

---

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

---

DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. R. 3539

15 June 2023

**COMPENSATION FOR OCCUPATIONAL INJURIES AND  
DISEASES ACT, 1993 (ACT NO 130 OF 1993)**

**PUBLICATION OF THE DRAFT REHABILITATION, REINTEGRATION AND RETURN-TO-  
WORK REGULATIONS  
FOR PUBLIC COMMENT**

I, Thembelani Waltermade Nxesi, Minister of Employment and Labour, after consultation with the Compensation Board, hereby make the following attached regulations for public comment in terms of Section 97 of Compensation for Occupational Injuries and Diseases Act, 1993 (Act No 130 of 1993) as amended. The proposed regulations are attached as Schedule A.

The regulations are issued regarding Rehabilitation Reintegration and Return-to-Work of injured or diseased employees.

Interested persons are invited to submit any substantiated comments in writing on the proposed regulations within 30 days from the date of publication hereof to the Department of Employment and Labour, Compensation Fund 167 Thabo Sehume Street, Delta Heights, Pretoria, 0001 or [Nthabiseng.Mogonono@labour.gov.za](mailto:Nthabiseng.Mogonono@labour.gov.za) and [Farzana.Fakir@labour.gov.za](mailto:Farzana.Fakir@labour.gov.za) for the attention of Chief Director Rehabilitation & Reintegration: Tel: 012 406 5773.



---

MR T W NXESI, MP  
MINISTER OF EMPLOYMENT AND LABOUR  
DATE: 01/06/2023

## **SCHEDULE A**

### **REGULATIONS ON REHABILITATION, REINTEGRATION AND RETURN-TO-WORK OF INJURED OR DISEASED EMPLOYEES**

#### **Definition of regulation**

In these regulations, "the regulations" means the regulations relating to the Rehabilitation, Reintegration and Return-to-Work of injured or diseased employees under the Compensation for Occupational Injuries and Diseases Act, 1993; and any word or expression to which a meaning has been assigned in the regulations shall have that meaning unless the context otherwise indicates

**TABLE OF CONTENTS:**

**1. Definitions .....4**

**2. Application of regulations.....6**

**3. Appointment of Employee Health and Wellness Representative.....6**

**4. Compensation Fund, Licensee, employer, or employer individually liable to provide rehabilitation and Return-to-Work .....6**

**5. Requirement for enrolment into Rehabilitation and Return-to-Work Programme ....7**

**6. Roles of the Compensation Fund and Licensee .....7**

**7. Access to information.....8**

**8. Obligations of employers and employers individually liable .....8**

**9. Obligations of the employee .....10**

**10. Benefits and costs provided for under rehabilitation.....11**

**11. The Compensation Fund, Licensee, employers or employer individually liable may require assessments and rehabilitation plans .....12**

**12. Individual rehabilitation plan.....13**

**13. Reintegration and Return-to-Work policy .....13**

**14. Compensation of employees during rehabilitation.....14**

**15. Functions of Disability Managers .....14**

**16. Functions of Case Managers .....15**

**17. Obligations of Employee Health and Wellness representatives.....15**

**18. Criteria for approval of rehabilitation service providers .....16**

**19. Obligations of rehabilitation service providers.....16**

**20. Obligations of the Clinical vocational rehabilitation practitioners .....17**

**21. Obligations of treating healthcare practitioners .....18**

**22. Obligations of an occupational health practitioner or medical practitioner.....19**

**23. Roles and obligations of Rehabilitation Facilities .....20**

**24. Assessment of employers participating in a rehabilitation programme .....21**

**25. Contracted healthcare service providers for rehabilitation (designated service providers) .....21**

**26. Non-contracted healthcare service providers for rehabilitation.....22**

**27. Penalties for Non-Compliance .....23**

**1. Definitions**

**Any expression defined in these Regulations carries the same meaning as in the Compensation for Occupational Injuries and Diseases Act, 1993 Act unless otherwise indicated**

