

24 February 2022

Honourable Mandla Rayi M.P.

Chairperson: Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour
National Council of Provinces
Parliament of the Republic of South Africa

c/o Mrs. Mahdiah Solomons

Committee Secretary
Select Committee on Trade and Industry, Economic Development, Small Business Development
Tourism, Employment and Labour



Dear Honourable Rayi,

COMPENSATION FOR OCCUPATIONAL DISEASES AND INJURIES AMENDMENT BILL

IWAG wishes to thank you for the opportunity to present to you and Honourable Members of the Committee on Tuesday 22 February 2022. At the conclusion of our presentation, you requested that IWAG send specific proposals regarding the amendment we would like the Committee to consider.

We respectfully submit that the Bill before it fails to meet the requirements of the 2007 Cabinet decision that a Socio-Economic Impact Study (meeting all of its requirements) be appended to the Bill. The SEIA appended to the Bill fails to meet many of the requirements set out by the DPME, is completely outdated (it was conducted in 2015) and fails to meet the stated objectives of the Cabinet decision. On these grounds, IWAG would respectfully request that the Honourable Committee send back the Bill to the National Assembly in order for a proper SEIA to be conducted by the Department of Employment and Labour, before resubmitting the Bill based on the findings of the SEIA.

Honourable Chair, the substantive concern and objection raised by IWAG pertains to the amendment contained in Section 43 of the COIDA Bill before you, which reads:

(4)(a) No third party will be allowed to transact with the Compensation Fund unless they are registered with the Compensation Fund in the manner as prescribed.

(b) All third parties that are already transacting with the Compensation Fund must register with the Compensation Fund within six months after the commencement of the Compensation for Occupational Injuries and Diseases Amendment Act, 2021.

(5) For the purpose of this section, a third party means any entity that transacts with the Fund with the aim of assisting either the employee, employer, medical service provider or pensioner with the processing of claims at the Compensation Fund.”.

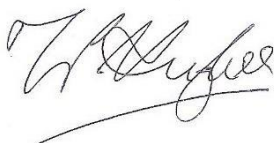
As raised in our presentation on Tuesday 22 February, this clause is irrational, capricious, unnecessary and not based on any reasonable motivation or justification. Irrespective of whether one agrees with the substance of the clause, to allow such an open-ended clause to be inserted into legislation provides the executive branch and unelected officials unbridled power to limit the rights of any entity or stakeholder transacting with the Compensation Fund. This constitutes bad legislation, removes Parliament’s oversight powers and renders workers, medical service providers, employers and third parties vulnerable and susceptible to the vagaries and whims of the Compensation Fund, with very little recourse.

We would therefore propose and request that Clause 43 be removed in its entirety and the Bill sent back to the NA with this recommendation.

Failing this, a fair and equitable proposal is simply to insert the requirements that any entity or service provider processing claims with the Compensation Fund be registered with the Council for Debt Collectors and be regulated under the Debt Collectors Act and Code of Conduct.

IWAG would be happy to engage with the Honourable Committee at any time on the above concerns and submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tim Hughes', with a stylized flourish at the end.

Tim Hughes

IWAG National Spokesperson

<https://www.facebook.com/Injured-Workers-Action-Group-IWAG-110489443874780>