

Trust faces delays in processing mineworkers' silicosis and TB claims

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The Tshiamiso Trust today announced significant delays in processing thousands of claims to determine their eligibility for compensation. These delays can occur for various reasons, including restrictions on the sources and content of the medical information which may be used to certify a claim, and gaps in the documentation presented to the Trust for certification.

The Trust's operating agreement, known as the Trust Deed, was created through a settlement between the mining companies and the claimants' attorneys, and became effective in 2019. In the process of implementing the Trust Deed, several difficulties arise in the interpretation and practical application of some of its provisions. Substantial progress has been made through the six amendments to the Trust Deed to date, but some interpretation issues are yet to be settled – resulting in significant delays in finalising many claims. While these delays impact some categories of living ex-mineworkers, the dependents of deceased mineworkers are affected the most, with only 14% (2 613) of the 187 27 claims paid to date being for deceased mineworkers.

The Trust has been engaged in extensive discussions and, later, legal processes to clarify these complex issues with the parties to the Trust Deed. Where possible, the formulation of suitable amendments to the Deed is pursued in an effort to avoid potentially drawn-out and costly arbitration and other legal processes. These protracted proceedings consume significant resources and impact the Trust's ability to process impacted claims, thus preventing many claims from advancing to the payment stage.

The key areas of difference include:

- **Definition of an official death certificate:** whether an "official death certificate" is limited to the death certificate issued by the Department of Home Affairs, or equivalent in other countries, as the sole source document to determine the primary cause of death.
- **Use of National Institute for Occupational Health (NIOH) post-mortem examination reports to determine the primary cause of death:** whether the NIOH autopsy reports can be used to determine the primary cause of death where silicosis and/or tuberculosis (TB) is referred to in the main findings of the post-mortem examination, irrespective of whether it is stated as the clinical cause of death.
- **Eligibility of claims for previous TB:** whether all qualifying mineworkers who developed permanent lung impairment from work-related TB should be included, regardless of when they were examined and diagnosed with this impairment by an accredited practitioner. This applies to mineworkers who are living, or were

alive at the effective date, and were diagnosed with TB while, or within 12 months of being employed for risk work at a qualifying mine, during a qualifying period.

- **Acceptance of certain specified Occupational Diseases in Mines and Works Act (ODMWA) certificates ("the Approved ODMWA Certificates"):** whether, in accepting an Approved ODMWA Certificate, the Trust should first assess the underlying medical records on which basis the ODMWA Certificate was issued, by the medical doctors serving on the Medical Bureau for Occupational Disease's (MBOD's) ODMWA Certification Committee at the time.

Despite the challenges, the Trust remains committed to resolving these matters as swiftly as possible. The Trust and the settling parties are now engaged in further discussions aimed at finding a resolution within the next few weeks. "As Trustees, we understand that these delays have caused considerable hardship and frustration for many claimants", said Dr May Hermanus, Chairperson of the Tshiamiso Trust. "Our focus remains on providing fair and equitable compensation to those affected, within the provisions of the Trust Deed."

The Trust will continue to provide updates on the progress of these discussions and the impact on claim processing.

Useful links

To see if the mineworker qualifies to lodge a claim:

<https://www.tshiamisotrust.com/information/status-check/>

To view the claims process:

<https://www.tshiamisotrust.com/information/how-to-claim/>

To view the compensation classes:

<https://www.tshiamisotrust.com/information/compensation-classes/>

To view daily progress of claims and payments:

<https://www.tshiamisotrust.com/information/progress-report/>

About the Tshiamiso Trust

The Tshiamiso Trust was established to give effect to the settlement agreement reached between six mining companies and claimant attorneys in the historic silicosis and TB class action. The companies are African Rainbow Minerals, Anglo American South Africa, AngloGold Ashanti, Harmony Gold, Sibanye Stillwater, and Gold Fields. The Trust is responsible for compensating all eligible current and former mineworkers across southern Africa with permanent impairment due to silicosis or work-related TB, or their dependants where the mineworker has passed away.

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