

## LESEDI LOCAL MUNICIPALITY



## OCCUPATIONAL HEALTH & INJURIES ASSISTANCE POLICY

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## 1. OBJECTIVES

Lesedi Local Municipality, as an employer, and its management are committed to ensure, as far as is reasonably practicable, the health and safety of all employees and other person that may be affected by our activities.

## 2. DEFINITIONS

**Accident** – a personal injury, an illness or the death of employee during the course of employment;

**Occupational Disease** – is a disease that has arisen out of and in the course of employment;

**No-Fault Compensation** – Legal rule that an aggrieved party is entitled to compensation without having to prove any other party at fault for the accident;

**Permanent Disability** – includes Total or Partial loss of a limb, impairment of movement of a joint, loss of vision or hearing, restricted lung function, loss of organ.

## 3. POLICY

The compensation for Occupational Injuries and Diseases Act or COIDA came into effect on 01 March 1994. It replaced the old Workmen's Compensation Act (WCA). The Act states that employers must pay a certain amount of money into a central fund each month, which is call the Compensation Fund. If employees are injured at work or contract a disease caused by their work (occupational disease), they get compensated of this fund. The person in charge of this fund is known as the Compensation Commissioner.

Lesedi Local Municipality has designated Health and Safety Representatives and First Aiders to ensure that the requirements of the Occupational Health and Safety Act No 85 of 1993 are met at our place of work.

### 3.1 In addition to Lesedi Local Municipality employees, the following categories of **service providers** that may affect it are also under the Act:

- Temporary Employees who are employed for business purposes; and
- People on Fixed-Term employment

**3.2 Compensation is paid to employees in the following instances:**

- If an employee is injured or dies in an accident arising out of and in the course of his/her work; or
- If an employee gets an occupational disease or dies from such a disease.

**3.3 Employees are compensated for the following eventualities/expenses:**

- Temporary disability;
- Permanent disability;
- Medical expenses;
- Death; and
- Additional compensation.

**3.4 The fund will not compensate employees in the following circumstances:**

- If the employee is put off work for 3 days or less. This is generally covered by sick pay which is different from Workers' Compensation;
- If claims are made more than 12 months after the accident or death;
- If the occupational disease is reported more than 12 months after the diagnosis; or
- If the employee's own misconduct caused the accident. However, if the employee is seriously disabled or dies in the accident and leaves a financial dependent, then the fund will still pay compensation.

**3.5 Compensation for temporary disability**

If employees are injured in an accident arising out of, or in the course of their work, they are entitled to compensation of annual earnings when they are off work. An employee cannot decide to stay off work due to a work injury, without having consulted with a medical practitioner. He/she must be booked off by a medical practitioner.

Temporary disability means that the employee recovers from the accident or sickness. The temporary disability can be total or partial:

- Total means that the employee has to stay completely off work for a while. The compensation for this is  $\frac{3}{4}$  of the monthly wage.
- Partial means that the employee can go to work, but has to do light duty or work fewer hours. If the employee temporarily earns less because of this he/she will get  $\frac{3}{4}$  of the difference between the normal wage and the reduced wage.

If the employee is off of 3 days or less, no compensation is paid. If the employee is off for more than 3 days, then the employee gets compensation for the first 3 days as well. The compensation is paid instead of wages.

The employer will pay the employee compensation for the first 3 months off. If the employee is off for more than 3 months, the Commissioner will take over the payments. The employees will receive periodical payments from the Commissioner until he/she is fit for duty.

Compensation is paid at the rate of 7.5% of employees earning up to a maximum prescribed by the Minister.

The Commissioner will give periodical payments for up to 12 months for temporary disability. If the employee's condition has not improved by then, the Commissioner may decide that the condition is permanent and give compensation for permanent disability. The Commissioner pays all doctors and hospital bills and any medicines needed.

### **3.6 Compensation for permanent disability:**

Permanent disability means that an employee never fully recovers from the injury or sickness. The permanent disability can be total (e.g. the employee is completely paralysed) or partial (e.g. the employee loses a finger).

The compensation for permanent disability is paid either as a pension or a lump sum. If the injury is measured as more than 30 % the employee gets a pension. For a 100% permanent disability, the employee gets 75% of the monthly wage as a pension for life. If the injury is measured as 30% or less, the employee gets a lump sum. For a 30% disability the employee gets a lump sum of 15 times the monthly wage.

An employee who receives compensation for permanent disability is still allowed to work.

The compensation due is calculated as follows:-

Compensation = (earnings x75%) x level of disability (% according to schedule).

