1. Workers’ Compensation

Workers’ Compensation in South Africa is currently regulated by two statutes, namely:

- Occupational Diseases in Mines and Works Act, No. 78 of 1973 as amended (ODMWA); and
- Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993 (COIDA).

All employers and employees are compelled to make contributions from which the compensation is paid.

The ODMWA, which is administered by the Department of Health, provides the Workers’ Compensation framework for those occupational diseases attributable to “risk work” in a mine or works (quarries, etc.). It only covers cardio-respiratory diseases such as pneumoconiosis, tuberculosis, chronic airways obstruction, occupational asthma and progressive systemic sclerosis which, “in the opinion of the Certification Committee (of the Medical Bureau for Occupational Diseases), is attributable to the performance of risk work at a controlled mine or works”.

COIDA, which is administered by the Department of Labour, is the Workers’ Compensation safety net which covers all employees and provides for the medical examination, certification and compensation of all employees who are injured on duty or who suffer from an occupational disease.

Section 100 of ODMWA prevents double compensation by providing that no person is entitled to compensation under ODMWA if he has received, or is still receiving, full benefits under COIDA and that no person who is entitled to compensation under ODMWA shall be entitled to benefits under COIDA or any other law.

For the mines and the building industry the compensation is arranged, under the auspices of the above Acts, through two mutual insurers, viz. Rand Mutual Assurance and Federated Mutual Assurance. The financial discipline for these insurers is the same as for all insurers registered in terms of the Long-term and Short-term Insurance Acts.

There is widespread consensus amongst most stakeholders that the ODMWA is no longer necessary as a separate statute and that its merger into COIDA is imminent.

Medical schemes tend to exclude claims for occupational injuries and diseases as these are recoverable from the employer.