**“Act”** means the Compensation for Occupational Injuries and Diseases Act, 1993, as amended from time to time;

**“Assistive devices and technology”** means any item, piece of equipment, software programme, or product system used to increase, maintain, or improve the functional capabilities of persons with disabilities. This can include mobility devices such as walkers and wheelchairs, as well as hardware, software, and peripherals that assist people with disabilities. Assistive devices should include specialised Assistive Devices and Technology;

**“Case Manager”** means the health professional appointed by the Compensation Fund or Licensee to conduct case management for the injured employee, which includes the collaborative process of assessment, planning, facilitation, care-co-ordination, evaluation and advocacy for options and services to meet individuals and families through communication and available resources to create quality and cost outcomes;

**“Compensation Fund”** or **“Fund”** as defined in the Act;

**“Disability Manager”** means a suitably trained individual who performs various functions pertaining to Return-to-Work and rehabilitation systems, such as design, coordination and implementation of Return-to-Work programmes;



**“Employee health and wellness representative”** means an employee responsible for executing an organisation’s Return-to-Work programme and assisting injured workers to continue or Return-to-Work as soon as safely practicable after injury. The coordinator is also in charge of ensuring that the employer fulfils their Return-to-Work requirements in accordance with the Compensation Fund standards;

**“Injured employee”** means an employee whose prospects of securing, returning to, retaining and advancing in current employment are substantially reduced as a result of a severe physical impairment which was sustained at work and liability accepted by the Fund/Licensees;

**“Frail Care facility”** means a facility that provides full-time residential and nursing care for individuals with a dependent residual level of functioning after reaching (Maximum Medical Improvement (MMI).

**“Licensees”** as defined in the Act;

**“Reasonable Accommodation”** means the support, adjustments or improvements to a system, position or workplace that allow an employee to perform their job despite a disablement;

**“Rehabilitation Benefits”** means the range of rehabilitation services available to clients of Compensation Fund or Licensees who have sustained severe or complex injuries resulting in a disability. Such clients are enrolled in rehabilitation programmes, which can include admission for clinical rehabilitation, clinical vocational rehabilitation to facilitate Return-to-Work, social rehabilitation, identification and training of a suitable caregiver, placement into a Frail Care facility and provision of appropriate assistive devices and technology;

**“Rehabilitation Facilities”** or **“Facilities”** means health facilities where medical and/or rehabilitation services are provided;

**“Return-to-Work”** means a set of workplace processes designed to facilitate the workplace reintegration of persons who experience a reduced work capacity due to occupational injury or disease. The injured or diseased individual’s needs, the work environment, the enterprise needs and the legal responsibilities are considered as part

of a coordinated effort focused on job retention aimed at protecting and promoting health, well-being and workability;

**“Statutory councils”** means governance structures with which health professionals are required to be registered, including the Health Professions Council of South Africa, the South African Nursing Council and the South African Council for Social Service Professions;

## **2. Application of regulations**

- (1) The provisions of these regulations shall not apply to employers who are exempted therefrom by the Director-General.

## **3. Appointment of Employee Health and Wellness Representative**

An employer or employer individually liable may appoint or designate an employee as health and wellness representative for their business establishment.

## **4. Compensation Fund, Licensee, employer, or employer individually liable to provide rehabilitation and Return-to-Work**

- (1) Subject to the provisions of the Act, the Compensation Fund, Licensee, employer individually liable, or the employer, as the case may be, shall provide access to facilities, services and benefits aimed at rehabilitating employees suffering from occupational injuries or diseases to Return-to-Work or the labour market.
- (2) Where an employee suffered a disability as a result of an occupational injury or disease, the Compensation Fund, Licensee, employer, or employer individually liable shall, with the consent of the employee, provide the employee with access to rehabilitation programmes to assist in restoring the employee's health, independence and participation in the labour market and society to the maximum extent practicable.
- (3) The Compensation Fund, Licensee, Employee health and wellness representative of the employer, employer individually liable, or a healthcare practitioner may recommend that an employee with a disability or whose occupational injury or disease is likely to result in disablement be referred for a rehabilitation programme.

- (4) The Case Manager of the Compensation Fund or Licensee may approve the referral for rehabilitation upon the recommendation of the employer's employee health and wellness representative or a healthcare practitioner.

