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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HEALTH

NO. 8159 **5 November 2026**

INVITATION FOR PUBLIC COMMENTS ON THE DRAFT COMPENSATION FOR OCCUPATIONAL DISEASES IN CONTROLLED MINES AND CONTROLLED WORKS BILL, 2026

I, Dr Pakishe Aaron Motsoaledi, Minister of Health, having obtained Cabinet approval, hereby publish the draft Compensation for Occupational Diseases in Controlled Mines and Controlled Works Bill, 2026 for public comments.

Interested persons are invited to submit any substantiated comments or representation on the proposed Bill to the Director-General: Health, Private Bag x828, Pretoria, 0001 (for the attention of the Director: Public Entities, Ms Mihloti Mushwana, email: ccodbill@health.gov.za within three months of the publication of this Notice.

DR PAKISHE AARON MOTSOALEDI, MP
MINISTER OF HEALTH
DATE: 29/10/2026

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REPUBLIC OF SOUTH AFRICA

COMPENSATION FOR OCCUPATIONAL DISEASES IN CONTROLLED MINES AND CONTROLLED WORKS BILL

(As introduced in the National Assembly (proposed section 76); explanatory summary of Bill published in Government Gazette No. … of …)
(The English text is the official text of the Bill)

(MINISTER OF HEALTH)

[B — 2026]

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BILL

To provide for the establishment, objects and functions of the Controlled Mines and Controlled Works Compensation Authority in order to assess and determine compensation in respect of certain diseases contracted by persons employed in controlled mines and controlled works; to provide for the establishment of the Controlled Mines and Controlled Works Compensation Fund; to provide for the repeal of the Occupational Diseases in Mines and Works Act, 1973 (Act No. 78 of 1973); and to provide for matters incidental thereto.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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CHAPTER I

INTERPRETATION, OBJECTS AND APPLICATION OF ACT

Definitions and interpretation

1. In this Act, unless the context otherwise indicates—

"Authority" means the Controlled Mines and Controlled Works Compensation Authority established in terms of section 4;

"benefit" means money which has been awarded or which is required to be awarded or money which has been paid or which is required to be paid or the payment of money or a claim for the payment of money, as the context may require, to or in respect of a person or to or in respect of the dependents of a person, on the ground that such person was under the previous Act found to be suffering from a compensable disease, or has under this Act been found to be suffering from a compensable disease;

"Board" means the Board of the Authority constituted in terms of section 7;

"cardio-respiratory organs" means all or any one of the following organs, namely larynx, trachea, bronchial tree, lung parenchyma, pleurae, lymphatic system of the lungs, vascular system of the lungs, nerve supply of the lungs, diaphragm and nerve supply to diaphragm, heart, pericardium, and large intrathoracic blood vessels;

"Chief Executive Officer" means the Chief Executive Officer of the Authority appointed in terms of section 13;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"controlled mine" means a mine which was declared as such by the Authority, in terms of section 37;

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"controlled works" means works which was declared as such by the Authority, in terms of section 37;

"compensable disease" includes—

(a) pneumoconiosis;

(b) the joint condition of pneumoconiosis and tuberculosis;

(c) tuberculosis which, in the opinion of the Medical Certification Committee, was contracted while the person concerned was performing risk work, or with which the person concerned was in the opinion of the Medical Certification Committee already affected at any time within the 12 months immediately following the date on which that person performed such work for the last time and is reported by such person;

(d) permanent obstruction of the airways which, in the opinion of the Medical Certification Committee, is attributable to the performance of risk work;

(e) any other permanent disease of the cardio-respiratory organs which in the opinion of the Medical Certification Committee is attributable to the performance of risk work; or

(f) progressive systemic sclerosis which, in the opinion of the Medical Certification Committee, is attributable to the performance of risk work;

(g) lung cancer caused by asbestos, silica, diesel particulate matter or radiation; or

(h) any other disease which, in the opinion of the Medical Director, acting on the advice of the Medical Certification Committee, is attributable to the performance of risk work at a controlled mine or controlled works;

"contractor" means a person who employs persons in connection with the performance of risk work at a controlled mine or controlled works, which he or she has

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undertaken to perform on behalf of the owner of that controlled mine or controlled works;

"**Inspectorate**" means the Inspectorate of the Authority established in terms of section 48;

"**Medical Certification Committee**" means the Medical Certification Committee for Occupational Diseases established in terms of section 26;

"**Medical Director**" means a person appointed in terms of section 15;

"**medical practitioner**" means a person who is registered with the Health Professions Council of South Africa as referred to in the Health Professions Act, 1974 (Act No. 56 of 1974), or an equivalent body where a former-worker in a controlled mine or controlled works ordinarily reside;

"**nursing practitioner**" means a person who is registered with the South African Nursing Council as referred to in the Nursing Act, 2005 (Act No. 33 of 2005), or an equivalent body in a country where a former-worker in a controlled mine or controlled works ordinarily resides;

"**Medical Review Committee**" means the Medical Review Committee for Occupational Diseases established in terms of section 30;

"**mine**" means a mine as contemplated in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

"**Mine Health and Safety Act**" means the Mine Health and Safety Act, 1996 (Act No. 29 of 1996);

"**Minister**" means the member of the Cabinet responsible for health;

"**Occupational Health and Safety Act**" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

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"**occupational disease**" means any disease listed as a compensable disease in terms of this Act;

"**owner**" in relation to controlled mines or controlled works, includes the lessee of the controlled mines or controlled works and any person who has the right, or has, by virtue of any law or any agreement with the owner of the controlled mines or controlled works, acquired the right, to exploit a mine for his or her own benefit or to operate a controlled mine or controlled works for his or her own benefit;

"**PFMA**" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"**pneumoconiosis**" means a permanent lesion, excluding a calcified lesion, of the cardio-respiratory organs caused by the inhalation of dust in the course of the performance of risk work;

"**prescribe**" means to prescribe by regulation and "prescribed" has a corresponding meaning;

"**previous Act**" means the Occupational Diseases in Mines and Works Act, 1973 (Act No. 78 of 1973);

"**risk**" in relation to a mine or works, means the likelihood of contracting a compensable disease, to which persons who perform risk work are exposed to, at or in connection with that mine or works, declared to be a controlled mine or controlled works as contemplated in section 38(1) and for which the owners are liable to pay a levy;

"**risk shift**" means any shift performed at a controlled mine or controlled works during which a person performs risk work, in the course of, or in connection with, the performance of his or her normal duties, or in pursuance of an instruction issued by a person who is duly authorised to issue such an instruction by the owner of the mine in question;

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"risk work" means any work performed in an area of a controlled mine or controlled works where workers are exposed to dust, gases, vapours or chemical substances, that may result in the contracting of a compensable disease;

"the Fund" means the Controlled Mines and Controlled Works Compensation Fund established in terms of section 50;

"this Act" includes any regulation prescribed by the Minister;

"tuberculosis" means tuberculosis of the cardio-respiratory organs of a person who has performed risk work; and

"works" means any place, not being a mine or part of a mine, where any of the following operations and any operation necessary therefor or incidental thereto are carried out and constitute the main operation at such place, namely—

(a) the moving, transfer or handling of stone, rock, ore, coal, or other minerals, including any loading operation at subsidiary sidings;

(b) the crushing, screening, washing, classifying or concentration of any mineral;

(c) the treating of any mineral, in the form obtained from a mine, for the production of coke or for the production of a base metal in any shape or form, including ingots, billets and rolled sections;

(d) the working or treating of mine tailings deposits or mine dumps for the recovery of any valuable content thereof;

(e) the extracting of any precious metal from any mineral or concentrate;

(f) the refining of any precious metal;

(g) the drying or calcining of any source material as defined in the Nuclear Energy Act, 1999 (Act No. 46 of 1999); or

(h) the making, repairing, reopening, or closing of any subterranean tunnel.

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(2) In the event of a conflict in the application or interpretation of this Act and other legislation in place when the Act takes effect except the Constitution and the PFMA, the provisions of this Act prevail.

Objects of Act

2. The objects of the Act are to—

(a) establish the Authority;

(b) provide for medical assessments for purposes of determining the presence of compensable disease;

(c) determine the degree of impairment due to the compensable disease;

(d) provide for the payment of a benefit for a compensable disease;

(e) provide for the collection of levies; and

(f) provide for an Inspectorate for purposes of enforcing and monitoring compliance with this Act.

