

Portfolio Committee on Employment and Labour



Compensation of Occupational Injuries and Diseases Amendment Bill, 21 of 2020

PRESENTED BY:
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Proposed change S1 Domestic worker

Deletes exclusion of domestic employees to COIDA
(a domestic employee employed as such in a private household;]

Support changes of including domestic workers in the Act
Implementation concerns

Concerns

S1 Domestic worker

September 2020
Stats SA estimated 864 000
domestic workers

Registration

- Manual process for domestic workers currently
- Poor feedback from CF once manual documents submitted
- Difficulty in correcting errors

Claims process

- Currently employers engages service providers to assist with claims due to difficulty in engaging with the CF
- Domestic employers would not necessarily be able to appoint service providers – administrative difficulty

Concerns

S1 Domestic workers

Submission of Return of Earnings
- Submit via ROE online

CALCULATION OF FINANCIAL IMPACT

Employee is paid R21,69 per hour for 8 hours per day for 21 working days per month

Wage per month: R3 643,92

Wage per year: R43 727,04 + 13th cheque R3 643,92 = R47 370,96

COID payment as per table $R47\ 370,96 \times 1,04/100 =$ **R492,66**

- Receive assessment, based on rates can be minimum of R493,66
- BUT CF has a minimum assessment of **R1 284** per annum
- If mistakes made – employer has to correct within 30 days otherwise CF will not review assessment

Recommendation S1 Domestic workers

Transitional provision
How will changes be implemented
Manual registration – how to receive reference number

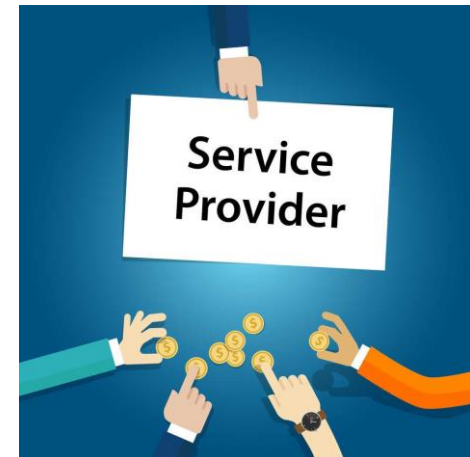
Claims system - CompEasy
Set out requirements on how employers
and employees can claim for
compensation prior to 2021 – when
employer register must they now pay
assessments for previous years

Administrative issues
Turnaround time in receiving
feedback when registering
Affordability

Proposed change S43 amendment to S73

(4) Any provision of any agreement existing at the commencement of this Act or concluded thereafter in terms of which a service provider cedes or purports to cede or relinquishes or purports to relinquish any rights to medical claim in terms of this Act, shall be void.”

- Claims often ceded by medical service providers



Considerations

S43 amendment to S73(4)

- Cession assist medical service provider to be paid
- 3rd party service provide has systems in place
- Shorter turnaround time
- Medical service providers don't have time and know how on how to deal with the CF
- Impact on IoD patients, service providers, 3rd party service providers

Considerations

S43 amendment to S73 (4)

The proposed amendment states that any agreement existing at the commencement of the Act is **void**.

Unintended consequence:

Valid claims that were ceded and /or assigned from medical services providers and submitted to the Fund for payment prior to commencement of the Act will be “void” (not voidable)

The existing pre-funding book would in effect be wiped off the balance sheet of companies with the effect that financial institutions that advanced funds to these companies will cancel all facilities and will foreclose on their security.

The proposed amendment seemingly has retrospective effect and the retrospectivity prejudices pre-funders that legally conducted its business before the proposed amendment.

Recommendation

S43 amendment to S73 (4)

- Consider impact on vulnerable employees
- Consider impact on medical service providers
- Question whether the Regulatory Impact Assessments took this into account
- Seem to unreasonably prohibit business practices with no apparent business rationale
- **THEREFORE** request deletion of this proposal

Proposed change

S51 amendment to S83

51. Section 83 of the principal Act is hereby amended—

(a) by the substitution for subsection (5) of the following subsection:
“(5) If earnings actually paid by an employer in respect of a particular period differ from the current estimated earnings shown in respect of that period in the return concerned, the [Director-General] Commissioner shall adjust his or her assessment accordingly.”; and

(b) by the substitution in subsection (6) for paragraph [a] the following paragraphs respectively:

“(b) impose upon and recover from the employer a [fine not exceeding] penalty of 10 per cent of the amount so assessed;

(c) where it later appears that the actual earnings were more than the earnings estimated under paragraph (a), recover the difference in the assessment from the employer, and may impose [and recover] a [fine] penalty on such difference as contemplated in paragraph (b);

Employer not submitted ROE

Consideration S51 amendment to S83

No information on amount of penalties

Previous experience – system issues lead to employers submitting manual submissions – charged with late submission penalty

No method for employers to object

Pay now, argue later
But no method to argue

Employers submit information to CF – no feedback received

Recommendation S51 amendment to S83

We submit that the Bill needs to set out a method for employers to object to incorrect assessments prior to penalties being levied

Detail regarding the calculation of the penalty to be provided

We request that a process to object to the assessment needs to be included

Thank you