#### **5. Requirement for enrolment into Rehabilitation and Return-to-Work Programme**

- (1) The employer and healthcare provider shall notify the Compensation Fund or Licensee of Injured/diseased employees of the need to enrol such employees in the rehabilitation and Return-to-Work programme.
- (2) The liability for the injury will be duly accepted by the Fund or Licensee
- (3) The injury is severe and will be classified as a disability as per the categorised diagnoses of the Compensation Fund or Licensee

#### **6. Roles of the Compensation Fund and Licensee**

The Compensation Fund and Licensee may:

- (1) Found, establish, or subsidise, or assist with the founding, establishment or subsidising of a body, organisation, or scheme whose objects include one or more of the following:
  - (a) facilities designed to provide rehabilitation and assist injured employees and employees suffering from occupational diseases or injury in their work or labour market.
  - (b) carry out any activity which will contribute to the attainment of any of the objects referred to in the sub-regulation above;
  - (c) ensure that employers and employees are made aware of their obligations within the occupational setting and the Compensation Fund or Licensees' rehabilitation and Return-to-Work processes;

- (d) ensure that appropriate financial resources are available to support the establishment, implementation and maintenance of the rehabilitation and Return-to-Work programmes;
- (e) provide appropriate support to stakeholder organisations to ensure that they meet expected goals, objectives and responsibilities in compliance with these regulations;
- (f) institute steps to increase stakeholder awareness and recognition of their own efforts in rehabilitation and Return-to-Work programme;
- (g) cover all reasonable medical expenses, clinically appropriate and cost-effective assistive devices and technology for rehabilitation of injured or diseased employees;
- (h) foster partnerships and designated service provider arrangements with stakeholders to streamline services and reduce the costs of clinical, vocational and social rehabilitation, including the requisite reporting;
- (i) monitor, evaluate and review the implementation of rehabilitation and Return-to-Work policy

## **7. Access to Information**

The Compensation Fund or Licensee have the right to access medical records and any information that will assist the Fund or Licensee in discharging its duties in terms of the Act, taking into consideration relevant legislative requirements governing the release of confidential information and personal information.

## **8. Obligations of employers and employers individually liable**

- (1) An employer or employer individually liable must facilitate access to rehabilitation for an occupationally injured or diseased employee's reintegration back into the workplace, and in so doing, the employer or employer individually liable must:
  - (a) provide and maintain, as far as reasonably practicable, a working environment that is safe and without risk to the health and safety of their employees;



- (b) Identify, assess, evaluate, and mitigate occupational hazards;**
- (c) take all reasonable steps that are necessary under the circumstances to ensure that employees at work receive prompt first aid treatment in case of injury or emergency;**
- (d) facilitate required access and assistance to enable a disability or Case Manager from the Fund or Licensee to perform their functions;**
- (e) ensure reporting of all work-related injuries and occupational diseases to the Fund or Licensee by the employee health and wellness representatives;**
- (f) establish and maintain a system of rehabilitation and Return-to-Work reporting for all employees exposed to occupational injuries and diseases;**
- (g) submit the reporting data to the Fund or Licensee in the prescribed manner on an annual basis;**
- (h) keep rehabilitation and Return-to-Work reports for a period of not less than forty years;**
- (i) organise vocational guidance, skills development initiatives, reasonable accommodation, and placement;**
- (j) provide support and assistance to injured or diseased employees during work for rehabilitation, treatment or assessment;**
- (k) develop and implement a workplace rehabilitation and Return-to-Work policy and programme in compliance with these regulations and relevant legislation;**
- (l) integrate workplace rehabilitation and Return-to-Work cases into relevant structures to implement and monitor the programme within the workplace;**
- (m) provide reasonable, transitional or temporary work to allow the injured employee to work safely in the Return-to-Work process,**
- (n) modify work areas, duties, equipment or processes in accordance with the injured employee's capacity to allow for reasonable accommodation and assistive devices and technology where appropriate. This could include a review of duty allocation, transferring the injured employee to an alternative placement; altering the employee's working hours, making provision for a work trial; and/or giving the employees training;**
- (o) communicate promptly and openly with injured or diseased employees regarding the Return-to-Work process and methods to find appropriate alternative placement;**

