



THE PRESIDENCY

REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF PLANNING, MONITORING AND EVALUATION

SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)

**FINAL IMPACT ASSESSMENT FOR COMPENSATION FOR INJURIES AND
DISEASES ACT (COIDA)**

Version: May 2015

Final impact assessment

The final impact assessment provides a more detailed assessment of the ultimately legislative proposal. In addition, it identifies (a) mechanisms for monitoring, evaluation and modification as required; and (b) a system for managing appeals that could emerge around the implementation process.

Problem statement/Theory of change

1. Summarize the proposal, identifying the problem to be addressed and the roots (causes) of the problem that will be addressed by the new rule.

Summary of the proposal:

The process to amend the Compensation of Occupational Injuries and Diseases (COIDA) Amendment Bill started in 2013 after the Compensation Fund Advisory Board identified shortcomings and policy gaps that expose the Compensation Fund to abuse.

The Minister also wanted to contribute to job creation and protection of vulnerable workers by introducing the following:

- Extension of Compensation benefits coverage to domestic workers;
- Rehabilitation, reintegration and return to work programmes; and
- Improving administration efficiencies in the management of Revenue.

The Compensation for Occupational Injuries and Diseases (COIDA) Amendment Act is therefore aimed on providing for rehabilitation, re-integration and early return to work of occupationally injured and diseased employees, to include coverage of domestic workers by COIDA, to regulate dispute resolution; and also to enhance compliance and enforcement of COIDA. The Amendment Bill is completed but the Department is still planning to have public hearing after Cabinet approval is granted to do so.

Problem and root causes:

Problem	Root Causes
<ul style="list-style-type: none">• High payments from the CF's budget to employees involved in occupational injuries and diseases.	<ul style="list-style-type: none">▪ Employees staying out of employment for a long time (and sometimes permanently) after being involved in occupational injuries or contracting diseases that led them being unable to work. This results in employees being dependent on the Compensation Fund of the Department of Labour's (DoL) payout of occupational disability.

Problem	Root Causes
	<ul style="list-style-type: none"> ▪ Long term payments to employees with occupational injuries and diseases who qualify for compensation. The long term payments are necessitated by the lack of programmes that will enable these employees to work again after occupational injuries. CF pays a lot of money to compensate the employees even though some of them can be reintegrated to the labour market if rehabilitated.
<ul style="list-style-type: none"> • Discriminatory and unfair exclusion of domestic workers involved in occupational injuries and diseases. 	<ul style="list-style-type: none"> • Domestic workers were not included in the definition of employees by the COIDA and that left them out of coverage by the security of the fund.
<ul style="list-style-type: none"> • Some employees not being compensated for occupational injuries and diseases. 	<ul style="list-style-type: none"> ▪ Some employers not complying with COIDA to an extent that they do not register their businesses, some do not report occupational incidents to the relevant authority, others dismiss the employees when they become disabled due to occupational injuries and still others shift the cost for occupational injuries and diseases to employees. ▪ Low level of inspection and enforcement on COIDA results in some employers circumventing labour laws, thereby increasing workplace accidents and leaving vulnerable employees without social protection coverage. This result in employees being out of employment after being unable to work due to occupational injuries or diseases. Over and above that employees are unable to benefit from Compensation fund in terms of medical bills coverage and other securities offered by the Fund because their employers were not registered.

2. Describe the intended outcomes of the proposal.

The main intended outcome of the COIDA Amendment Bill is to reduce the cost of compensation for occupational diseases and injuries once the incidents happen, by facilitating the rehabilitation and reintegration of employees back to work. Most importantly the expected outcomes include:

- Introduction of rehabilitation and reintegration of injured and diseased employees back to work;
- Creating a culture of self-reliance for employees so that they do not depend too much on government support after being involved in workplace injuries or diseases;
- Enhancing COIDA enforcement through inspection and enforcement services of the labour inspectors; and
- Including the domestic workers in the definition of “employee” so that they get coverage by the COIDA, currently they are not covered due to the definition.

3. Describe the groups that will benefit from the proposal, and the groups that will face the cost. These groups could be described by their role in the economy or in society. As a minimum, consider if there will be specific benefits or costs for the poorest households (earning R7000 a month or less); for black people, youth or women; for small and emerging enterprise; and/or for rural development. Add more lines if necessary.

Groups that will benefit	How will they benefit?
Employees	<ul style="list-style-type: none"> • They will be able to engage in their work post rehabilitation and reintegration, therefore their income generation capabilities will not be lost. • Employees will continue to have an income as they get reintegrated back to their employment. • Increased enforcement capacity will result in increased employment security due to the Bill’s proposal to: <ul style="list-style-type: none"> ✓ impose fine for employers who dismiss employees on the basis of occupational disablement, ✓ imposed fine against employers who deduct money related to occupational injuries and diseases from employees’ wages, and ✓ other related fines aimed at enforcing COIDA. • The involvement of DoL in ensuring employee reasonable accommodated post injuries will also benefit employees as increased levels of reintegration will be ensured because the cost is not entirely on employers.
Domestic workers	<ul style="list-style-type: none"> • They will enjoy the benefits of COIDA in case of occupational injuries and diseases.
Families of the employees	<ul style="list-style-type: none"> • Secured households income and well-being of family members because once household income stop or gets reduced there are many problems that families start to experience due to financial pressures.
Country	<ul style="list-style-type: none"> • Economic growth will be positive as the reintegrated employees will be contributing in production and their earning will be injected back in the economy due to their sustained buying power from their wages. They will pay tax as well.
DoL - Compensation Fund	<ul style="list-style-type: none"> • Due to reintegration of employees back to employment, the Department’s Compensation Fund will save money that was

Groups that will benefit	How will they benefit?
	supposed to be paid to employees as a continuous compensation for injuries because the employees will be working and earning their wages once they are reintegrated.
Employers	<ul style="list-style-type: none"> • Employers will get assistance from DoL regarding the rearrangements for 'Reasonable accommodation' that will involve modification or adjustment to a job or to the working environment that will enable an employee to have access to or participate or advance in employment when reintegrated.
Employers of domestic workers	<ul style="list-style-type: none"> • They will benefit in having their employees being assisted by the Compensation Fund in getting compensation, medical assistance and related benefits.
Citizens	<ul style="list-style-type: none"> • Citizens will benefit from other government revenue funded projects that will be made possible by the contribution of the reintegrated workers to the economy. For example, government might increase subsidies to education, water, electricity because the tax base is retained as occupationally injured workers continue to work.

Groups that will bear the cost	How will they bear the cost or lose?
DoL	<ul style="list-style-type: none"> • In ensuring reintegration, DoL will require infrastructure to enable reasonable accommodation of rehabilitated workers. Specifically, DoL (Compensation Fund) will bear the cost in assisting employers to ensure that the rehabilitated/reintegrated employee is able to work without hindrance of the disability. In cases where employees cannot be easily accommodated in their old work spaces and there is a need to effect changes to the space of employment, Compensation Fund will take the responsibility to have that done. <u>“Subject to the provisions of this Act, the Compensation Fund, as the case may be, shall provide facilities, services and benefits aimed at rehabilitating employees suffering from occupational injuries or diseases to return to their work and to reduce any disability resulting from their injuries or diseases”</u> Section 70. A. 1. • Increased Resource required e.g. Human Resource skills

	development, tools of trade needed to implement the proposed changes such as additional inspectors, inspector training and other requirements for them to work.
Employers	<ul style="list-style-type: none"> • The employer cost will be incurred through redeployment of the reintegrated employee and recruitment for the vacated positions after rearranging work to cater for the reintegrated employees who cannot perform their previous jobs. • The employer cost will be incurred in ensuring compliance with COIDA, pay fines and penalties for non-compliance.

4. Describe the behaviour that must be changed, and the main mechanisms to achieve the necessary changes. These mechanisms may include modifications in decision-making systems; changes in procedures; educational work; sanctions; and/or incentives.
5. Identify the groups inside and outside of government whose behaviour will have to change to implement the proposal (add more lines if required).

