employee’s condition has become stable. The doctor has to describe the impairment of function as a result of the accident, if any, to enable the Fund to assess permanent disablement, if any.
4. The progress and Final Medical Reports are also important, for **further treatment** or the date when you are fit to go back to work, and describes your permanent disablement, if any, as a result of the injury or disease.
5. The treating doctor can now upload your medical report directly onto Compeasy portal.
6. **Resumption Report (W.Cl. 6)** – the form has to be completed by the employer immediately after the employee has resumed work.
7. Where an employee is booked off duty for a lengthy period, interim reports must be submitted.
8. Employee’s banking details form should be submitted – should the claim qualify for any compensation, this form will be used to verify the claimant’s banking details.
It is important that employers should not wait for full documentation before reporting an accident.

WHAT COMPENSATION CAN EMPLOYEES EXPECT?

- Compensation is paid by the Compensation Fund to employees who have been injured on duty to replace loss of wages and/or medical expenses.
- For the first 3 months an employee has been booked off from work, the employer is obliged to pay the employee 75% of their earnings/wages at the time of the accident. If the injury is serious and lasts for the first three months.
- The Employer will claim this money back from the Compensation Fund once the Fund starts paying the employee.
- If an employee is unable to work for more than three months, 75% of their earnings must be claimed directly from the Compensation Fund.

****All forms mentioned here can be received at your nearest Labour Department****