Application of Act

3. (1) The provisions of this Act apply to persons who, at the commencement of the Act are employed or have previously been employed by the controlled mines and controlled works under the previous Act or contractors performing risk work at these controlled mines and controlled works.

(2) Any other person not covered in subsection (1) is covered by the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 30 of 1993).

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CHAPTER 2

CONTROLLED MINES AND CONTROLLED WORKS COMPENSATION AUTHORITY

Establishment of Authority

4. (1) There is hereby established, a national public entity in terms of the PFMA to be known as the Controlled Mines and Controlled Works Compensation Authority, which—

(a) is a juristic person;

(b) acts only through the Board; and

(c) must perform its functions in a transparent and efficient manner as is appropriate having regard to the nature of the specific functions.

(2) The Board contemplated in subsection (1), is the accounting authority of the Authority and must ensure that it fulfils its responsibilities in terms of Chapter 6 of the PFMA.

Functions of Authority

5. To achieve the objects of this Act, the Authority must—

(a) provide medical assessments, post-mortem examinations and certify compensable diseases for current or former-workers in controlled mines and controlled works;

(b) determine standards for the assessment and certification of compensable diseases;

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(c) collect levies from owners of controlled mines and controlled works as determined by the Minister;

(d) conduct research as approved by the Board for the purposes of investigating matters affecting the health of persons employed by controlled mines or controlled works;

(e) pay benefits for approved claims submitted by persons employed or previously employed by the controlled mines or controlled works,

(f) establish organisational processes and control mechanisms for the regular, appropriate and timeous payment of benefits;

(g) collate data and implement information management systems to give effect to the objects of the Act; and

(h) undertake internal audit and risk management.

Powers of Authority

6. In order to achieve the objects of this Act and to perform the functions outlined in section 5, the Authority must—

(a) employ persons with remuneration and conditions of service determined by the Authority;

(b) purchase or otherwise acquire goods, equipment, land, buildings, and any other kind of movable and immovable property;

(c) sell, lease, mortgage, encumber, dispose of, exchange, develop, build upon or improve, or in any other manner manage, its property;

(d) identify, develop, promote and facilitate the implementation of best practices in respect of the efficient and equitable delivery of claims services to users;

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(e) manage risks that the Authority is likely to encounter; and

(f) ensure fraud prevention within the Authority.

Composition, nomination and appointment of Board members

7. (1) The Board consists of 13 members appointed by the Minister, as follows:

(a) one member with a tertiary qualification in economics, financial matters or accounting;

(b) one member with actuarial science expertise registered with the Actuarial Society of South Africa;

(c) one member with legal expertise who is registered with the Legal Practice Council;

(d) one member who is a registered medical practitioner with special knowledge in occupational health;

(e) three members nominated by and representing the owners of controlled mines and controlled works;

(f) two members nominated by and representing trade unions registered in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995) in the mines and works sector;

(g) one member nominated by and representing former-workers in the mines and works sector;

(h) the Medical Director of the Authority by virtue of his or her office, with no voting rights;

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(i) the Chief Financial Officer of the Authority by virtue of his or her office, with no voting rights; and

(j) the Chief Executive Officer of the Authority by virtue of his or her office, with no voting rights.

(2) Before appointing members of the Board contemplated in subsection (1), the Minister must publish a notice in the *Gazette* and in national print or electronic media, inviting nominations for the persons to be appointed to the Board as contemplated in subsection (1).

(3) If the Minister receives no nominations or an insufficient number of nominations or ineligible nominations within the period specified in the notice referred to in subsection (2), the Minister may either readvertise or in any transparent manner appoint the suitably qualified members to the Board as contemplated in subsection (1)*(a)* to *(e)*.

(4) *(a)* The Minister must appoint an *ad hoc* panel comprising of three members, of whom at least two shall be persons with experience in occupational health, to consider and make recommendations to the Minister on the nominations received.

(b) The panel must submit a report of the recommended candidates, together with the list of nominees received, and supporting documents to the Minister for consideration of appointment to the Board.

(5) Subject to subsection (6), after considering the list of recommended nominees contemplated in subsection (2), the Minister must—

(a) appoint the recommended members to the Board, and

(b) publish the names of the appointed members by notice in the *Gazette.*

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(6) When appointing the Board, the Minister must adhere to, amongst others, the following:

(a) The appointments must be based on merit determined by an assessment of the objects, functions and the operations of the Authority;

(b) the Board must be broadly representative of the South African people including representation according to race, gender, and disability;

(c) the Board must be composed of members with the requisite competencies and experience to execute their fiduciary duties;

(d) ethics, good governance and leadership;

(e) the rule of law; and

(f) the independence of the Board.

(7) A member of the Board—

(a) must be a South African citizen and a person with knowledge and experience relevant to the objects and governance of the Authority;

(b) must act impartially, in good faith and without fear, favour or prejudice and in accordance with the Constitution and other applicable law;

(c) must, before, he or she assumes office, declare any business, commercial or financial activities undertaken for financial gain that may raise a possible conflict of interest with the Authority; and

(d) may not place himself or herself under any financial or other obligation to any individual or organisation that might seek to influence the performance of any function of the Board.

(8) The Minister must, subject to guidelines issued by National Treasury, determine the remuneration of the members of the Board.

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(9) At least three months before the expiry of the term of office of the members of the Board, the Minister must invite nominations for members to be appointed for the forthcoming term of office in accordance with subsection (2).

(10) *(a)* member of the Board holds office for a period of five years and is eligible for re-appointment but must not serve for more than two terms.

(b) *ex officio* board members are excluded from the provisions of paragraph *(a)*.

Chairperson and vice-chairperson of Board

8. (1) The Minister must appoint a chairperson and vice-chairperson of the Board from the members of the Board, except members appointed in terms of section 7(1)*(h)* to *(j)*.

(2) Whenever the chairperson of the Board is absent or unable to perform his or her functions as chairperson, the vice-chairperson must act as chairperson and, if the vice-chairperson is absent or unable to act as chairperson, the members must designate another member of the Board to act as chairperson until the chairperson or vice-chairperson is available.

(3) Any person acting as chairperson of the Board in terms of subsection (2) must perform all the functions of the chairperson.

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Functions and powers of Board

9. (1) The Board—

(a) must carry out the functions and exercise the powers assigned to it by this Act;

(b) must fulfil the function of the accounting authority as required by the PFMA;

(c) is accountable to the Minister; and

(d) may generally take any other steps and perform any other acts as may be necessary for or conducive to the achievement of the implementation of this Act.

(2) The Board must advise the Minister on any matter concerning—

(a) the management and administration of the Fund including operational, financial, and administrative policies and practices; and

(b) the implementation of this Act.

(3) The Board must, upon request by the Minister—

(a) furnish the Minister with information or a report in respect of any matter or subject dealt with by the Authority; and

(b) provide the Minister with reasons for any decision taken by the Authority, the Board, the Chief Executive Officer, or any other employee of the Authority.

Disqualification from membership of Board, vacation of office by member, removal of member from Board and dissolution of Board

10. (1) A person may not be appointed as a member of the Board if that person—

(a) is not a South African citizen and ordinarily resident in the Republic;

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(b) is an un-rehabilitated insolvent;

(c) has at any time been convicted of an offence involving dishonesty, whether in the Republic or elsewhere, and sentenced to imprisonment without the option of a fine;

(d) has been removed from an office of trust;

(e) is an employee of the Authority other than a member contemplated in section 7(1)*(h)* to *(j)*; or

(f) is disqualified in terms of section 69 of the Companies Act, 2008 (Act No.71 of 2008).

(2) A member of the Board must vacate his or her office if he or she—

(a) becomes disqualified in terms of subsection (1) from being appointed as a member of the Board;

(b) submits his or her resignation to the Minister in writing;

(c) is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);

(d) has, without the leave of the Board, been absent from more than two consecutive meetings of the Board;

(e) ceases to be ordinarily resident in the Republic;

(f) ceases to be a member of the sector or constituency that nominated the member in terms of section 7(1)*(e)* to *(g)*;

(g) failed to disclose interests; or

(h) is elected as a member of Parliament, a provincial legislature or any municipal council.

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(3) If a member of the Board vacates his or her office in terms of subsection (2), the Minister may, subject to section 7, appoint a person to fill the vacancy for the remainder of the period for which that member was appointed.

(4) The Minister may after due enquiry remove a Board member from office on account of misconduct or inability to perform his or her duties efficiently.

(5) The Minister may, after due inquiry dissolve the Board for failure to perform its duties in terms of the Act.