- (p) consult with all relevant stakeholders to resolve difficulties at the workplace that impact the outcomes of the rehabilitation and Return-to-Work programme;
- (q) ensure that the employee undergoing rehabilitation can return to their original work where reasonably practicable or, where relevant, and shall for this purpose, reserve the employee's original work or, where appropriate, suitable alternative position until such time where evidence of incapacity has been provided after occupational injury or diagnosis of occupational disease;
- (r) Guide the injured or diseased employee, including arranging appropriate vocational training and placement when he returns to work after an occupational injury or illness;
- (s) not dismiss an employee based on incapacity or reduce the rate of their remuneration or alter terms of their employment conditions to a less favourable one as a result of being injured on duty, contracting an occupational disease without reporting such to the chief Inspectorate and the Fund or Licensees in writing stating the reasons for dismissal;
- (t) notify the Compensation Commissioner in the prescribed manner about the resumption of duty or inability to retain employees after all efforts have been made to preserve the employment of the injured or diseased employee;
- (u) for purposes of sub-regulation (a), (b), (c), the provisions of occupational Health and Safety Act no 85 of 1993, as amended from time to time, shall apply and
- (v) for purposes of sub-regulation (s), the provisions of the labour relations act 66 of 1995 shall apply as amended from time to time.

## **9. Obligations of the employee**

An employee must:

- (a) report the injury or disease as soon as practicable after the injury or diagnosis to his or her immediate supervisor and/or health and safety representative;
- (b) supply any relevant medical reports relating to rehabilitation and periods of absence from work and comply with any medical restrictions imposed at all times;
- (c) avail himself or herself and actively participate in the implementation of the rehabilitation and Return-to-Work plan;

- (d) return to his or her pre-Injury duties at the pre-Injury workplace where medically reasonable and safe;**
- (e) accept an offer of reasonable accommodation, duties and assistive devices and technology where this is part of an agreed Return-to-Work plan.**

**10. Benefits and costs provided for under rehabilitation**

- (1) The rehabilitation benefits provided in this sub-regulation may consist of the following: -**
  - (a) clinical rehabilitation for the physical and psychological recovery of the employee and to reduce or remove any physical or functional impairment or disablement resulting from an occupational injury or disease;**
  - (b) vocational rehabilitation to assist an employee in preserving, obtaining or regaining employment through vocational counselling, re-skilling and or up-skilling, altering of work environment, adjusting and enhancement of tools of trade;**
  - (c) social rehabilitation to assist in restoring an employee's independence and social integration to the maximum extent practical; and**
  - (d) the provision of assistive devices and technology where this is part of an agreed Return-to-Work and social reintegration plan.**
  
- (2) For the purpose of costs of rehabilitation: -**
  - (a) the costs for clinical, social rehabilitation, and Assistive Devices and Technology and vocational rehabilitation for previously employed workers with a permanent disablement as contemplated in sub-regulation (1), shall be borne by the Fund, and/or Licensee, including the costs of supplying, maintaining, and repairing Assistive Devices and Technology which have been issued in accordance with the guidelines and costs as published annually in the government gazette.**
  - (b) the costs of vocational rehabilitation for employees returned to work, as contemplated in sub-regulation (1), shall be borne by the employer and employer individually liable, including the costs of and reasonable accommodation.**

- (3) The provision of rehabilitation benefits contemplated in sub-regulation (1) and the resumption of work by an affected employee does not disentitle or disqualify the employee from receiving compensation benefits which would otherwise be payable under the Act;
- (4) Notwithstanding sub-regulation (3), the Commissioner may adjust any compensation benefits to a level or levels deemed equitable if the affected employee resumes work or disablement improves or deteriorates based on a rehabilitation plan developed in terms of this regulation.

