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**Director: Medical Bureau for**

**Occupational Diseases**

**October 2018**

Class Action Settlement for Silicosis and TB

**Dr Nhlanhla Mtshali**

* Team
* Settlement



Overview

* Readiness activities

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# Team

* Department of Health
* Gold Mining Companies
* Minerals Council of South Africa
* Claimant lawyers

Occupational Diseases in Mines and Works Act,

78 of 1973 (ODMWA )

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### The Parties in the Settlement

* Three claimant lawyers
* Richard Spoor Inc
* Abrahams Kiewitz Inc
* Legal Resources Centre
* Six gold mining companies
* African Rainbow Minerals
* Anglo American SA
* AngloGold Ashanti
* Gold Fields
* Harmony
* Sibanye-Stillwater

### Class Action Settlement

* Signing ceremony – 3 May 2018 (Parktown, Johannesburg )
* Three years of extensive negotiations
* Unique
* Worked with government
* Multiple companies and multiple claimants
* Two diseases (Silicosis and Tuberculosis)
* Covers dependents (where claimant is deceased)
* Separates out funds for the benefits, funds for administration and funds for legal fees
* Aligned to the Department of Health processes

### Class Action Settlement

* From 1965 to date when court approves
* Ensure publicity, coverage and response to track and trace claimants
* Benefits and amounts are finalised – 10 classes
* Covers services and medical assessments
* Sets up a Trust - The Tshiamiso Trust
* Advisory Committee (stakeholders)

### Readiness Activities

* Dept of Health working closely with Gold Mining Companies and Claimant

Lawyers

* + Preparation of list of claimants
  + Record of service for attribution of cost to each company
  + Needs approval by court
* Briefed Ministers (Presidency, Health, Labour & Mineral Resources)
* Briefed Inter-Ministerial Committee (Distressed Mining Communities)
* Hosting stakeholder workshops in South Africa and neighbouring countries
* Partnership with Banking Association of South Africa (BASA) and social protection funds in mining sector
* Information regulator approval for sharing of information (POPI) across social protection funds, banks and DOH (CCOD)

### Readiness Activities

* Alignment of categories of claimants according to settlement classes (TB, first and second degree, dependents)
* Biometric identification of claimants
* Targeted medical examinations based on risk work
* Training of health professionals to undertake medical assessments
* Quality assurance of claimant submissions
* Communication, outreach and awareness activities (Eastern Cape Provincial Government initiative)
* Briefing to Parliamentary Portfolio Committees (Health and Mineral Resources)
* Working with Minerals Council for other commodities to consider settlement rather than legal process

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## Legal Amendments

* Compensation Fund (DOH -ODMWA) to cover current & ex-mineworkers
* New workers to go to COIDA (‘clean-break’)
* New governance and administration model for ODMWA
* Levy to cover costs of administration, medical assessments & health care in amended ODMWA

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## Thank You

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