This table below covers Number 4 and 5

Groups inside and outside government whose behaviour will have to change	Behaviour that must be changed	Main mechanisms to achieve the necessary changes
Groups inside government		
DoL	<ul style="list-style-type: none"> • Current enforcement mechanisms are limited in enforcing COIDA compliance so the enhancement of enforcement services will increase compliance. 	<ul style="list-style-type: none"> • The Amendment Bill will enhance current inspection and enforcement services of the labour inspector by defining clearly their roles and authority which the Bill augment by providing the High Court intervention in order to gain access to a work place, making provision of an interpreter and SAPS to support the role of a labour inspector.
Groups outside government		
Employees	<ul style="list-style-type: none"> • Resistance by some employees from being subjected to rehabilitation and reintegration. 	<ul style="list-style-type: none"> • The amendments are providing an environment that will encourage employees to avail themselves for assessments and placement to rehabilitation and reintegration. This is facilitated in the Bill by

Groups inside and outside government whose behaviour will have to change	Behaviour that must be changed	Main mechanisms to achieve the necessary changes
		<p>imposing penalty to employers who shift costs related to COIDA on employees, by introducing penalties to employers who dismiss employees on the ground of occupational disablement. Employees are also going to be assisted in the programme by case managers who are skilled to do that over and above the support on removing the burden of rehabilitation and reintegration from them.</p>
Employers	<ul style="list-style-type: none"> • Some employers not welcoming employees whose working capability was changed/affected as a result of occupational injury or disease. • Noncompliance by employers which include Employers not reporting incidents, employers dismissing occupationally disable employees for example. 	<ul style="list-style-type: none"> • This will be achieved through employers' support by DoL on ensuring employees' working environment is reasonable to accommodate their occupational disabilities. • Introduction of penalties in the amendment Bill also provide mechanism to ensure that employees are not dismissed due to occupational disabilities. • The Bill is introducing a fine for employers who do not comply with the amendments, for example, Section 70 H, imposes fine for employers who will dismiss their employees due to occupational disablement. Furthermore there will be Advocacy that will help employers to comply.

6. Report on consultations on the proposal with the affected government agencies, business and other groupings. What do they see as the main benefits, costs and risks? Do they support or oppose the proposal? What amendments do they propose, and have these amendments been incorporated in your proposal?

NB: The Compensation Fund is planning to get Cabinet approval on the COIDA Amendment Bill in order to conduct public hearings and consultation with other stakeholders through NEDLAC.

Affected stakeholders	What do they see as main <u>benefits, costs and risks</u>	Do they <u>support or oppose</u> the proposal	What <u>amendments</u> do they propose	Have these amendments been <u>incorporated</u> in your proposal
Government Agencies (name them): Department of Health	<ul style="list-style-type: none"> Department of Health saw the proposed amendment as assisting with advancing the implementation of NHI. 	<ul style="list-style-type: none"> They support amendments 	<ul style="list-style-type: none"> None 	None
Business (name them): <ul style="list-style-type: none"> BUSA Representatives on Advisory Board Mutual Associations 	Organized business supported the Bill and the improvements in benefits that are being introduced to incentivize employer participating in rehabilitation programme.	They support the bill.	Proposed the expansion of the role of the board and other oversight structures	All proposals have been incorporated except the change on the role of the board (from advisory board to executive board)
Other groupings (name them): <ul style="list-style-type: none"> COSATU representatives on the board FEDUSA representatives on the board NACTU Representatives on the board 	Organised labour supported the Bill and the improvements in benefits that are being introduced to protect vulnerable workers.	They support the bill.	Proposed the expansion of the role of the board and other oversight structures and the removal of limit on the number of terms board members may serve on the board.	All proposals have been incorporated except the change on the role of the board (from advisory board to executive board) and the removal of limit on the term of the board members.
Other groupings (name them)				

7. Describe possible disputes arising out of the proposal, and the system for settling and appealing them. How onerous will it likely be for members of the public to lodge a complaint and how burdensome and expeditious is the proposed dispute-settlement procedure?

Dispute can arise between the parties (Department of Labour, Employer and Employee). The disputes can be caused by dissatisfaction of either the employer or employee against the decision of the Director-General in relation to the matters of the Bill.

The Compensation Fund has increased its capacity in the Legal Directorate to speedily deal with objections and hearings. In addition, additional capacity has been contracted to assist in providing professional expertise in the provinces.