(6) The Minister must, within 21 days of the dissolution of the Board, appoint an interim Board to assume the responsibility of the Board until a new Board is constituted in accordance with section 7.

(7) The Minister must appoint at least three persons as the Interim Board provided that the Interim Board must not function for more than 180 calendar days.

Meetings of Board

11. (1) The Board must meet at least four times per year excluding any special meetings.

(2) A quorum for a meeting of the Board is the majority of its voting members.

(3) A decision by the majority of the members of the Board present at any meeting constitutes a decision of the Board and in the event of an equality of votes, the member presiding as chairperson at the meeting has a casting vote in addition to his or her deliberative vote.

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(4) A decision taken by the Board or an act performed under the authority of the Board is not invalid by reason only of a vacancy on the Board, or that a person who is not entitled to sit as a member of the Board sat as a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the members of the Board who were present at the time and entitled to sit as members.

(5) Minutes of the proceedings of every meeting of the Board must be prepared and kept for record purposes.

(6) Minutes of the proceedings of each meeting must be submitted at the next meeting of the Board and, if approved, must be confirmed by the signature of the chairperson or other member presiding as chairperson thereat and may, when so confirmed, be evidence in a court of law of the proceedings of the first-mentioned meeting.

(7) A member of the Board must, upon appointment, submit to the Minister and the Board a written statement in which it is declared whether or not that member has any direct or indirect financial interest which could reasonably be expected to compromise the Board in the performance of its functions.

(8) A member of the Board may not be present, or take part in, the discussion of or the taking of a decision on any matter before the Board in which that member or his or her family member, business partner or associate has a direct or indirect financial or personal interest.

(9) A member of the Board who contravenes or fails to comply with the provisions of subsections (7) and (8) is guilty of misconduct and commits an offence.

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Committees of Board

12. (1) The Board may, to assist it in the performance of its functions, appoint—

(a) one or more committees consisting of Board members; and

(b) expert advisory committees consisting of members other than members of the Board, and determine how the committees must function.

(2) The Board may at any time dissolve or reconstitute any committee contemplated in subsection (1).

Appointment of Chief Executive Officer

13. (1) The Board must, after consultation with the Minister, appoint a fit and proper and suitably qualified South African citizen as the Chief Executive Officer of the Authority.

(2) The Chief Executive Officer holds office for a term of five years and may be reappointed for one additional term of five years.

(3) The appointment of a person as the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Board.

(4) The Board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.

(5) The Board may, after consultation with the Minister, remove the Chief Executive Officer from office on account of misconduct, incapacity or

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incompetence, after affording him or her reasonable opportunity to be heard and subject to applicable legislation.

(6) If the Chief Executive Officer is unable to perform his or her functions, or during a vacancy in the office of Chief Executive Officer, the Board must, after consultation with the Minister, designate another employee of the Authority to act as Chief Executive Officer.

(7) No person may be designated as an acting Chief Executive Officer for a period longer than 180 calendar days.

Functions and powers of Chief Executive Officer

14. (1) The Chief Executive Officer—

(a) is the administrative head of the Authority;

(b) is responsible for the proper and diligent implementation of the PFMA; and

(c) must appoint suitably qualified persons as employees of the Authority in accordance with an organisational structure and on terms and conditions approved by the Board.

(2) As administrative head of the Authority, the Chief Executive Officer is responsible for—

(a) general administration of the Authority and for carrying out any function assigned to the Authority by this Act;

(b) the formation and development of internal rules and directives for an efficient administration;

(c) the issuing of guidelines; and

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(d) the exercise of any such powers and performance of any such duties as may be delegated or assigned to him or her by the Board.

Appointment of Medical Director

15. The Chief Executive Officer must, in consultation with the Board appoint, a Medical Director, who must be a medical practitioner registered with the Health Professions Council of South Africa, and who must exercise the powers and perform the functions conferred upon or assigned to him or her by this Act or by the Board under this Act.

Functions and powers of Medical Director

16. (1) The Medical Director is charged with the direction and control of all medical operations and functions provided for in this Act, including—

(a) post-mortem examinations;

(b) medical assessments;

(c) appointment and oversight of the Medical Certification Committees and Medical Review Committees;

(d) development of guidelines and standards for medical assessments and certification of compensable diseases; and

(e) the provision of administrative support to the Risk Committee.

(2) The Medical Director may in writing authorise—

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(a) a suitably qualified employee of the Authority to issue or sign any certificate or any other document, which in terms of this Act is required to be issued or signed by the Medical Director; and

(b) employees of the Authority to perform any function or exercise any power of the Director.

(3) The Medical Director may require any person to submit to him or her, periodically or otherwise, and at such times as he or she may direct, any information available to such person, which the Medical Director considers necessary for the effective performance of his or her functions, or to submit to him or her or his or her nominee any document, electronic or otherwise in the possession or under the control of such person, which contains or is suspected to contain any such information, and may examine and make copies of or take extracts from any such document.

(4) The information contemplated in subsection (3) may be given in the form of a sworn declaration by the person furnishing such information.

(5) The Medical Director may, by notice in writing signed by him or her, require any person to appear before him or her at a time and place specified in the notice, to be interrogated or to produce any document referred to in subsection (3), and may administer an oath or affirmation to and question any person appearing before him or her, whether in pursuance of any such notice or otherwise.

(6) Nothing contained in this section must be construed as empowering the Medical Director to require any person to furnish any information or produce any document, which that person is by law prohibited from disclosing or producing or which is privileged in terms of any law, and the legal rules relating to privilege as applicable to a witness summoned to give evidence or produce any document in civil proceedings in a court of law, must apply in connection with the

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interrogation of any person required to appear as contemplated in this section, and in connection with the production of any, document or information, which he or she is to produce in terms of such a requirement.

Appointment of Chief Financial Officer

17. The Chief Executive Officer must, in consultation with the Board appoint a suitably qualified person as a Chief Financial Officer, who must exercise powers and perform functions conferred upon or assigned to him or her by this Act or by the Board under this Act.

General functions of Chief Financial Officer

18. (1) The Chief Financial Officer or in his or her absence the acting Chief Finance Officer is directly accountable to the accounting authority and must assist the accounting authority in discharging of his or her duties as per the requirements of this Act and the PFMA.

(2) The Chief Financial Officer must specifically perform the following functions for the Authority:

(a) manage the funds of the Authority;

(b) impose penalties for failure to pay levies;

(c) recover money due to the Authority;

(d) invest money in terms of the PFMA and National Treasury guidelines;

(e) prepare budgets and financial statements;

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(f) facilitate payments of benefits under this Act, including international transfers; and

(g) enter upon places, perform reviews and carry out inspections and investigations in terms of the provisions of this Act.

Delegation of functions

19. (1) The Board may, subject to such conditions as it may determine, delegate in writing to the chairperson, any member or committee of the Board or the Chief Executive Officer any function entrusted to the Board under this Act.

(2) The Chief Executive Officer, Medical Director or Chief Financial Officer may delegate in writing to an employee of the Authority any function entrusted to the Chief Executive Officer; Medical Director or Chief Financial Officer under this Act or delegated to the Chief Executive Officer, Medical Director, or Chief Financial Officer in terms of subsection (1).

(3) A delegation in terms of subsection (1) or (2) does not preclude the performance of that function by the Board, the Chief Executive Officer, the Medical Director, or the Chief Financial Officer as the case may be.

(4) The delegation of a function in terms of subsection (1) or (2)—

(a) must be in writing and may be subject to such terms and conditions that the Board, the Chief Executive Officer, the Medical Director, or the Chief Financial Officer may determine or impose;

(b) may at any time be amended or revoked by the Board, the Chief Executive Officer, the Medical Director, or the Chief Financial Officer; and

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(c) does not divest the Board, the Chief Executive Officer, the Medical Director, or the Chief Financial Officer of the responsibility concerning the performance of that function.

Limitation of liability

20. No member of the Board, employee of the Authority or other person performing work for the Authority is liable in respect of anything done or omitted in good faith in the performance of any function in terms of this Act.

Application and processing of medical assessment for compensable disease

21. (1) Any person who works or has worked and is performing or has performed risk work, at a controlled mine or controlled works, or any other person acting on behalf of such a person, may at any time apply, in the prescribed manner, to the Authority for a medical examination of such person for the purpose of determining whether such person is suffering from a compensable disease, or, if he or she has previously been found to be suffering from such a disease and the degree of such disease.

(2) Upon receipt of such application, the Authority must—

(a) cause the person concerned to be medically assessed by a medical practitioner or nursing practitioner;

(b) submit to the Medical Certification Committee a detailed assessment report; and

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(c) cause such further assessments, tests and observations to be carried out as the Medical Director may deem necessary.

(3) The Authority must publish—

(a) guidelines for medical assessment and submission by notice in the *Gazette;*

(b) standards for medical certification by notice in the *Gazette;* and

(c) standards for assessment of impairment and allocation of disability for the purposes of compensation, by the Authority by notice in the *Gazette.*

Report by medical or nursing practitioner

22. (1) Whenever a medical or nursing practitioner considers or suspects that any person medically examined or treated by him or her, who works or has to his or her knowledge worked at a controlled mine or controlled works, or who he or she believes on reasonable grounds to have so worked, is suffering from a compensable disease, such practitioner must, within 30 days of diagnosis, communicate to the Authority his or her findings at the examination, and must on demand by the Authority furnish such further information at his or her disposal in regard to the examination or the health of such person as the Authority may require.

(2) The Medical Director may in writing direct a medical or nursing practitioner who has communicated his or her findings during the assessment of any person to the Authority as contemplated in subsection (1), to perform, with the consent of the person concerned, a further medical assessment of that person or such an assessment of a nature determined by the Medical Director, and a medical or nursing practitioner so directed who has performed an assessment in accordance with the

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direction, must forthwith submit to the Authority a detailed report on the result of the examination.

Duties of medical practitioner regarding post-mortem examination or service

23. (1) The Medical Director may authorise or in writing direct any medical practitioner to perform a post-mortem examination or other post-mortem service under this Act of a nature determined by the Authority, and a medical practitioner so authorised or directed who has performed a post-mortem examination or other post-mortem service in accordance with such authorisation or direction, must forthwith submit to the Authority a detailed report on the result of the examination or service performed by him or her.

(2) A medical practitioner who attended to a deceased person at the time of or immediately before his or her death, or has opened the body of a deceased person, and who knows or has reason to believe that such person worked at a controlled mine or controlled works, must after receipt of the relevant consent, remove the cardio-respiratory organs and any other relevant organs or parts of the body of the deceased and must send such organs and parts of the body to the approved place or, if no place has been approved, to the Authority or to any other place specified by the Medical Director, in accordance with the prescribed procedure or, if no procedure has been prescribed, in accordance with such instructions as may be issued by the Medical Director.

(3) No post-mortem examination or removal of cardiorespiratory organs may be performed without the written consent of the spouse or partner or, in

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the absence of such spouse or partner, a parent, grandparent, a major child or a major brother or a major sister of the deceased, in the specific order as listed.

Arrangements for post-mortem examinations and services

24. The Authority may enter into an agreement or make arrangements with any institution, hospital or organisation as it may deem necessary for the performance of any post-mortem examinations or post-mortem services required.

Medical expenses

25. The cost of any approved medical assessment under this Act, and any other approved medical related expense including the removal and transportation of organs of the deceased and post-mortem examination incurred in accordance with any provision of this Act, must be paid by the Authority.

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CHAPTER 3

CERTIFICATION OF COMPENSABLE DISEASES

Establishment and constitution of Medical Certification Committees

26. (1) There is hereby established the Medical Certification Committees for Occupational Diseases.

(2) The Authority must appoint each Medical Certification Committee consisting of three members from an established pool of suitably qualified and experienced medical practitioners, with one member being appointed as the chairperson.

(3) The Authority must publish a notice in the media calling for nominations of suitably qualified medical practitioners to be part of the pool of experts from which the Authority may appoint the committee members.

(4) A Medical Certification Committee must consist of at least three medical practitioners of which one must be the chairperson.

Functions of Medical Certification Committee and degrees of compensable diseases

27. (1) The Medical Certification Committee must determine the presence, nature and the degree of compensable disease in terms of the standards determined by the Authority as contemplated in section 21.

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(2) Before determining the standards, the Authority must publish the draft standards in the *Gazette* for public comments for a period of 30 days, and consider the representations and comments received.

(3) For the purpose of this Act a person must be deemed to be suffering from a compensable disease in the first degree—

(a) in the case of pneumoconiosis, if the Medical Certification Committee has found that he or she is suffering from pneumoconiosis, whether or not it has impaired his cardio-respiratory functions, and the Medical Certification Committee has found a resultant permanent disability of more than 10 percent but not more than 40 percent;

(b) in the case of a compensable disease referred to in paragraph *(d)* of the definition of 'compensable disease' in section 1, if the Medical Certification Committee has found that he or she is suffering from such a disease and the Medical Certification Committee has found a resultant permanent disability of more than 10 percent but not more than 40 per cent; and

(c) in the case of a compensable disease referred to in paragraph *(c)*, *(e)*, *(f)* or *(g)* of the definition, if the Medical Certification Committee has found that he or she is suffering from such a disease which has permanently impaired his or her cardio-respiratory function by more than 10 per cent but not more than 40 per cent.

(4) For the purposes of this Act a person shall be deemed to be suffering from a compensable disease in the second degree—

(a) if the Medical Certification Committee has found that he or she is suffering from more than one compensable disease simultaneously which together have permanently impaired his or her cardio-respiratory function by more than 40 per

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cent, or that he or she is suffering from tuberculosis and another compensable disease simultaneously;

(b) in the case of pneumoconiosis, if the Medical Certification Committee has found that he or she is suffering from pneumoconiosis which has permanently impaired his or her cardio-respiratory functions by more than 40 per cent;

(c) in the case of a compensable disease referred to in paragraph *(d)* of the definition, if the Medical Certification Committee has found that he or she is suffering from such a disease which has permanently impaired his or her cardio-respiratory function by more than 40 percent;

(d) in the case of a compensable disease referred to in paragraph *(e)* of the definition, if the Medical Certification Committee has found that he or she is suffering from such a disease which has permanently impaired his or her cardio-respiratory function by more than 40 percent;

(e) in the case of a compensable disease referred to in paragraph *(h)* of the definition, if the Medical Certification Committee has found that he or she is suffering from such a disease which has permanently impaired his or her cardio-respiratory function by more than 40 percent;

(f) in the case of a compensable disease referred to in paragraph *(c)* or *(f)* of the definition, if the Medical Certification Committee has found that he or she is suffering from such a disease which has permanently impaired his or her cardio-respiratory function by more than 40 percent.

(5) For the purposes of this Act a person shall be deemed to be suffering from a compensable disease in the third degree in terms of presentation of the following diseases:

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(a) lung cancer caused by asbestos, silica, diesel particulate matter, radiation; and

(b) compensable disease;

where the Medical Certification Committee has found that the disease in paragraph *(b)* has impaired his or her cardio-respiratory functions with a clinical presentation of one or more of the following, namely:

(i) < 50% FeV1 with respiratory failure;

(ii) Cor Pulmonale; or

(iii) Progressive Systemic Sclerosis involving lungs and oesophagus.

Findings of Medical Certification Committee

28. (1) The chairperson of a Medical Certification Committee or a person authorised thereto in writing by him or her, shall issue a certificate in the prescribed form setting out such finding and containing such information as may be necessary for the purposes of this Act.

(2) The Authority must keep a register of the findings of the Medical Certification Committee, and must within 30 days as from the date on which the finding was expressed, cause copies of such certificate to be sent—

(a) to the person to whom the certificate relates;

(b) to the medical or nursing practitioner if the person to whom the certificate relates is still employed at a controlled mine or controlled works; or

(c) if it relates to a deceased person, to the dependants, if any, of the deceased.

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(3) A finding of the Medical Certification Committee is, save as is otherwise provided in this Act, deemed to have been expressed for compensation purposes—

(a) where it is based wholly or partly on a medical examination or two or more medical examinations, of the person concerned, on the date on which such examination or the first of such examinations commenced;

(b) where it is based wholly or partly on a post-mortem examination, on the date on which the person concerned died; and

(c) where it is based wholly or partly on a medical examination or two or more medical examinations of the person concerned carried out or commenced before the commencement of this Act, on the date on which such examination or the first of such examinations commenced.

(4) Notwithstanding the repeal of the previous Act, a finding referred to in subsection (3)*(c)* must be expressed in accordance with the provisions of the previous Act.

