

Employment Law

ALERT | 15 July 2024



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SOUTH AFRICA

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**EMPLOYMENT LAW
ALERT**

New asthma compensation regulations: Ensuring adequate treatment for affected workers

On 7 June 2024, the Minister of Employment and Labour officially promulgated two significant sets of regulations aimed at protecting workers affected by respiratory conditions. These are the Regulations on Irritant-Induced Asthma for the Compensation Fund (Irritant-Induced Regulations) and the Regulations on Work-Aggravated Asthma for the Compensation Fund (Work-Aggravated Asthma Regulations). These new regulations mark a crucial step forward in ensuring that workers suffering from asthma due to workplace conditions receive appropriate compensation and support from the Compensation Fund. This issue was previously dealt with in various circulars issued by the Director General of the then Department of Labour. Which we refer to below.

The Irritant-Induced Regulations define irritant-induced asthma as a “disease characterised by variable airflow limitation and/or bronchial hyper-responsiveness due to causes and conditions attributable to a particular working environment”. This definition underscores the direct link between the working environment and the onset of asthma symptoms.

Conversely, the Work-Aggravated Asthma Regulations define work-aggravated asthma as:

“[A] subset of work-related asthma in patients with pre-existing or concurrent asthma that is worsened, but not caused, by work. The disease is characterised by variable airflow limitation, bronchial hyper-responsiveness, and/or airway inflammation due to causes and conditions not directly related to a particular agent in the working environment.”

This definition highlights that while the asthma is exacerbated by workplace conditions, it is not originally caused by those conditions.

Both sets of regulations emphasise the importance of recognising and compensating for asthmatic conditions influenced by the work environment, whether directly induced or aggravated by workplace factors.

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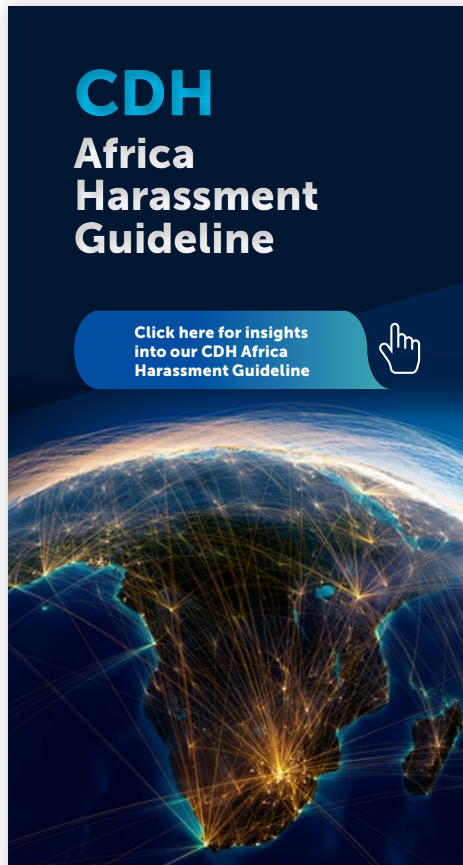
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It is notable that Circular Instruction No. 177, dated 29 April 2003, regarding Compensation for Irritant-Induced Asthma mirrors the definition provided in the Irritant-Induced Regulations.

Circular Instruction No. 184, dated 25 February 2005, regarding Compensation for Work-Related Asthma defines “*work-aggravated asthma*” as “*a disease characterised by variable airflow limitation and/or bronchial hyper-responsiveness due to causes and conditions not directly attributable to any particular agent in the working environment.*” This definition is slightly different but is still consistent with the Work-Aggravated Asthma Regulations.

The Irritant-Induced Regulations and the Work-Aggravated Asthma Regulations replace the respective circulars. The new regulations represent the most current and authoritative guidance on the matter, ensuring that workers receive fair compensation based on the latest international trends.

Fiona Leppan, Kgodisho Phashe and David de Goede



Chambers Global 2024 Results

Employment Law

Chambers Global 2014–2024 ranked our Employment Law practice in:

Band 2: Employment.

Aadil Patel ranked by Chambers Global 2024 in **Band 1:** Employment.

Fiona Leppan ranked by Chambers Global 2018–2024 in **Band 2:** Employment.

Imraan Mahomed ranked by Chambers Global 2021–2024 in **Band 2:** Employment.

Hugo Pienaar ranked by Chambers Global 2014–2024 in **Band 2:** Employment.



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Retirement fund lump sum benefits and severance benefits



The lump sum tax benefits (including severance benefits) due to the termination of employment as a result of reaching the retirement age, sickness, accident, injury, incapacity, redundancy or termination of the employer's trade has been amended as follows:

| TAX BENEFITS | |
|---------------------|---|
| 1 – 550,000 | 0% of taxable income |
| 550,001 – 770,000 | 18% of taxable income above 550,000 |
| 770,001 – 1,155,000 | 39,600 + 27% of taxable income above 770,000 |
| 1,155,001 and above | 143,550 + 36% of taxable income above 1,155,000 |

As part of the tax calculation on a specific lump sum benefit (retirement or severance), any amounts received, and tax paid from October 2007 in respect of retirement benefits or March 2009 in respect of severance benefits will be taken into consideration. For further information and advice please contact us.

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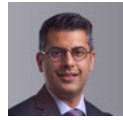
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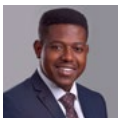
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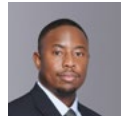
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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

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