**11. The Compensation Fund, Licensee, employers or employer individually liable may require assessments and rehabilitation plans**

- (1) Before providing clinical, vocational or social rehabilitation to an employee under the Act, the Fund, Licensee, employer or employer individually liable, as the case may be, may require the employee to: –
  - (a) undergo any assessment, including assessment of present and likely capabilities for the purposes of rehabilitation; and
  - (b) as the case may be, cooperate with the Fund, Licensee, the employer and employer individually liable in developing and implementing an individual rehabilitation plan.
- (2) The rehabilitation plan contemplated in paragraph (b) of sub-regulation (1) shall be approved by the Disability Manager of the Fund or Licensee.
- (3) Rehabilitation will require the authorisation of the Disability Manager of the Fund or the Licensee in accordance with the relevant Gazette tariffs.
- (4) An individual rehabilitation plan under paragraph (b) of sub-regulation (1) shall include but not be limited to the following: -
  - (a) conducting clinical assessments;
  - (b) identifying and implementing the employee's treatment requirements for rehabilitation.
  - (c) identifying and achieving the desired treatment outcomes.



- (d) conducting vocational rehabilitation assessments and implementing vocational rehabilitation interventions;
  - (e) conducting assessment and provision of Assistive Devices and Technology and
  - (f) specifying the rehabilitation services to be provided to an employee.
- (5) To the extent reasonably practical, an employee who receives rehabilitation benefits shall comply with the terms of an individual rehabilitation plan.

## **12. Individual rehabilitation plan**

- (1) The Fund and Licensee may determine at any time the future healthcare services that should be provided to an employee in terms of an individual rehabilitation plan, provided that: –
  - (a) the Fund and Licensee shall provide information to the employee regarding the process to be followed, the employee's rights and the accountability of the adoption of the rehabilitation plan;
  - (b) the rehabilitation plan prepared by the healthcare provider may be acceptable to the Fund and Licensee;
- (2) For the purpose of preparing an individual treatment or rehabilitation plan, the Fund or Licensee may require an employee to be assessed by a healthcare provider at the cost of the Fund or Licensee.
- (3) Once the Fund or Licensee determines an individual treatment or rehabilitation plan in alignment with the relevant Gazette tariffs for an employee: -
  - (a) the Fund or Licensee may direct that healthcare services required under the plan be provided by a contracted healthcare provider or any other service provider appointed by the Fund or Licensee; and
  - (b) the liability of the Fund or Licensee for payment for the healthcare service shall be limited to the healthcare services provided in the treatment plan.

## **13. Reintegration and Return-to-Work policy**

- (1) An employer or employer individually liable must have a reintegration and Return-to-Work policy. The policy must be freely accessible and communicated to all employees in writing, and it must outline the following: -
- (a) procedures that ensure the return of employees to work;
  - (b) provision of reasonable accommodation and Assistive Devices and Technology;
  - (c) an employee health and wellness plan that returns the employee back to work early;
  - (d) Re-skilling of employees for alternative work;
  - (e) Consequences for failure to comply with the policy and procedures; and
  - (f) Consistent support and intervention by employers, employees, healthcare providers and Insurers.

#### **14. Compensation of employees during rehabilitation**

The employees undergoing rehabilitation shall be entitled to compensation benefits payable under the Act.

#### **15. Functions of Disability Managers**

- (1) A Disability Manager, as appointed by the Fund or Licensee, shall be responsible for the following: -
- (a) setting up guidelines for referral to service providers in which the basis for the referral is the needs of the injured or diseased employee;
  - (b) consultation with the Case Manager, employers, employees and medical service providers involved in the rehabilitation of an occupationally injured or diseased employee;
  - (c) development and, when necessary, the revision of a rehabilitation plan in consultation with the employer, affected employee and medical service providers;
  - (d) coordination of the interventions required from the various medical and vocational rehabilitation service providers;
  - (e) approval of rehabilitation programme;
  - (f) facilitating the early Return-to-Work of occupationally injured and diseased employees; and

- (g) monitoring the progress of the employee's functional capacity to early Return-to-Work.

## **16. Functions of Case Managers**

- (1) A Case Manager, as appointed by the Fund or Licensee, shall be responsible for:
  - (a) initiation, coordination and monitoring of an Injured or diseased employee's workplace rehabilitation programme;
  - (b) facilitation of intervention and treatment as soon as practicable after an injury or disease;
  - (c) provision of an early, tailored, client-centred and coordinated intervention to employees experiencing a work-related injury or disease;
  - (d) provision of support, communication, coordination and cooperation among relevant stakeholders and professional organisations.
  - (e) promotion of the Return-to-Work approach;
  - (f) engagement with the management of clinical vocational rehabilitation providers.
  - (g) Coordination of the employer's responses to requests for information about the employee, their injury or disease, and their rehabilitation.

## **17. Obligations of Employee Health and Wellness representatives**

- (1) An employer shall be responsible for identifying employee health and wellness representatives who will act as liaison officers between the Fund or Licensee, the injured or diseased employee and the medical and rehabilitation service providers. He or she will have the necessary knowledge, skill and competence in the application of this regulation and will educate both the employee and the service providers on this rehabilitation and Return-to-Work programme regulation and shall have the right to: -
  - (a) request and be provided with all relevant reports pertaining to the injured or diseased employee;
  - (b) collaborate with the Fund or Licensee on the injured or diseased employee's needs as soon as the claim is reported and liability is accepted, including occupational and social needs, in collaboration with relevant stakeholders;

- (c) actively manage the approved vocational rehabilitation programme to ensure quality and cost-effective programme;
- (d) work with the employee supervisor and the occupational therapist to make sure that the injured employee receives appropriate vocational rehabilitation and that a written Return-to-Work plan is developed and approved;
- (e) coordinate and monitor the implementation of the approved Return-to-Work plans;
- (f) provide information and support to the injured employee;
- (g) maintain a case or claim file and protect the confidentiality of the information on this file; and
- (h) foster partnerships and collaborate with public and private community agencies to ensure a durable Return-to-Work or social reintegration.

**18. Criteria for approval of rehabilitation service providers**

- (1) Approved rehabilitation service providers shall include but not be limited to organisations or individuals who are appropriately qualified and experienced to provide rehabilitation and related services;
- (2) Approved rehabilitation healthcare providers who are registered under the relevant statutory councils.

**19. Obligations of rehabilitation service providers**

- (1) Approved rehabilitation providers are responsible for the following: -
  - (a) performing professional duties only in the field where they have been educated and trained and where they have gained experience and professional competence, taking into account the extent and limits of such professional expertise;
  - (b) assisting in the preparation and implementation of the rehabilitation plan;
  - (c) liaising with all parties concerned to maximise the efficiency and effectiveness of the rehabilitation plan for the individual employee;



- (d) designing treatment and rehabilitation plans and rendering services that are fit and proper for the purpose, taking into account the employees; vocational and social needs;
- (e) only rendering services which have been approved and authorised by the Fund or Licensee, and relevant gazettes and
- (f) observing all the requirements of the Fund or Licensee.

## **20. Obligations of the Clinical vocational rehabilitation practitioners**

Approved Clinical vocational rehabilitation practitioners must, within their scope of practice, work with the Fund, Licensee, employer and all relevant stakeholders within the employment relationship and shall be responsible for the following: -

- (1) delivering services to the employees in a cost-effective, timely and proactive manner to achieve a safe and durable Return-to-Work;
- (2) identifying and addressing behaviours and barriers that may hinder the individual's ability to benefit from the Return-to-Work process and develop strategies to address these;
- (3) considering workplace labour relations and human resources matters that have a bearing on the employee's Return-to-Work process and communicating these appropriately to relevant stakeholders;
- (4) evaluating functional performance as compared with job requirements and identifying and designing suitable duties for the employee to assist the employer in providing suitable employment;
- (5) identifying and coordinating vocational rehabilitation strategies that ensure that the employee can safely perform his or her duties, including work hardening; to ensure that relevant capabilities are adequately developed to meet the job demands;
- (6) making recommendations to the employer for workplace modifications and reasonable accommodation in line with the hierarchy of Return-to-Work;
- (7) communicating with all relevant stakeholders throughout the service provision process to ensure progress toward rehabilitation and Return-to-Work goals;

- (8) providing Assistive Devices and Technology prescriptions in accordance with the guidelines published in the Gazette annually and
- (9) avoiding over-servicing of patients by following appropriate peer-reviewed guidelines and clinical governance procedures for the treatment and servicing of patients;

**21. Obligations of treating healthcare practitioners**

- (1) Medical practitioners and medical specialists must comply with the professional standards, norms and conduct conferred to them by their professions.
- (2) They must perform professional acts only in the field of medicine in which they are educated and trained, or they have gained experience and competence, taking into account the extent and the limits of their professional expertise. Their roles and responsibilities are to: -
  - (a) assess and examine the injured or diseased employee and make an appropriate diagnosis based on chronology, causality, medical probability, evidence-based medicine and current best practice;
  - (b) develop an appropriate treatment plan and arrange and monitor treatment based on accepted guidelines and protocols as provided by current scientific medical knowledge as updated from time to time;
  - (c) communicate and cooperate with other medical practitioners, medical specialists and other healthcare practitioners in the diagnosis and treatment of patients;
  - (d) avoid over-servicing of patients by following appropriate peer-reviewed guidelines and clinical governance procedures for the treatment and servicing of patients;
  - (e) observe ethical and legal standards about the management and treatment of patients as stipulated in various statutory mandates and ensure that the best interest principle is always observed;
  - (f) duly complete all medical reports and other reports and submit such to the Compensation Fund or Licensee in the prescribed manner and as and when may so be required;

- (g) review the progress of recovery of the Injured or diseased employee and revise the employee's treatment plan as appropriate;
  - (h) only certify time off when it is medically indicated and justifiable;
  - (i) complete all medical certificates and specify all medical restrictions which must be observed when returning the employee back to work;
  - (j) collaborate in the promotion of a safe Return-to-Work by arranging referral to a rehabilitation professional in collaboration with the Fund or Licensee; and
  - (k) avail themselves for discussion and advice on the management of the injured or diseased employee and issues relating to medical and vocational rehabilitation;
- (3) provide the patient with a discharge report at the time of the discharge from a health establishment containing such information as may be prescribed in terms of the National Health Act;
- (4) The prescribed information contemplated in subsection (1) must have regard to the following: -
- (a) the nature of the health service rendered;
  - (b) the prognosis of employees' condition;
  - (c) a final diagnosis of an employee; and
  - (d) the need for follow-up treatment must be in writing in the case of an in-patient.
  - (e) a discharge report for out-patient and in-patients must also be in writing.

## **22. Obligations of an occupational health practitioner or medical practitioner**

- (1) Occupational health practitioners and occupational medical practitioners are responsible for the following: -
- (a) identifying and assessing the risks from health hazards in the workplace to assist in the protection and promotion of employees' health;
  - (b) carrying out surveillance of factors in the working environment and working practices that may affect employees' health;
  - (c) combining an understanding of the medical issues with that of the requirements of the specific job and the work environment;



- (d) assisting the employer in establishing emergency preparedness and response programmes and organising first aid and emergency treatment for employees who sustain occupational injuries or contract diseases;**
- (e) reporting all occupational injuries and diseases timeously in the prescribed manner and assisting in the investigation thereof;**
- (f) assisting in the promotion of the adaptation of the employees' job, assessing disability and fitness for work and promoting work ability;**
- (g) providing experience and expertise in addressing barriers to Return-to-Work by advising the employee, the employer, the treating doctor, and other healthcare professionals on the full range of occupational health issues;**
- (h) contributing to the maintenance of the quality of working life at the highest possible level through evidence-based occupational health programmes in the workplace;**
- (i) the development of policies and procedures to assist organisations to function more effectively in attaining healthy and safe working conditions, including helping the organisation in developing and implementing Return-to-Work programmes;**
- (j) working in collaboration with vocational rehabilitation providers to ensure a seamless Return-to-Work process;**
- (k) participating in the drawing up of and implementation of the employee's Individualised Return-to-Work plan; and**
- (l) providing expert evidence in labour forums or other medico-legal platforms concerning disputes related to fitness to work or medical incapacity that requires alternative placement or medical boarding.**

### **23. Roles and obligations of Rehabilitation Facilities**

- (1) Rehabilitation Facilities must play an active role in ensuring that they facilitate the ethical and cost-effective treatment of patients admitted to such facilities**
- (2) They are required to observe the set norms and standards and ensure that healthcare providers using their facilities are adequately qualified, experienced, and competent to deliver the required service to the expected standard.**



**(3) They are responsible for ensuring the following:**

- (a) that patients who are brought to the facility in an emergency are treated and stabilised, and that emergency treatment is not unlawfully denied;**
- (b) that patients are respected and their rights upheld, including informed and dignified attention in an acceptable and hygienic environment;**
- (c) timeous availability of medicines and efficient provision of diagnostic, therapeutic and other clinical support services and necessary medical technology, as well as systems to monitor the efficiency of the care provided to patients;**
- (d) quality nursing and clinical care, and ethical practice;**
- (e) that there is no over-servicing of patients and unnecessary provision of services which do not add quality-of-life value to patient's outcome;**
- (f) reduction of unintended harm to healthcare users or patients in identified cases of greater clinical risk;**
- (g) prevention or management of problems or adverse events, including healthcare-associated infections; and support of affected patients; and**
- (h) that measures are put in place to detect fraud and corruption or abuse of the health system, insofar as it affects compliance with prescribed norms and standards.**

**24. Assessment of employers participating in a rehabilitation programme**

- (1) Subject to the provisions of section 85, the Commissioner may assess the employers participating in the Return-to-Work programme at a lower rate as he or she may deem necessary.**

**25. Contracted healthcare service providers for rehabilitation (designated service providers)**

- (1) The Fund or Licensee may enter into agreements with public and private sector healthcare providers to provide for: -**
  - (a) the delivery of healthcare services to injured or diseased employees and medical reports to the Fund or Licensee;**

- (b) an agreed fee structure and terms of payment for the healthcare services, medical reports and record-keeping, which may differ, subject to affordability, value for money and an open, transparent, fair and competitive bidding process, from the tariffs prescribed by the Minister in the Gazette in terms of the Act;
- (c) supplying, maintaining and repairing Assistive Devices and Technology, which has been issued in accordance with the guidelines and costs as published annually in the Gazette;
- (d) medical, healthcare and rehabilitation policies, protocols or standards to be complied with by the contracted healthcare provider;
- (e) the keeping of additional records of injuries and occupational diseases and treatment provided and the provision of such records to the Fund or Licensee;
- (f) pre-authorisation in respect of non-emergency healthcare services in accordance with the relevant Gazettes; and
- (g) any other matter relating to the provision of healthcare services for occupational injuries and diseases.

**26. Non-contracted healthcare service providers for rehabilitation**

- (1) The Fund or Licensee shall be liable to pay a non-contracted healthcare provider or any person who paid such a healthcare provider the costs of healthcare services provided to an occupational injured and diseased person, provided that: -
  - (a) a claim must be submitted in the manner prescribed in this Act or Regulations;
  - (b) the Minister may, after consultation with the Minister of Health, limit the liability of the Fund or Licensee for the provision of healthcare services, repairing or replacing Assistive Devices and Technology, and compiling medical reports; prescribed tariffs; and
  - (c) subject to section 23 of the Act, the Fund or Licensee shall only be liable for healthcare services available and received in the Republic and medical reports compiled in the Republic.
- (2) The Fund or Licensee may, in the manner set out in the gazetted and regulated procedures, require its prior approval in respect of non-emergency healthcare services.

- (3) The Fund or Licensee shall not be liable for the healthcare services mentioned in subsection (2) if prior approval had been required but not obtained.

**27. Penalties for Non-Compliance**

- (1) An employer or employer individually liable who fails to comply with the provisions of these regulations shall be liable to a fine or penalty as determined by the Commissioner.



---

**MR T W NXESI, MP**  
**MINISTER OF EMPLOYMENT AND LABOUR**  
DATE: 01/06/2023