Powers of Medical Certification Committee

29. (1) The Medical Certification Committee may, when it has expressed a finding under the provisions of this Act, of its own motion or on application by the person to whom such finding relates, or on application by any other person acting on behalf of that person or any organisation so acting, or, in the case of a deceased person, on application by the dependents of such person or by any other person acting on behalf of such dependents or any organisation so acting, at any time, reconsider the finding subject to the provisions of subsection (3).

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(2) The Medical Certification Committee may reconsider and alter its finding if new evidence came to light subject to the provisions of subsection (3).

(3) The Medical Certification Committee may not alter or rescind any finding by virtue of which any benefit has been awarded to any person, irrespective of whether such finding was expressed before or after the commencement of this Act.

(4) Where a finding is altered or is rescinded and a fresh finding is expressed in its place under subsection (1), such altered or fresh finding is deemed to have been expressed on the date on which the original finding was expressed.

(5) The chairperson of the Medical Certification Committee may by notice in writing direct any medical practitioner or nursing practitioner who has performed a medical examination of a person who works or has worked at a controlled mine or a controlled works, to submit to the Medical Certification Committee a full report on such examination, or to appear before it at a time and place specified in the notice, in order to answer such relevant questions as may be put to him or her by the said chairperson or any other member of that committee.

(6) The chairperson of the Medical Certification Committee may of his or her own motion or at the request of any person whose case is being dealt with by that committee, as the case may be, by notice in writing direct such person to appear before it at a time and place specified in the notice in order to answer such relevant questions as may be put to him or her by the chairperson or any other member of that committee, or in order to undergo a medical examination.

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Medical Review Committee

30. (1) There is hereby established a Medical Review Committee for Occupational Diseases.

(2) The Authority must publish a notice in the media calling for nominations of suitably qualified medical practitioners to be part of the pool of experts from which the Authority may appoint the committee members.

(3) The Authority must, appoint the Medical Review Committee consisting of the following three medical practitioners—

(a) A pulmonologist,

(b) a radiologist; and

(c) an occupational medicine specialist.

(4) The chairperson of the Medical Review Committee must be an occupational medicine specialist.

(5) The Medical Review Committee must review a finding expressed by the Medical Certification Committee, if an application for such review is lodged with the Medical Review Committee by the person to whom the finding relates or by any other person acting on his or her behalf or any organisation so acting, or, in the case of a deceased person, by the dependents of the deceased or by any person or organisation acting on behalf of such dependents, within 90 days as from the date on which notice of the finding was communicated to the beneficiary or his or her dependent by the Medical Certification Committee.

(6) The Medical Review Committee, after giving due consideration to the matter may confirm or set aside the findings of the Medical Certification Committee.

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Submission of certain medical and post-mortem reports

31. When the Medical Director has obtained or received from any medical practitioner or nursing practitioner, any report or communication on a medical or post-mortem examination in terms of this Act of any person —

(a) who has not previously been found by the Medical Certification Committee to be suffering from a compensable disease and who is on the ground of such examination considered or suspected to be suffering from such a disease or to have been suffering from such a disease at the time of his or her death; or

(b) who has previously been found by the Medical Certification Committee to be suffering from a compensable disease and who is on the ground of such medical examination considered or suspected to be suffering from a compensable disease in a more advanced degree,

the Medical Director shall as soon as practicable submit to the Medical Certification Committee a full report on such examination, and, at the request of the said committee, cause such further examinations, tests or observation to be performed as that committee may require.

Powers of chairperson of Medical Certification Committee and Medical Review Committee

32. (1) The chairperson of the Medical Certification Committee and the chairperson of the Medical Review Committee must each have the same powers as those conferred upon the Medical Director by section 16, and the provisions of those sections relating to the exercise of such powers by the Medical Director shall apply

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with the necessary changes to the exercise of such powers by the chairperson in question.

(2) The chairperson of the Medical Certification Committee may by notice in writing direct any medical or nursing practitioner who has performed a medical examination on a person who works or has worked at a controlled mine or a controlled works, to submit to that committee a full report on such examination, or to appear before that Medical Certification Committee at a time and place specified in the notice, in order to answer such relevant questions as may be put to him or her by the said chairperson or any other member of that committee.

(3) The chairperson of the Medical Certification Committee or the chairperson of the Medical Review Committee may of his or her own motion or at the request of any person whose case is being dealt with by that committee or Authority, as the case may be, by notice in writing direct such person to appear before that committee or Authority at a time and place specified in the notice in order to answer such relevant questions as may be put to him or her by the chairperson or any other member of that committee or Authority, or in order to undergo a medical examination.

Conditions of Service of members of the Medical Certification Committee and Medical Review Committees

33. (1) A member of the Medical Certification Committee or Medical Review Committee, who is not in the full-time service of the State must be appointed at such remuneration and on such other conditions of service and for such period not exceeding five years and may be reappointed for a further period of five years or as the Authority may determine.

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(2) A member of a committee contemplated in subsection (1), must vacate his or her office if—

(a) he or she becomes of unsound mind;

(b) he or she is convicted of an offence and sentenced to imprisonment without the option of a fine;

(c) he or she is no longer a registered medical practitioner; or

(d) he or she absents himself or herself from two consecutive meetings of the committee, as the case may be, without the leave of the committee, which leave shall not be granted for any continuous period exceeding 180 days.

(3) If the Authority is of the opinion that a member of the committee is not competent to serve as such a member, the Authority may, after due enquiry, by notice in writing remove the member concerned from office.

Appeal against decision of Authority

34. (1) A person aggrieved by a decision of the Authority may within the prescribed period and in the prescribed manner appeal against such decision to an appeal committee contemplated in subsection (2) and appointed by the Minister.

(2) The appeal committee referred to in subsection (1) consists of—

(a) a retired judge or magistrate or an advocate or attorney of the High Court of South Africa who has practiced as such for a period of at least five years, and who must be the chairperson of such committee; and

(b) two medical practitioners, one with experience in occupational diseases; and the other with experience in compensation for occupational diseases.

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(3) An appeal under subsection (1) must be heard on a date, and at a place and time fixed by the appeal committee.

(4) The appeal committee must ensure that the appellant as well as the Authority are informed, in writing, of the date, place and time contemplated in subsection (3) at least 14 days before such appeal is heard.

(5) The appeal committee may for the purposes of an appeal lodged with it—

(a) summon any person who, in its opinion, may be able to give material information concerning the subject of the appeal or who it believes has in his or her possession or custody or under his or her control any document which has any bearing upon the subject of the appeal to appear before it at a time and place specified in the summons, to be interrogated or to produce that document, and may retain for examination any document so produced; and

(b) administer an oath to or accept affirmation from any person called as a witness at the appeal.

(6) The chairperson of the appeal committee must, before the hearing determine the procedure to be followed during the appeal hearing and notify, in writing, the appellant and the Authority of such determined procedure.

(7) The appeal committee may after hearing the appeal—

(a) confirm, set aside or vary the relevant decision of the Authority; and

(b) direct the Authority to execute the decision of the appeal committee in that regard.

(8) *(a)* The decision of the appeal committee must be in writing, and a copy must be furnished to the appellant as well as to the Authority.

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(b) The decision of the appeal committee contemplated in paragraph *(a)* must be conveyed to the appellant and the Authority within 14 days of the decision being reached.

(9) The members of the appeal committee who are not in the full-time employment of the State must be paid such remuneration and allowances as determined per the guidelines issued by National Treasury.

(10) A member of the appeal committee must, if before or during the hearing of any appeal it transpires that he or she has any direct or indirect personal interest in the outcome of that appeal, recuse himself or herself and be replaced for the duration of the hearing by—

(a) in case of the member referred to in subsection (2)*(a)*, a person appointed by the Minister with due consideration of the provisions of that subsection; and

(b) in the case of a member referred to in subsection 2*(b)*, a member appointed by the Minister under the provisions of that subsection.

Substitution of compensation for other legal remedies

35. No action may be undertaken by a worker or former-worker in a controlled mine or controlled works or any dependant of a worker or former-worker for the recovery of damages in respect of any occupational disease resulting in the disablement or death of such worker or former-worker against such owner of the controlled mine or controlled works, and no liability for compensation on the part of such owner may arise save under the provisions of this Act in respect of such disablement or death.

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CHAPTER 4

CONTROL IN RESPECT OF MINES AND WORKS

Existing control to continue

36. Every mine or works which immediately before the commencement of this Act was a controlled mine or a controlled works under the previous Act, must as from such commencement be a controlled mine or a controlled works for the purposes of this Act until such time as the mine or works in question is released from control under section 38.

Declaration as controlled mine or controlled works

37. (1) The Minister may, on recommendation of the Authority, by notice in the *Gazette*, declare a mine or works to be a controlled mine or a controlled works as from a date to be specified in the notice, not being a date earlier than thirty days after the day on which the notice is published in the *Gazette*.

(2) The Minister must, before declaring a mine or works as a controlled mine or controlled works, after consultation with the Chief Inspector of Mines as contemplated in the Mine Health and Safety Act, 1996 (Act No. 29 of 1996), Chief Inspector as contemplated in section 1 of Occupational Health and Safety Act, publish his or her intention in the *Gazette* for public comments for a period of at least 30 days.

(3) The Minister must, after consideration of the representations or comments received, publish the declaration in the *Gazette*.

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(4) *(a)* A notice under subsection (1) must contain the name of the owner and location of the mine or works.

(b) A copy of such notice must be served on the owner of the mine or works in question not less than thirty days before the date on which that mine or works will become a controlled mine or a controlled works.

(5) A mine or works may not under subsection (1) be declared to be a controlled mine or a controlled works so long as the Minister, after consultation with the Chief Inspector of Mines as contemplated in the Mine Health and Safety Act, 1996 (Act No. 29 of 1996), or the Chief Inspector in terms of section 1 of the Occupational Health and Safety Act, is satisfied that on account of the limited scale or the temporary nature of the operations at the mine or works in question or on account of the fact that the number of persons performing risk work thereat is less than 30, the declaration of that mine or works as a controlled mine or a controlled works is not practicable or justified.

(6) The Authority must maintain a register containing the names and descriptions of every controlled mine and every controlled works.

Cancellation of control

38. (1) The Minister, on recommendation of the Authority, and if the Minister is satisfied that—

(a) operations at a controlled mine or a controlled works have ceased; or

(b) persons employed at a controlled mine or a controlled works no longer perform any risk work thereat; or

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(c) the number of persons who perform risk work at a controlled mine or a controlled works has decreased to less than 30,

may, subject to the provisions of section 39(2), by notice in the *Gazette* declare that the mine or works in question must cease to be a controlled mine or a controlled works as from a date to be specified in the notice, not being a date earlier than 30 days after the day on which the notice appears in the *Gazette*.

(2) The Minister must publish the notice containing a list of decontrolled mines or decontrolled works in the *Gazette*.

Closure of controlled mine or works or alienation of assets by owner

39. (1) An owner of a controlled mine or a controlled works who owes the Authority any amount under a provision of this Act, must not discontinue the operations at his or her mine or works or sell or alienate his or her rights in connection with that mine or works unless—

(a) such owner has given not less than 30 days' notice in writing to the Authority of his or her intention to do so; and

(b) the Authority has issued to such owner a letter to the effect that all amounts which he or she is required to pay to the Authority under the provisions of this Act have been fully paid or, as the case may be, that he or she has made arrangements which have been accepted by the Authority, for the payment of any amount due by him or her to the Authority.

(2) After the date on which the notice mentioned in subsection (1)*(a)* was given to the Authority, such owner must not sell or alienate any asset which he or she has acquired or created for use in connection with the operation of his or her mine

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or works except with the approval in writing of the Authority or until the Authority has issued to such owner a letter referred to in subsection (1)*(b)*.

(3) The Authority may not under section 38 release a controlled mine or a controlled works from control, unless the Authority is satisfied that the owner of the mine or works in question has fully paid all amounts which he or she is required to pay to the Authority under the provisions of this Act, or that he or she has made arrangements, which have been accepted by the Authority, for the payment of any amount which is due by him or her to the Authority.

Risk work

40. (1) Any particular work or all work performed in or at or in connection with any controlled mine or controlled works or part of a controlled mine or controlled works, or at a particular place or under particular circumstances at or in connection with any controlled mine or controlled works, is deemed to be risk work.

(2) The Authority may under subsection (1) and after consultation with the Risk Committee deem any such work to be risk work if it is satisfied, as may have been made known to it by the owner of the mine or works in question or by any organisation acting on behalf of such owner or on behalf of persons employed at that mine or works, or any other source, that any person performing the work in question is exposed to—

(a) dust of which the composition and concentration is such that it is in the opinion of the Authority harmful or potentially harmful; or

(b) gases, vapours or chemical substances, or factors or working conditions, which, in the opinion of the Authority, are harmful or potentially harmful.

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(3) The Risk Committee may at any time, of its own motion or on application by the owner of a controlled mine or a controlled works or by any organisation acting on behalf of such owner or on behalf of persons who perform risk work at such controlled mine or such controlled works, review its determination of the risk of the mine or works in question and confirm or alter that determination or set it aside and redetermine the risk in question.

(4) When the Risk Committee has determined the risk of a controlled mine or a controlled works under subsection (1) or has altered its determination of such risk or has set it aside and redetermined the risk under subsection (1), the chairperson of the Risk Committee or any person authorised thereto by him or her, must give notice thereof in writing to the Authority, and the owner of the controlled mine or controlled works in question and, where the alteration or the setting aside resulted from a review application by an organisation acting on behalf of persons who perform risk work at such mine or works, to that organisation.

(5) For the purpose of determining whether a person is entitled to a benefit under this Act, the person must have performed risk work at a controlled mine or controlled works.

Determination of levies

41. The Authority may, for the purposes of determining the amount charged as levy, differentiate between controlled mines and controlled works or between controlled mines and parts of a controlled mine or between a controlled works and parts of a controlled works or between different classes or groups of controlled mines or controlled works or between different occupations, trades or kinds of work or

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between different classes or groups of persons employed by the controlled mine, controlled works or contractors of the controlled mine or controlled works, as it may consider necessary or desirable.

Register of employed persons performing risk work

42. (1) The owner of a controlled mine or controlled works must, after commencement of this Act, provide the Authority with a register, as prescribed, which shall include—

(a) a list of persons in the current employment, persons employed previously inclusive of all contractors at such a controlled mine or controlled works; and

(b) a list of persons employed, conducting risk work inclusive of all contractors at such a controlled mine or controlled works.

(2) The register contemplated in subsection (1) must be submitted to the Authority within 90 days of commencement of the Act in the prescribed format.

(3) The owner of a controlled mine or controlled works must furnish the Authority with a list, in the prescribed format of all persons employed by the owner or by the contractors at his or her controlled mine or controlled works within one month of them leaving the controlled mine or controlled works.

Establishment and constitution of Risk Committee

43. (1) There is hereby established a committee, to be called the Controlled Mines and Controlled Works Risk Committee, which exercises the powers

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and performs the functions conferred upon or assigned to it by this Act, and such other functions and duties as may be assigned to it by the Authority.

(2) The Risk Committee, subject to the provisions of subsection (4), consists of—

(a) the Chief Inspector or Medical Inspector contemplated in the Mine Health and Safety Act;

(b) the Chief Inspector contemplated in the Occupational Health and Safety Act;

(c) the Medical Director;

(d) the Chief Executive Officer or designated officer from the Authority; and

(e) four members to be appointed by the Authority of whom two must be nominated by the owners of controlled mines and controlled works, and two from the organisations representing employed persons who perform risk work at controlled mines or controlled works, of whom at least one must be an occupational hygienist and another be a medical practitioner.

(3) The Authority may, in respect of any member of the Risk Committee contemplated in paragraph *(e)*, appoint an alternate or so many alternates as the Authority may consider necessary.

(4) The Medical Director shall be the chairperson of the Risk Committee, and when the Medical Director is unavailable, an alternate as designated by the Medical Director, who must be a medical practitioner, shall be the Chairperson.

(5) *(a)* The quorum for a meeting of the Risk Committee must be a majority of its members including the chairperson.

(b) The Authority may make such rules as it may consider necessary or desirable for the proper functioning of the Risk Committee.

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(6) A member of the Risk Committee or an alternate to such a member, who is not in the full-time service of the State, must be appointed at such remuneration and on such other conditions of service and for such period not exceeding five years as the Authority may determine in line with National Treasury guidelines and can be eligible for reappointment.

(7) If the Authority is of the opinion that a member of the Risk Committee who has been appointed by the Authority, or an alternate to such a member, is not competent to serve as a member of the Risk Committee or as such an alternate, the Authority may by notice in writing terminate the appointment of the member or alternate concerned.

Determination of risk of mines or works

44. (1) The determined risk of mines and works contained in the register of mines and works under the previous Act, is for the purposes of this Act, deemed to be the risk of that mine or works until any submission by the Department of Mineral and Petroleum Resources or the owner or management of the mine or any other information comes to the attention of the Authority which may cause the determined risk to require revision.

