

Q(h)ubeka Trust has awarded R102 compensation to Silicosis sufferers in 19 months

Johannesburg; 18 December 2017 – In the 19 months since the Q(h)ubeka Trust was established, it has awarded approximately R102 million in compensation to qualifying ex-mineworkers suffering from Silica related illnesses.

The Trust was founded in March 2016 on the back of the successful conclusion of a lengthy compensation battle by attorneys representing ex-mineworkers who have contracted Silicosis while working for various mines owned by Anglo American South Africa Limited and AngloGold Ashanti Limited.

The claimants in the settlement are 4 365 ex-mineworkers from South Africa, Swaziland and Lesotho who may be suffering from Silica-related occupational lung diseases as a result of the failure by the mines to ensure adequate protection against the disease for their mineworkers.

The Trust was established with the specific purpose of distributing the R395 million settlement won by the attorneys representing the claimants in the compensation action, which is completely separate from the class action suit that is currently underway against various South African mining companies.

The Trust's name, Q(h)ubeka, means 'go forward' in isiXhosa and according to Trust chairperson, Dr Sophia Kisting-Cairncross, it recognises and honours the thousands of claimants who have struggled for decades with the debilitating effects of Silicosis, but have never received any form of compensation from the mining companies responsible for their illness.

According to Dr Kisting-Cairncross, the R102m awarded to claimants as at 30 November 2017 is a significant achievement, particularly given that locating many of the original claimants has been difficult due to the fact that many contact numbers are no longer valid. The Trust has employed every means at its disposal to assist with locating these claimants, however, finding them is only the first step. Once contact is made, the process of determining their eligibility for compensation is also challenging in itself.

"The assessment process, as set out in the Trust Deed, is a complex one," she explains, "which begins with the need for a comprehensive medical evaluation of each claimant aimed at establishing that he, in fact, suffers from Silicosis."

Given that the majority of claimants live in rural areas, the Trust opted to partner with a number of local healthcare service providers, whom it is helping to upskill in the diagnosis of pneumoconiosis. In this way, claimants have been enabled to more easily access the required medical assessments, the results of which are then sent to a panel of medical specialists to assess these and make a determination about each claimant's eligibility for compensation. To date, approximately 2 350 of the 4 365 claimants have undergone these medical assessments, but less than half of these have been determined to be suffering from Silicosis.

Another significant hurdle the Trust faces in determining compensation eligibility is establishing that claimants worked for at least two years at Anglo American South Africa and AngloGold Ashanti Limited-owned mines.

"To qualify for compensation, claimants who are suffering from Silicosis must be able to prove that they spent at least two years working in an AngloGold or Anglo American mine in order to be eligible for a payment," Dr Kisting-Cairncross points out, "but the Trustees have found that employment record keeping by the mines has generally been found to be very poor, which significantly complicates this step of the process."

In terms of the Trust Deed which sets out the claims criteria the Trust has until April 2019 to complete the medical assessments of all claimants, and make the first tranche of compensation payments to qualifying claimants. After this, the Trust will make a second tranche of payments, by means of which all the remaining settlement funds that weren't paid out in the first tranche will be distributed to the qualifying claimants, as well as the family members of qualifying deceased claimants.

Despite the numerous challenges, Dr Kisting-Cairncross remains positive that the work being done by the Q(h)ubeka Trust in achieving compensation for Silicosis-afflicted mineworkers will be completed within the timelines stipulated in the Trust Deed. She also points out that the benefits being delivered by the Trust extend beyond merely achieving compensation in terms of this settlement agreement,

"One of the requirements of the Trust Deed is that we also assist claimants to apply for statutory benefits under the Occupational Diseases in Mines and Works Act," she explains, "and the submissions we make under this Act is likely to prove invaluable in helping government to address its overall backlogs in this regard and, potentially, secure additional compensation for Q(h)ubeka Trust claimants as well."

“As the Trustees and staff of Q(h)ubeka Trust, we believe passionately in the importance of the work we are doing and we are absolutely determined to see all qualifying claimants, and the families of deceased qualifying claimants, compensated for their illnesses,” Dr Kisting-Cairncross concludes, “and while we know that money can never restore these claimants to full health, or return the deceased claimants to their loved ones, the settlement payments will most certainly contribute towards helping them enjoy a better quality of life they deserve.”

Ends.

Notes to the editor

The Q(h)ubeka Trust has no connection to the current, ongoing class action suit against various gold mining companies on behalf of gold miners who have developed silica related diseases.

As at 30 November 2017, a total of R102 million has been awarded to 963 qualifying claimants in South Africa.

Silicosis occurs to varying degrees in victims of the illness, but it is essentially caused by the scarring of the lung by tiny silica particles inhaled as the claimants worked in the gold mines owned by Anglo-American and AngloGold Ashanti operations. Such scarring of the lung is progressive and incurable, and greatly raises the person’s risk of contracting TB.

The original compensation law suit centred on the premise that the mining houses were aware of the dangers of Silica Related Diseases to their mineworkers, but took no effective action to protect those workers from the disease.

As evidence of the potential severity of the disease, approximately 500 of the original claimants passed away during the litigation process. Efforts continue to ensure that settlement payments for those deceased who had Silicosis will be made to their surviving loved ones.

The settlement set aside a total of R395 million in compensation for qualifying claimants, which amount now forms the basis of payments being made to qualifying claimants by the Q(h)ubeka Trust.