If the employee is under the age 26 or working as an apprentice or is involved in a Learnership at the time of the accident, the permanent disability will be calculated on future probable earnings if his/her earnings at the time of the accident was less than the prescribed maximum compensation.

### **3.7 Medical Cost**

The Commissioner is liable for the payment of the reasonable medical costs incurred by the employee as a result of occupational injury/disease for a maximum period of 24 month from the date of injury or diagnosis of disease.

However, this time period can be extended if it can be shown that medical treatment reduces the disability.

The fees payable by the carrier are determined annually once the Compensation Fund has consulted with representative health care provider associations for the medical industry. The prescribed fees are the only fees payable and a health care provider is not permitted to charge a different fee.

### **3.8 Death Benefits**

Compensation shall be payable to the financial dependent/s when an employee dies as a result of an occupational accident/disease.

The no-fault system of compensation shall be the permitted means which will allow the employee to claim compensation without having to sue the employer. Compensation will be calculated according to the schedules in the Act.

### **3.9 ADDITIONAL COMPENSATION**

If the employee considers the compensation inadequate and can prove negligence on the part of their employer, then the employee is entitled to increase compensation. In this case an application for increased compensation has to be lodged with the Commissioner within 24 months of the date of the accident/diagnosis of the disease.

If the accident or disease is the fault of a co-worker (third party) and the employee successfully sues the co-worker, then the compensation fund can claim any compensation paid to the injured employee from the third party.

#### 4. PROCEDURE

##### HOW TO CLAIM COMPENSATION FOR INJURY CAUSED BY A WORK ACCIDENT

STEPS	WHAT THE ACT SAYS	NOTE	FORMS TO BE FILLED IN
1. Employee informs supervisor or employer	The employee can inform the employer or supervisor verbally or in writing as soon as possible	Inform the employer in writing if possible. Make note of all witnesses in case of problems later. Keep a copy of any forms given to the employer.	Notice of Accident and Claim for Compensation-W.CL 2
2. Employer reports accident	Employer must report the accident even if he/she doesn't believe the employee's story.  If the employer refuses to fill in the accident report form, the employee can report the accident to the Commissioner by sending the WCL3 form directly to the Commissioner.  The Commissioner will then contact the employer and instruct him/her to fill in the WCL2 form	The employee should check the following: <ul style="list-style-type: none"> <li>• That all his/her names have been given and are spelt correctly</li> <li>• ID number and company number must be correct</li> <li>• His/her address is correct</li> <li>• The wage stated on the form is correct and includes regular overtime and bonuses. [the employer is not blaming the employee for the accident].</li> </ul>	Employer's Report of Accident-W.CL4
3. Doctor's First Medical Report	Doctor must fill in form WCL4. In this report the doctor says how serious the injury is and how long the employee is likely to be off work. Doctor sends this report to the employer, who then sends it to the Commissioner.	The doctor cannot charge the employee for treatment. The employer is not allowed to deduct medical or transport expenses from the employee's wages. The employee should try to make a copy of the report in case there are problems later.	First Medical report and Account for an accident-W.CL5
4. Doctor's Progress Reports	If the injury will take a long time to heal, the doctor sends in a Progress Report to the Commissioner every month until the condition is fully stabilised	This form is very important because it tells the Commissioner that the employee will be off work for a long time and that monthly payments must be sent to the employee.	Progress Medical Report-W.CL5
5. Final Medical Report	Doctor must fill in form WCL5. In this report the doctor states either that the employee is fit to go back to work or that the employee is permanently disabled. The doctor must send this form to the employer who sends it to the Commissioner.	The doctor must carefully examine the employee before deciding if there is permanent disability or not. The employee must keep a copy of this form.	Final Medical Report-W.CL5
6. Employer sends in the Resumption Report	Employer must fill in form WCL6 and send it to the Commissioner.  The report states when the employee went back to work and how much the employee was paid in compensation.		Resumption Report-W.CL6

**STEPS:**

1. Employee informs supervisor or employer
2. Employer reports accident.
3. Doctor's First Medical Report
4. Doctor's progress Reports.
5. Final Medical Report.
6. Employer sends in the Resumption Report.

**5. POLICY ADOPTION**

This Policy has been considered and approved by the Council of **Lesedi Local Municipality** on this day 28 May 2013.

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I \_\_\_\_\_ Municipal Manager of  
Lesedi Local Municipality acknowledges that this policy was adopted by Council on the  
\_\_\_\_\_ 2013.

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Mr Ayanda Makhanya  
Municipal Manager  
Lesedi Local Municipality

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Date: