

Guidelines for Environmental Claimants

- 1) The Trusts were established primarily to compensate former workers of asbestos mines operated by the Founders of the respective Trusts. However, the Trust Deeds also allow for the payment of benefits to claimants who contracted asbestos related disease as a result of environmental exposure to asbestos mines and mills covered by the respective Trusts.
- 2) While the Trustees have absolute discretion over the establishment of criteria and the acceptance of claims and award of benefits, they are mindful of the fact that the environmental claims are complex and likely to resist attempts to apply a formulaic approach. Claims are therefore considered on a case by case basis.
- 3) While bound by conditions of the Trust Deeds and restricted by the limited funds available to the Trusts, the Trustees will seek to adjudicate in favour of claimants who have asbestos related disease from environmental asbestos exposure.
- 4) Acting within the provisions of the Trust Deeds with the guidance of medical specialists, environmental practitioners and lawyers, the Trustees have developed these guidelines for decision making in respect of qualifying environmental claims:
 - a) Only symptomatic pleural thickening and mesothelioma are ordinarily accepted for living claimants, and mesothelioma for deceased claimants, which claim must have been submitted by qualifying dependents within three years of the claimant's death.
 - b) The claimant must have resided within 10 kilometres of a Qualifying Operation, beyond which environmental exposure can no longer be attributed to a single source. The degree of certainty as to the cause of environmental exposure increases with nearness to the Qualifying Operation. Alternatively, the claimant must be able to show that they were exposed at home, for example through a family member who worked at a Qualifying Operation and brought asbestos pollution into the home.
 - c) Unless there are exceptional circumstances recognised by the Trustees, the exposure period must correlate with the time periods when the mine or mill was owned by the founders. The degree of certainty as to the cause of environmental exposure increases with the length of residence at or near the Qualifying Operation.
 - d) The burden of proof lies with the claimant who must be able to demonstrate to the satisfaction of the Trustees that he/she is suffering from a qualifying asbestos related disease and that the disease is as a result of environmental exposure to a Qualifying Operation.
- 5) The scale of benefits payable to successful environmental claimants is the same as that for occupational claimants. The Trusts will pay the full amount for all qualifying claims, the funding of which may be shared between the Trusts if there are overlapping exposures to qualifying operations. Except for mesothelioma, the amount payable may be adjusted if there is a reasonable assumption by the Trustees that the claimant was exposed to sources other than those covered by the Trusts.
- 6) The qualifying potential environmental claimant who has symptomatic pleural thickening or mesothelioma should submit an application to the Johannesburg office of the Asbestos Relief Trust, including:
 - a) A completed Environmental Enquiry Form, along with all the supporting documents listed in Appendix A in the form. These documents should ideally be filled in with the assistance of a trained official.
 - b) Any and all medical evidence (consisting of at least a good quality chest x-ray) to confirm that the claimant has symptomatic pleural thickening or mesothelioma. The Trusts will not be responsible for preliminary medical costs.
- 7) The Trusts will register the claim, and send the confidential medical information to the independent specialist medical panel established by the Trusts in Cape Town. This panel decides if the claim qualifies medically. If the panel requires the claimant to undergo further medical tests to assist the diagnosis, the costs thereof will be covered by the Trusts. If the medical panel confirms compensable disease, the application will be reviewed by the Trusts' Environmental Decision Group to confirm that the disease occurred as a result of exposure to a Qualifying Operation. This group also advises if there are any other considerations that must be taken into account in assessing the likely exposure profile and benefit payable. Assuming that the claim is valid in all respects, the completed application will be submitted to the Trustees for approval. The benefit will be paid into the bank account of the applicant only when the Trustees are satisfied that the applicant or his/her mandated representative has signed a "Release & Discharge" form which acknowledges that the benefit is in full and final settlement of any claims against the Trusts.
- 8) Should an applicant wish to appeal the decision of the medical panel and/or the Trusts, the file will be referred to Professor David Rees, or a suitably qualified person, for an independent recommendation. The Trustees will be guided by the recommendation of the independent panel and decision of the Trustees on the appeal will be final.

Extracts from the ART Trust Deed

1.1.12 "Environmental Claimants" persons that lived in the vicinity of a Qualifying Operation and suffering from an ARD as described in clause 11.2.1;

1.1.13 "Dependant/s Claimants" the dependants and/or executors of the estate of persons including those who have died from mesothelioma or asbestos-related lung cancer contracted as a result of occupational or environmental exposure to asbestos dust from the Qualifying Operations within a period of 3 years prior to the registration of their claims;

1.1.37 "Qualifying Claimant" any Occupational Claimant, Environmental Claimant or Dependant Claimant, or any one of them as the context may require (excluding any of the Cape Claimants as defined in the Settlement Agreement) as further set out in clause 11;

1.1.38 "Qualifying Operations" any of the operations of any of the Gencor Group, the Gefco Group and/or the Msauli Group, as the case may be;

1.1.39 "Qualifying Period" the period 1965 to 1988 inclusive;

11.1.1 The Gencor Settlement Amount paid to the Trust by Gencor will be utilised by the Trustees to make awards to the following categories of Qualifying Claimants:

11.1.1.1 all persons who have contracted an ARD with a lung function impairment whom the Trustees are satisfied had occupational exposure to asbestos dust at any of the Qualifying Operations solely during the Qualifying Period;