Group	Possible Dispute	Mechanism to resolve the Dispute
Employers/ Employees	Employer or employee affected by the decision of the Director-General of the Department regarding compensation of occupational injuries and diseases not satisfied by the decision.	The amendment Bill stipulates an appeal mechanism which specifies timeframe for lodging an objection. The Bill also specify the representation of the hearing of the lodged objection by any party, the Bill specify where the objection should be lodged. Section 91 in particular specifies the appeal process.

Impact assessment

1. Describe the costs and benefits of implementing the proposal to the groups identified in point 6 above, using the following chart. Add more lines if required.

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
DoL	<ul style="list-style-type: none"> • Financing infrastructure for rehabilitation & reintegration, • Assisting in the re-designing of the workplace to suite the injured or diseased employees. 	Enforcement cost	High number of workers being reintegrated would increase saving by DoL on funds that were supposed to pay for compensation of injuries and diseases.	

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
	Enhancing Inspection and enforcement capacity through personnel recruitment, and equipping them with tools of trade etc.	Training and capacitating inspection and enforcement	High compliance with COIDA, Reduced claims for compensation and Increased contribution to tax revenue.	
		Awareness campaigns. Instilling the culture of understanding rehabilitation and reintegration to both employees and employers.	Increased number of reintegrated employees to work after injury or disease and less number of long-term COIDA payments.	
Employers, including employers of domestic workers.	Providing support such as Employee Assistant Programmes	Awareness campaigns and training of employees to adapt to new workplace changes, including new work in cases where the employee is partially or fully relieved of old work.	Reduced loss of working days and increased productivity of the firm as rehabilitated and reintegrated workers still contribute to the workplace and share their skills and experience with other workers.	The employers cost/ contribution might not be financially quantified
Medical service providers	Prohibition of ceding their claims to third parties	Campaigns to encourage Medical service providers to submit claims directly. Cost of implementing technology that allows for speedy	Reduce fraud and corruption by third parties who buy claims from Doctors.	This will assist the Fund by creating a direct business-to-business with our stakeholders and clients by eliminating third parties

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
		payment of claims.		

2. Describe the changes required in budgets and staffing in government in order to implement the proposal. Identify where additional resources would be required for implementation. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

Area	Change	Resources
Organizational	<ul style="list-style-type: none"> • Inspection capacity increase. • Additional capacity in terms of human resource for Case Managers and Inspectors. 	Human and financial Resources
Financial	<ul style="list-style-type: none"> • Implement the communication strategy • Training of inspectors • Tools of trade • Extension of domestic workers increasing the scope of CF- need more finance. 	Financial Resources
Infrastructure	<ul style="list-style-type: none"> • Rehabilitation infrastructure for employees who are occupationally disabled • CF fund will ensure reasonable accommodation through improving the workplaces to cater for disability and other changes in the health condition as a result of occupational injuries and diseases. 	Financial Resources

3. Describe how the proposal minimizes implementation and compliance costs.

- Through advocacy, inspection and auditing as well as enforcement, there will be a minimized compliance cost,
- Use of internal staff for trainings and awareness campaigns,
- Use of other departments that engage with related matters such Department of Social Development, government pension administration, DTI, DPW, EDD, GCIS, Small Business Development and etc.

4. Describe the main risks to the achievement of the desired ends of the legislation and/or to national aims that could arise from adoption of the proposal. Add more lines if required.

- Resistance by employers to reintegration of employees who were injured or diseased, especially those who will have some challenges in doing the work they did before the incidents;
- Corruption could deter compliance to this legislation, for example when rehabilitations is found not to be possible through medical assessments due to corruption with medical service providers;
- Inadequate enforcement; and
- Skills availability / skills shortage e.g. for rehabilitation case management

Managing risk

1. Describe the measures taken to manage the identified risks. Add more rows if necessary.

Identified risk	Mitigation measures
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Identified risk	Mitigation measures
Resistance by employers to reintegration of employees who were injured or diseased.	<ul style="list-style-type: none"> DoL providing infrastructure and support for rehabilitation and reintegration
Resistance to reintegration by employers of domestic workers	<ul style="list-style-type: none"> DoL providing workplace assistance to employers and employees to facilitate rehabilitation and reintegration.
Inadequate enforcement and rehabilitation case management.	<ul style="list-style-type: none"> Recruitment and training of inspectors on COIDA, Recruitment and training of Case Managers <p>The above have been budgeted though DoL's budget and we contribute with a percentage split between Compensation Fund and the main DoL</p>
Skills availability / skills shortage e.g. for case managers to do rehabilitation	<ul style="list-style-type: none"> Allocation of funds in terms of Skills Development and Skills Levy Act. Collaborating/ Partnering with Sector Education and Training Authorities and other organisations for skills training and transfer.