(2) The Risk Committee must determine and may amend the risk of any mine or works in accordance with the risk determination method approved by the Authority, after consideration of variables which may include—

(a) determination of different risks in respect of separate mines or works or parts of mines or works or working places in or at mines or works or categories or

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kinds or groups of mines or works, or different categories or classes or groups of workers, or different occupations in or at or in connection with mines or works;

(b) taking into consideration any factor which, in the opinion of the Risk Committee, may or is likely to affect the risk in any particular case or generally; and

(c) consulting any person who in its opinion has special knowledge of any matter before the Risk Committee for consideration or on which the Risk Committee is required to make a decision.

(3) The Risk Committee must declare any risk which it determined in accordance with a scale or in a manner prescribed.

Review and alteration or redetermination of risk

45. The Risk Committee may at any time, or on application by the owner of a controlled mine or controlled works or by any organisation acting on behalf of such owner or on behalf of employed persons who perform risk work at such controlled mine or such controlled works, review its determination of the risk of the controlled mine or controlled works in question and confirm or alter that determination or set it aside and redetermine the risk in question.

Notice of determination, alteration or redetermination of risk

46. When the Risk Committee has determined the risk of a mine or a works in terms of section 44 or has altered its determination of such risk or has set it aside and redetermined the risk in terms of section 45, the chairperson of the Risk Committee or any person authorised thereto by him or her, must give notice thereof in

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writing to the Authority and the owner of the mine or works in question and, where the alteration or the setting aside resulted from a review on application by an organisation acting on behalf of employed persons who perform risk work at such controlled mine or controlled works, to that organisation.

Discontinuation of operations at a controlled mine or controlled works or alienation of assets by owner

47. (1) An owner of a controlled mine or controlled works may not discontinue the operations at his or her controlled mine or controlled works or sell or alienate his or her rights in connection with that mine or works unless—

(a) such owner has given not less than 30 calendar days' notice in writing to the Authority of his or her intention to do so;

(b) the Authority has issued to such owner, a certificate in the prescribed manner, to the effect that all amounts which the owner is required to pay the Authority under the provisions of this Act have been fully paid or, as the case may be, that the owner has made arrangements which have been accepted by the Authority, for the payment of amounts due; and

(c) the Authority has received a list of all persons employed by the owner or by the contractors at the owners' s controlled mine or controlled works that will be closed or alienated.

(2) Where a mine or works alienates its mineral rights, assets and operations to another controlled mine or controlled works the provisions of this Act continue to apply.

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(3) Where a controlled mine or controlled works alienates its mineral rights, assets and operation to a non-controlled mine or entity, the provisions of this Act continue to apply.

Inspectorate

48. (1) There is hereby established an Inspectorate of the Authority to exercise the powers and perform functions conferred upon or assigned to it by this Act.

(2) The Authority may designate employees as inspectors to perform functions and exercise powers in terms of this Act.

Powers of inspectors

49. (1) An inspector, the Chief Executive Officer or Medical Director may for the purposes of monitoring or enforcing compliance with this Act—

(a) enter any controlled mine or controlled works at any time without warrant or notice;

(b) enter any other place after obtaining the necessary warrant in terms of subsection (7); and

(c) bring into and use at any controlled mine or controlled works, or at any place referred to in paragraph *(b)*, vehicles, equipment and material as necessary to perform any function in terms of this Act.

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(2) While an inspector is at any controlled mine or controlled works or place referred to in subsection (1), such inspector may, for the purposes of monitoring or enforcing compliance with this Act—

(a) question any person on any matter to which this Act relates;

(b) require any person who has control over, or custody of, any document, including but not limited to, a plan, book or record to produce that document to the inspector immediately or at any other time and place that the inspector requires, provided that no answer by any person to a question by an Inspector conducting an investigation, questioning or inspection in terms of this Act may be used against that person in criminal proceedings, except in proceedings in respect of a charge of perjury or making a false statement;

(c) require from any person referred to in paragraph *(b)* an explanation of any entry or non-entry in any document over which that person has custody or control;

(d) examine any document produced in terms of paragraph *(b)*, and make a copy of it or take an extract from it;

(e) inspect—

(i) any article, substance or machinery;

(ii) any work performed; or

(iii) any condition of work environment;

(f) inspect arrangements made by the owner for medical surveillance of workers;

(g) seize any document, article, substance or machinery or any part or sample of it; and

(h) perform any other prescribed function.

(3) An inspector may instruct any owner, worker or any other person who performs an activity regulated by this Act or any former owner or worker or person

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who formerly performed an activity regulated by this Act, to appear before the inspector to be questioned on any matter to which this Act relates.

(4) Before an inspector may seize any document under subsection (2) *(g)*, the owner of the controlled mine or controlled works may be allowed to make a copy of the said document.

(5) An inspector may remove any article, substance or machinery or any part or sample of it from any controlled mine or place referred to in subsection (1) for examination or analysis.

(6) When an inspector seizes or removes any item under this section, the inspector must issue a receipt for that item to the owner of the controlled mine or controlled works or place involved.

(7) A magistrate may issue a warrant contemplated in subsection (1)*(b)* only on written application by an inspector setting out under oath or affirmation the need to enter a place other than a controlled mine or controlled works to monitor or enforce compliance with this Act.

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CHAPTER 5

CONTROLLED MINES AND CONTROLLED WORKS COMPENSATION FUND

Establishment and management of Controlled Mines and Controlled Works Compensation Fund

50. (1) There is hereby established a fund to be called the Controlled Mines and Controlled Works Compensation Fund.

(2) The Authority must collect levies from Controlled Mines and Controlled Works.

Finances of Authority

51. (1) The Authority is funded by—

(a) monies appropriated by Parliament;

(b) levies received from owners of controlled mines and controlled works;

(c) income earned on surplus monies deposited or invested;

(d) grants, donations and bequests made to it; and

(e) interest from investments.

(2) Funds must be invested in accordance with the framework prescribed in terms of section 7 of the PFMA.

(3) The Authority may, in consultation with National Treasury invest any moneys which is not required for immediate use, with the Corporation for Public

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Deposits, Public Investment Corporation, commercial banks or such other institutions.

Determination and collection of levies payable

52. (1) The owners of controlled mines and controlled works are liable for the payment of levies.

(2) The levy covers administration, medical examinations, research, compensation benefits and associated costs for the provision of services in terms of this Act.

(3) The Authority must determine in respect of each controlled mine or controlled works, in such manner and on such basis as may be prescribed, an amount payable by the owner of that controlled mine or controlled works to the Authority, in respect of each risk shift worked by any person at or in connection with that controlled mine or controlled works during which such person performed risk work.

(4) The Authority must determine different levy amounts taking into consideration—

(a) different categories, groups or classes of controlled mines and controlled works;

(b) the actuarial valuation of the future liability relating to compensable diseases and related administrative costs;

(c) a risk rating of the individual controlled mine or controlled works based on the different exposure levels to dust and any other hazardous substances; and

(d) tuberculosis incidence rates at the controlled mine or controlled works in question.

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(5) A determination contemplated in subsection (3) must be communicated in writing to the owner of the controlled mine or controlled works in question and in such notification the Authority must set out such details and information as it may consider adequate for the purposes of explaining the determination and specify the date as from which the determination takes effect.

(6) The owner of a controlled mine and controlled works must, based on the amount per risk shift determined in terms of subsection (3), submit a risk shift assessment and pay to the Authority, the amounts as determined, for the preceding month, and when any such payment is made the owner concerned must furnish full details of the composition of the amount of his or her payment and such other details as may be required by the Authority.

(7) The reported risk shift assessment and payment must be made as determined by the Authority.

Interest on amounts in arrears

53. An owner of a controlled mine or controlled works must pay interest to the Authority, at the interest rate determined in terms of section 80(1)*(b)* of the PFMA on any amount due to the Fund in terms of section 52, which was not paid on the day on which it became payable, and such interest must be calculated from the said day to the day preceding the day on which the amount in question is paid.

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Penalty for failure to pay amount due

54. (1) The Authority may impose a penalty with a maximum value of double the determined rate in addition to the normal rate payable by an owner of a controlled mine or controlled works upon such owner who fails to pay any amount which he or she is required to pay to the Authority in terms of section 52.

(2) The Authority may, subject to the provisions of the PFMA, on application by the controlled mine or controlled works, write off any debts owed to the authority.

