

A decorative graphic in the top left corner consisting of several overlapping, stylized arrow shapes pointing to the right. The arrows are in shades of grey and red.

Legal update

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The Compensation for Occupational Injuries and Diseases Act (COIDA)

The main purpose of the Compensation for Occupational Injuries and Diseases Act (COIDA) is to provide compensation for all permanent, casual, temporary or contracted employees who in the course of their employment might suffer:

1. disablement as a result of a work-related injury;
2. disablement as a result of contracting a work-related disease, or
3. death as a result of a work-related injury or disease.

Compensation in terms of this Act can be paid out by means of lump sum payments, periodical payments or monthly pension payments.

From 1 April 2015, the maximum amount of earnings per annum that a person may earn in terms of COIDA is R355 752¹. The minimum level of pensions² that are paid has also been increased to R1500 per month in respect of all existing pensioners, R1245 per month to all spouses and R623 per month to a child. The schedule that determines the manner in which compensation is calculated was also amended by way of the recommended maximum and minimum compensation amounts having been changed and became effective 1 April 2015³.

¹ Changed to R430 944 – Effective 1 March 2018

² Monthly pensions have been increased by 5.8%– effective 1 April 2018

³ Schedule amended – New maximums and minimums effective 1 April 2017

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Can an employer who has Group Life Cover (GLA) and Permanent Health Insurance / Lump Sum Disability (PHI / PTD) benefits for their employees, decide not to register under COIDA?

COIDA provides that all employers are required to register with the Commissioner. However, section 84(1)(b) of COIDA provides as follows:

“No assessment in favour of the compensation fund shall be payable in respect of employees whose –

(b) employer has with the approval of the Director-General obtained from a mutual association a policy of insurance for the full extent of his potential liability in terms of this Act to all employees employed by him, for so long as he maintains such policy in force.”

COIDA defines a mutual association as *“a mutual association licensed under section 30”*.

Section 30(1) provides as follows:

“(1) The Minister may, for such period and subject to such conditions as he may determine, issue a licence to carry on the business of insurance of employers against their liabilities to employees in terms of this Act to a mutual association which was licensed on the date of commencement of this Act in terms of section 95(1) of the Workmen’s Compensation Act: Provided that the Minister may, from time to time, order that, in addition to any securities deposited in terms of the Insurance Act 27 of 1943 (repealed by the Long term Insurance Act 1998), and the Workmen’s Compensation Act, securities considered by the Director General to be sufficient to cover the liabilities of the mutual association in terms of this Act be deposited with the Director General or his or her nominee....”

Accordingly, an employer will need -

1. to obtain a policy of insurance for the full extent of their potential liability;
 2. from a mutual association licensed under section 30 of the Act, and
 3. the employer will need the approval of the Director General,
- to be exempt from the provisions of COIDA.

Any mutual association should have been licensed to provide the benefits payable in terms of COIDA at the commencement date of COIDA; in other words it should have been licensed under the previous Workmen’s Compensation Act. There are currently only two licensed mutual associations, namely Federated Employers Mutual Assurance Company (Pty) Ltd, for the construction industry, and Rand Mutual Assurance Company Limited, for the mining industry. As part of the licensing conditions, they report to the Compensation Commissioner.

Looking at the provision of section 30(1), it appears that the Minister can only continue with the licensing of a mutual association if it was licensed at the commencement date of COIDA. Furthermore, no new licenses can be issued.

In conclusion: unless the employer is in the construction or mining industry, and has a policy of insurance for the full extent of their potential liability with one of the two licensed mutual associations, they will not be able to be exempt from COIDA.

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