2. Describe the mechanisms included in the proposal for monitoring implementation, evaluating the outcomes, and modifying the implementation process if required. Estimate the minimum amount of time it would take from the start of the implementation process to identify a major problem and remedy it.

- Using the systems to Monitor the number of claims reported and reduction of medical costs;
- System data analysis to monitor the reduction of number of incidents; conducting research evaluating outcome and impact analysis.

Summary

1. Summarize the impact of the proposal on the main national priorities.

Priority	Impact
Social cohesion	Protection of employees and enabling them to continue engaging in economic activities, this will enable them to remain or continue to be part of their society and through earning they will be prevented from poverty.
Security (Safety, food, energy, financial)	Reduction of workers' vulnerability in communities because when employees are unemployed they may resort to crime and a cycle of poverty may push their children to crime and becoming poor adults because their parents did not have income and failed to educate them. The proposed Bill will have an impact on employee's financial security as they will be earning sustainable wages, they will be able to meet their primary needs which include maintaining their households in terms of buying food and safety.
Economic growth and investment	<p>Increased economic growth and return on investment. This will also increase infrastructure spending for government when DoL, through Compensation Fund use money to develop infrastructure for rehabilitation and reintegration.</p> <p>The employees will also contribute back to their employers' revenue when reintegrated and the skills they accumulated will remain within the firm, these will lead to increased income, employer may save from training new employees as rehabilitated employees can still transfer skills to others workers.</p>
Economic inclusion (employment creation and equity)	<p>Employment opportunities for rehabilitated employees as well as new employees who will replace them in work that they can no longer undertake contribute in the sense that:</p> <ul style="list-style-type: none"> • the reintegrated employee is not excluded from the labour market and • in some cases the incident may lead to rehabilitated employees being shifted to do jobs compatible with their health conditions, this may result in vacant position that if filled provided an opportunity for someone was not in the labour market before.
Environmental sustainability	N/A

2. Identify the social and economic groups that would benefit most and that would bear the most cost. Add more rows if required.

Main beneficiaries	Main cost bearers
Employees	DOL (Compensation Fund)
Employees' families	Employers
Government through CF/DoL- paying less on compensation of employees as they will still have the opportunity to work if reintegrated.	
Employers	
Employers of domestic workers	

3. In conclusion, summarize what should be done to reduce the costs, maximize the benefits, and mitigate the risks associated with the legislation. Note supplementary measures (such as educational campaigns or provision of financing) as well as amendments to the draft itself, if appropriate. Add more lines if required.

- a. The costs can be reduced by ensuring that well designed rehabilitation programmes are implemented and best rehabilitation infrastructure is ensured in order to achieve the objectives of the bill.
- b. Best monitoring tools should be sourced upfront.
- c. Cost can also be reduced by securing buy-in from social partners so that all parties will be doing their part without too much policing that cost money. This can be achieved partly through educational campaigns by government and by employers and employees' unions.
- d. Collaboration by government departments and agencies where shared objectives exists will also minimize implementation and monitoring costs.
- e. Collaboration with stakeholders will have a major impact on preventing corruption if they all support the programmes and interventions.

4. Please identify areas where additional research would improve understanding of the costs, benefits and/or risks of the legislation.

- Benchmark research will be needed and thereafter,
- Continuous research will be needed to assess implementation and impact thereof.

5. For the purpose of building a SEIAS body of knowledge please complete the following:

Name of the Official: Tendani Ramulongo

Designation: Director

Unit: Research Policy and planning

Contact Details: 012 309 4231

Email address: tendani.ramulongo@labour.gov.za

5.3 How long did it take the department to complete this template?

Two Months, including consultative workshop and final report writing.