Recovery of amount due

55. Whenever any amount is due to the Authority under any provision of this Act by an owner of a controlled mine or controlled works, the Authority may take such steps as it deems fit or as the Board has directed it to take to recover the amount due, and any such amount may be recovered together with interest thereon from the due date at a rate determined in terms of section 53 of this Act, and any costs incurred in connection with such recovery.

Calculation of payment of benefits to eligible claimants

56. (1) When a person is suffering from tuberculosis which does not render him or her permanently impaired, and the Medical Certification Committee finds that—

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(a) the said tuberculosis was contracted while the person was performing risk work at or in connection with a controlled mine or controlled works; or

(b) the said person was affected at any time within 12 months immediately after the date on which he or she performed risk work referred to in paragraph *(a)* for the last time,

the Authority may, on application by that person made in the prescribed manner with valid supporting documentation, award to him or her an amount which is equal to 75 per cent of his or her loss of earnings during the period for which he or she has suffered a loss of earnings, but not exceeding six months and such application must be lodged within three years after certification whereafter the said benefit would prescribe.

(2) Earnings as contemplated in subsection (1)*(a)* and *(b)* must be calculated by the Authority in such manner as in its opinion is best to determine the monthly rate at which the person was remunerated by the owner of a controlled mine or controlled works or would have been remunerated at if in the employ of a controlled mine or controlled works.

(3) When the Medical Certification Committee finds that a person is suffering from a compensable disease which he or she contracted as a result of risk work at or in connection with a controlled mine or a controlled works, the Authority must award to such person a one-sum benefit calculated in accordance with the formula—

$$(A \times 12) \times B$$

in which formula "A" represents the amount determined by the Authority on an annual basis, with reference to the person's earnings, but not exceeding the average monthly mines or works industry earnings for performing risk work and "B" represents—

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(a) in the case of a person who is found to be suffering from a compensable disease in the first degree, 1,31;

(b) in the case of a person who is found to be suffering from a compensable disease in the second degree, and—

(i) who did not previously become entitled to any one sum benefit in terms of this Act, 2,917; or

(ii) who previously became entitled to a one sum benefit in respect of a compensable disease in the first degree, 1,607;

(c) in the case of a person who is deemed to be suffering from a compensable disease in the special award (third) degree—

(i) who did not previously become entitled to any one sum benefit in terms of this Act, 5,834;

(ii) who previously became entitled to a one sum benefit in respect of a compensable disease in the first degree of this Act, 4,503; or

(iii) who previously became entitled to a one sum benefit in respect of a compensable disease in the second degree of this Act, 2,917.

(d) The factors for calculation as per *(a), (b)* and *(c)* will be revised and gazetted as per the actuarial valuation.

Application for benefits

57. (1) A worker or former-worker at a controlled mine or controlled works, or any other person on behalf of such person may, if they suspect that the said worker or former-worker might have contracted a compensable disease, apply to the Authority for compensation on a prescribed form.

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(2) The application for compensation must be accompanied by such information and documents as prescribed.

Payment of benefits to eligible claimants

58. (1) After receipt of the prescribed application and valid supporting documents from the beneficiary or dependent, the benefit award based on the Medical Certification Committees' findings must be paid to the beneficiary or dependent within 30 days after approval by the Authority.

(2) The benefit award must be calculated as at the date of medical examination.

(3) The application contemplated in subsection (1) must be lodged with the Authority within three years after certification of permanent disability, by the claimant or his or her beneficiary or dependent whereafter said benefit prescribes and said beneficiary needs to undergo a medical examination for certification purposes.

Payment of, and interest on, benefits awarded

59. (1) After receipt of the prescribed application and valid supporting documents from the beneficiary or dependent, the benefit award based on the Medical Certification Committees' findings must be paid to the beneficiary or dependent within 30 days after approval by the Authority.

(2) Any interest applicable in respect of the benefit award must be paid by the Authority when it effects payment contemplated in subsection (3).

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(3) The Authority must add interest to any benefit or any other amount awarded under the previous Act or this Act, or to the balance of any such benefit or amount, as the case may be, at a rate determined from time to time by the Minister of Finance, as from the first day of the month following the month in which such benefit or amount was approved by the Authority until the last day of the month preceding the month in which such benefit or amount or the final instalment thereof was paid: Provided that no interest shall be paid on any amount which has remained in the possession of the Authority for less than 30 days.

Benefits free from attachment

60. Benefits awarded in terms of this Act may not be subject to judicial process, including attachment, garnishment or seizure, against the beneficiary.

Prohibition of double benefits

61. A person who has received compensation in terms of this Act is not entitled or eligible to receive benefits for the same disease in terms of any other compensation legislation.

Annual report and financial statements

62. The annual report and financial statements of the Authority must be submitted in accordance with the provisions of the PFMA.

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Actuarial valuation and services

63. The Fund must, within three years from the date of establishment be valued by an actuary appointed by the Authority, and thereafter the Fund must be valued by such an actuary at such intervals, not exceeding three years, as may be determined by the Authority.

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CHAPTER 6

GENERAL PROVISIONS

Offences

64. (1) Any person who—

(a) in exchange for services rendered in respect of assistance in claiming any benefit in terms of this Act, charges a fee or claims remuneration from a person who is claiming such benefit in terms of this Act;

(b) hinders or obstructs any official of the Authority in the exercise of powers or performance of his or her functions;

(c) fails to cooperate with the Authority in terms of the determinations of this Act; or

(d) without reasonable cause, fails to provide information or documents required by the Authority;

(e) in connection with the claim, or in any return, notice, report, or statement to be given, makes or causes to made, any statement which is false or misleading in material respect, knowing it to be false or misleading,

is guilty of an offence and, liable on conviction to a fine or imprisonment or to both fine and imprisonment.

(2) Any person who intentionally provides inaccurate information or fails to provide accurate information or numbers of workers per risk shift or employed by the Mine or Works, is guilty of an offence and liable on conviction to a fine not exceeding 5% of the annual turnover of the Mine or Works or five million rand ,

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whichever is the lower, or to imprisonment not exceeding five years or to both a fine and imprisonment.

(3) A medical or nursing practitioner who without reasonable cause fails to comply with any provision of section 22 or 23 or with any requirement or direction from the Authority thereunder is guilty of an offence and liable on conviction to a fine or imprisonment not exceeding five years.

Regulations

65. The Minister must make regulations relating to—

(a) an amount payable by the owner of a controlled mine or controlled works to the Authority, in respect of each risk shift worked by any person at or in connection with that controlled mine or controlled works;

(b) any matter that may or must be prescribed in terms of this Act; and

(c) any ancillary or incidental administrative or procedural matter that may be necessary for the proper implementation or administration of this Act.

Repeal of laws

66. The Occupational Diseases in Mines and Works Act, Act No. 78 of 1973 is hereby repealed.

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Transitional arrangements

67. (1) Anything done or deemed to have been done under any provision of a law repealed in terms of section 66 and which could be done under a provision of this Act, is deemed to have been done under the last-mentioned provision.

(2) Any immovable property belonging to the State may, on conditions determined by the Minister, be transferred to the Authority in order to enable the Authority to perform its functions.

(3) A person who is employed by the Department of Health, immediately before the commencement of this Act and who was transferred to the Authority, must be transferred to Authority on the date when this Act takes effect in accordance with the Labour Relations Act, 1995 (Act No. 66 of 1995), and any applicable collective bargaining agreement with organised labour.

(4) The remuneration and other terms and conditions of service of a person transferred in terms of subsection (3) may not be less favourable than the remuneration, terms and conditions applicable to that person immediately before his or her transfer and he or she remains entitled to all rights, benefits, including pension benefits, and privileges to which he or she was entitled immediately before such transfer.

(5) A person transferred to the Authority in terms of subsection (3) remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately before his or her transfer to the extent that they remain applicable.

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(6) Any proceedings against such person which were pending immediately before his or her transfer must be disposed of as if that person had not been transferred.

(7) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer must be regarded as having taken place when a person contemplated in subsection (3) takes up employment at the Authority.

(8) When the employees referred to in subsection (3) are transferred to the Authority, all assets and liabilities of the Department, referred to in the said subsection that were transferred to the Authority, must be transferred to the Authority at the same date.

Short title and commencement

68. (1) This Act is called the Compensation for Occupational Diseases in Controlled Mines and Controlled Works Act, 2026, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) The President may proclaim different dates in respect of different provisions of this Act.