11.1.1.2 all persons who have contracted an ARD with a lung function impairment whom the Trustees are satisfied had environmental (non-occupational) exposure to asbestos dust in the vicinity of any of the Qualifying Operations and who have no prior history of any occupational exposure to asbestos dust at any time;

11.1.1.3 the dependants of persons who have died and a cause of death is mesothelioma or asbestos related lung cancer in circumstances where the Trustees are satisfied that the deceased had asbestos dust exposure at a Qualifying Operation or, as the case may be, environmental exposure to asbestos dust in the vicinity of any of the Qualifying Operations and who had no prior history of any occupational exposure to asbestos dust at any time;

11.2.1 Occupational and Environmental Claimants

11.2.1 Occupational Claimants and Environmental Claimants shall only be entitled to compensation for the following types of ARD:

11.2.1.1 mesothelioma;

11.2.1.2 asbestosis;

11.2.1.3 asbestos related lung cancer; and/or

11.2.1.4 asbestos related pleural thickening.

11.2.2 Compensation shall only be awarded in circumstances where the ARD has caused lung function impairment.

11.2.2.1 For the avoidance of any doubt, Occupational Claimants and Environmental Claimants shall not be entitled to compensation for asymptomatic asbestos related pleural plaques.

11.2.2.2 For the avoidance of any doubt, Dependant Claimants shall not be entitled to compensation, unless a cause of death was mesothelioma or asbestos related lung cancer, as the case may be.

11.2.3.3 Environmental Claimants shall be required to furnish proof of residence at or near a Qualifying Operation as well as the period of such residence thereat together with suitable medical evidence confirming that environmental exposure to asbestos dust at such residence was likely to have materially contributed to the ARD. The Trustees shall be required to receive and take into account evidence as to the distance resided from the relevant Qualifying Operation, likely sources of asbestos dust exposure or other asbestos mines or mills, length of time resided there, dates of residence and full occupational history and such scientific and official data relating to environmental dust levels as are obtained or made available to it.

11.2.3.6 In the case of any claim (environmental or otherwise) based on the development of mesothelioma or asbestos related lung cancer, no account shall be taken of any asbestos dust exposure in the 10 (ten) years prior to death.

11.3 proof of disease

11.3.1 A Qualifying Claimant shall be required to satisfy the Trustees, acting reasonably in the circumstances, that he/she has contracted one of the relevant diseases referred to in 11.2.1.1 above (Occupational Claimants and Environmental Claimants) or that the deceased has died and a cause of death was mesothelioma or asbestos related lung cancer as referred to in 11.2.2 above (Dependant Claimants).

Extracts from the KRT Trust Deed

2.1.5 "asbestos-related disease" means mesothelioma, asbestos-related lung cancer, asbestosis and/or asbestos-related pleural thickening but does, for the avoidance of doubt, not include asymptomatic pleural plaques;

2.1.19 "Environmental Applicant" means a person who had Significant Exposure to asbestos dust and/or fibre while he or she lived at or near a Qualifying Operation during the Qualifying Period and who has contracted an ARD;

2.1.20 "Environmental Application" means an Application for payment of a Grant submitted to the KRT by a person who contracted an ARD as a result of Significant Exposure to asbestos dust and/or fibre at or near a Qualifying Operation during the Qualifying Period;

2.1.31 "Qualifying Operation" means any asbestos mining and/or milling operation in South Africa which was directly or indirectly owned and/or operated by the Asbestos Investments Group at any time during the Qualifying Period;

2.1.32 "Qualifying Period" means the period 1 January 1952 to 30 September 1981;

2.1.34 "Significant Exposure" means exposure to asbestos dust and/or fibre which, in the opinion of the Trustees, was reasonably sufficient to have contributed materially to the contraction of an ARD;

12.2.1 Dependant Applications may be submitted to the KRT provided that such applications are submitted within three years of the death of the person concerned.

12.3.1 The Trustees shall in all instances satisfy themselves that an Applicant (or the deceased in the case of a Dependant Application) experienced Significant Exposure at or near a Qualifying Operation during the Qualifying Period.

12.3.3 The Trustees shall require of Environmental Applicants that they furnish proof of residence at or near a Qualifying Operation as well as the period of such residence. Such Applicants shall be free to submit such further evidence as they wish to demonstrate that they experienced Significant Exposure at such place and during such time.

12.3.4 The provisions of clauses 12.3.1 to 12.3.3 above shall apply mutatis mutandis to Dependant Applications.

12.3.5 The Trustees shall be required to satisfy themselves as to the veracity of the evidence, documentary or otherwise, presented to them in support of any Application. The Trustees may however have regard to records, reports, scientific research and/or expert opinion to which they have access, which is in their possession or which has been commissioned or obtained by them in order to satisfy themselves whether or not an Application should succeed.

12.3.6 At all times the onus of proving that the relevant person experienced Significant Exposure at the relevant place and during the relevant period shall be borne by the Applicant.

12.3.7 In the case of any Application based on the contraction of mesothelioma or asbestos-related lung cancer, no account shall be taken of any exposure to asbestos dust and/or fibre in the 10 (ten) years prior to the diagnosis of the ARD.