

Side effects of mandatory Covid-19 vaccinations: Compensation criteria

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On 22 October 2021, the Compensation Commissioner issued a Notice on Compensation for Covid-19 vaccination side effects. The notice was published in terms of section 6A(b) of the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA) and provides that the Compensation Fund will "cover employees for injuries, illness or death as a result of receiving the Covid-19 vaccine".



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In order for an employee to qualify for compensation, all of the following requirements must be met:

- The vaccination must be regarded as an inherent requirement of the job (as informed by the employer's risk assessment).
- The employee must be vaccinated with a Sahpra-approved Covid-19 vaccine.
- Evidence of the employer's occupational health and safety risk assessment and vaccination plan (as set out in the Consolidated Directions on Occupational Health and Safety Measures in certain workplaces dated 28 May 2021) must be provided.
- The chronological sequence between receiving the vaccine and the development of symptoms must be provided.
- The symptoms and clinical signs must be ones that are generally recognised as side effects.
- Additional tests may be required to assess the presence of abnormalities of any organ affected.

Where an employer implements a mandatory vaccination policy, and an employee who receives a Covid-19 vaccine in line with such policy suffers adverse side effects, the employee may be entitled to claim compensation from COIDA. According to the notice, claims will be adjudicated, and the amount of compensation will be determined and paid according to COIDA and the Compensation Fund guidelines.

Employers should inform their employees of their right to claim compensation for any injuries, illness or death as a direct result of receiving the Covid-19 vaccination, as well as the requisite requirements that must be met to qualify for such a claim.

As a reminder, employers who wish to implement a mandatory vaccination policy must ensure that they complete the requisite risk assessment.

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