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EMPLOYMENT

Compensation for employees who experience injuries, illness or death as a result of the Covid-19 vaccine

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Compensation for Occupational Injuries and Diseases Act 130 of 1993

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On 22 October 2021, a notice was published in the Government Gazette in terms of section 6A(b) of the Compensation for Occupational Injuries and Diseases Act 130 of 1993 ("**COIDA**"). The notice relates to the compensation for side effects to the Covid-19 vaccination ("**Notice**") based on employees who experience injuries, illness or death as a result of the Covid-19 vaccine in the circumstances where the requirement to have the vaccine is an inherent requirement of the employee's job or where the employee is required to do so in terms of his/her employer's risk assessment.

Read our article discussing vaccination policies for the workplace for more on the implementation of a mandatory vaccination policy and the required risk assessment).

The Notice provides that if an employee is required to receive a Covid-19 vaccine, either as a result of an occupational health and safety risk assessment conducted by an employer or where the vaccine is an inherent requirement of employment, any injury, illness or death incurred as a result will be covered by the Compensation Fund.

However, in order for such cover to extend to an employee, there are 6 requirements that apply:

1. The vaccine must be regarded as an inherent requirement of employment in terms of the employer's risk assessment;
2. The employee must have received a SAHPRA-approved Covid-19 vaccine;
3. Evidence of the employer's risk assessment and vaccination plan in terms of the Consolidated Directions on Occupational Health and Safety Measures in Certain Workplaces must be provided;
4. The chronological sequence between the vaccine inoculation and the development of the employee's symptoms and clinical signs must be provided;
5. The employee must have presented with symptoms and clinical signs that are generally recognised as side effects of the Covid-19 vaccine; and
6. Additional tests may be required to assess the presence of abnormalities of any organ affected.

A copy of the Notice can be accessed here.



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