



Desktop Review

Building a **Cross-Sectoral Database** of Mineworkers
for the Management of **Social Protection Benefits**
to South African and Foreign Workers in South Africa

Prepared by: Health Focus South Africa



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LIST OF ABBREVIATIONS

UN	United Nations
ILO	International Labour Organisation
IOM	International Organisation for Migration
SADC	Southern African Development Community
CCOD	Compensation Commissioner for Occupational Diseases
COIDA	Compensation for Occupational Injuries and Diseases Act, Act 130 of 1993
COM	Chamber of Mines
DFID	Department for International Development – United Kingdom
DoH	Department of Health
IEC	Information, Education and Communication
IT	Information Technology
MBOD	Medical Bureau for Occupational Diseases
ODMWA	Occupational Diseases in Mines and Works Act, Act 78 of 1973
FSB	Financial Service Bureau, South Africa
WB	World Bank
DOH	Department of Health
DOL	Department of Labour
BASA	Banking Association of South Africa
GEPF	Government Employee's Pension Fund (<i>South Africa</i>)
TEBA	The Employment Bureau of Africa
SPF	Social Protection Funds
MWPF	Mineworkers Provident Fund
ROS	Record of Service
IKII	In-depth Key Informant Interviews
ID	Identity Document
FEMA	Federated Mutual Assurance
RMA	Rand Mutual Assurance
UIF	Unemployment Insurance Fund
FICA	Financial Intelligence Centre Act
POPI	Protection of Personal Information Act
BME	Benefit Medical Exam
MCS	Mineworkers Compensation system (<i>MBOD/CCOD Administration System</i>)
OHC	Occupational Health Centre
ROS	Record of Service
TB	Tuberculosis
TIMS	TB in Mining Sector in Southern Africa
TES	Temporary Employment Services
M	Million

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GLOSSARY OF TERMS



Unclaimed Benefits

Unclaimed Benefits refer to any monies due to a person that remain unpaid or unclaimed when a person resigns, is dismissed or retrenched.

Cross Sectoral

Relating to or affecting more than one group, area, or section. In the context of this project, relates to **multiple funds, their databases, IT and operational systems**.

Pension Fund

A pension fund provides benefits for its members when they retire from employment. The fund also usually pays benefits when a member dies while still working, or is unable to work because of illness, or is retrenched. When a pension fund member retires, the member gets one third of the total benefit in a cash lump sum and the other two-thirds is paid out in the form of a pension over the rest of the member's life¹.

Provident Fund

A provident fund is the same as a pension fund in that it provides benefits for its members when they retire from employment; dies while still working, or is unable to work because of illness, or is retrenched. The difference from a pension fund is that the member can get the full benefit paid in a cash lump sum.

Compensation Fund

To provide for **compensation** for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment, or for death resulting from such injuries or diseases; and to provide for matters connected therewith².

¹ The South African Labour Guide. 'Pension and provident funds'. Available at: <https://www.labourguide.co.za/general/499-pension-and-provident-funds> [Accessed 6 November 2017]

² South African Department of Labour. 'Compensation Fund – Gauteng'. Available at: <http://www.labour.gov.za/DOL/contacts/Compensation%20Fund/compensation-fund-gauteng-north> [Accessed 6 November 2017]

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EXECUTIVE BRIEF

Setting the Scene

The South African mining industry has had a complex history attracting a large migrant workforce both from within South Africa and from neighbouring countries. The complex political past in South Africa and poor associated legislation has led to unclaimed benefits sitting in multiple funds for many mineworkers, who are either unaware that they may have a claim, or the industry is unable to trace and pay them. In addition, the number of funds and their accessibility makes it challenging for mineworkers and their families/beneficiaries to navigate the systems and meet the requirements to unlock their benefit.

The Financial Service Bureau (FSB) of South Africa monitor unclaimed benefits across multiple industries and report approximately R42 billion sitting in unclaimed benefits.

	No. of funds	Aggregate amount of unclaimed benefits	Number of beneficiaries for whom unclaimed benefits are held
Total	1 238	41 658 731 899	4 086 285

Table 1: Unclaimed Benefits South Africa (FSB: 2017)

It is estimated that around R10 billion of this R42 billion may be due to mineworkers³ across approximately 20 different funds. Although establishing the full breakdown of unclaimed benefits from the FSB for the mining Industry has been challenging, the table below displays some information of the top 4 mining funds.

Top 4 Mining Funds	Number of beneficiaries for whom unclaimed benefits are held	Aggregate Amount of Unclaimed Benefits
Mineworkers Provident Fund	72566	R 3,177,000,000
Mines 1970's Fund	62314	R 652,000,000
Sentinel Retirement Fund	6951	R 175,000,000
Amplats Group Provident Fund	40032	R 223,000,000
TOTAL:	179027	R 4,227,000,000

Table 2: Breakdown of Unclaimed Benefits for 4 Top Mining Funds (FSB: 2017)

The FSB reports that in the last 5 years R18 billion was paid to 680 000 members from all sectors and that this amounts to an average benefit of R26 787 per member. While it is apparent that there are ongoing efforts by administrators to trace and pay beneficiaries their unclaimed benefits, more needs to be done to unlock funds to ex-mineworker communities across Southern Africa. A suggested platform or foundation to achieve this, would be to build a cross-sectoral database of mineworkers for the management of social protection benefits that provides a single point of access to these unclaimed benefits, making it easier to unlock benefits and releasing monies into the communities thereby contributing to the alleviation of poverty.

³ R10bn unclaimed in mineworkers' retirement funds. (2017). Available at: <https://www.fin24.com/Money/Retirement/r10bn-unclaimed-in-mineworkers-retirement-funds-20170412> [Accessed 26 November 2017]

Understanding the Problem

Some of the key problem areas identified in this desktop review included the following:

- **Lack of a common vision** to work together in finding and processing claims by social protection funds within the mining industry.
- **Lack of documentation** including but not exclusive to: identity documents; death registration certificates; traditional marriage registrations; multiple beneficiaries; record of service.
- **Inability for claimants** to access banking services given that many funds can only pay into bank accounts.
- **Lack of feedback** to claimants / beneficiaries of the claims process and payments being made.
- **Lack of knowledge** and awareness amongst mineworkers and or their beneficiaries of their entitlement to benefit funds and how to access these.

Desktop Review Objectives

The objectives of the desktop review were to:

1. Understand what is meant by social protection and unclaimed benefits in relation to mineworkers.
2. Review the policy and legislature concerning social protection as applicable to mineworkers who worked on the mines in South Africa; understanding the impact.
3. Understand the management and organisation of social protection as it relates to the mining industry in South Africa.
4. Corroborate the findings from the desktop review with elicitation research of 5 key social protection funds within the mining industry to establish a more robust picture and understanding of the issues to unlock the unclaimed benefits for ex-mineworkers.
5. Critically analyse these findings, identifying the challenges and suggesting recommendations for addressing these to aid the unlocking of unclaimed benefits.

Social Protection and Unclaimed Benefits

Social Protection is a broad topic, covering multiple aspects. For mineworkers who worked on the mines in South Africa, there are 2 main types of social protection:

- **Social security** which includes compensation/relief funds for disease or injury and
- **social insurance** which covers retirement, pension and provident funds.

Overall unclaimed benefits trend

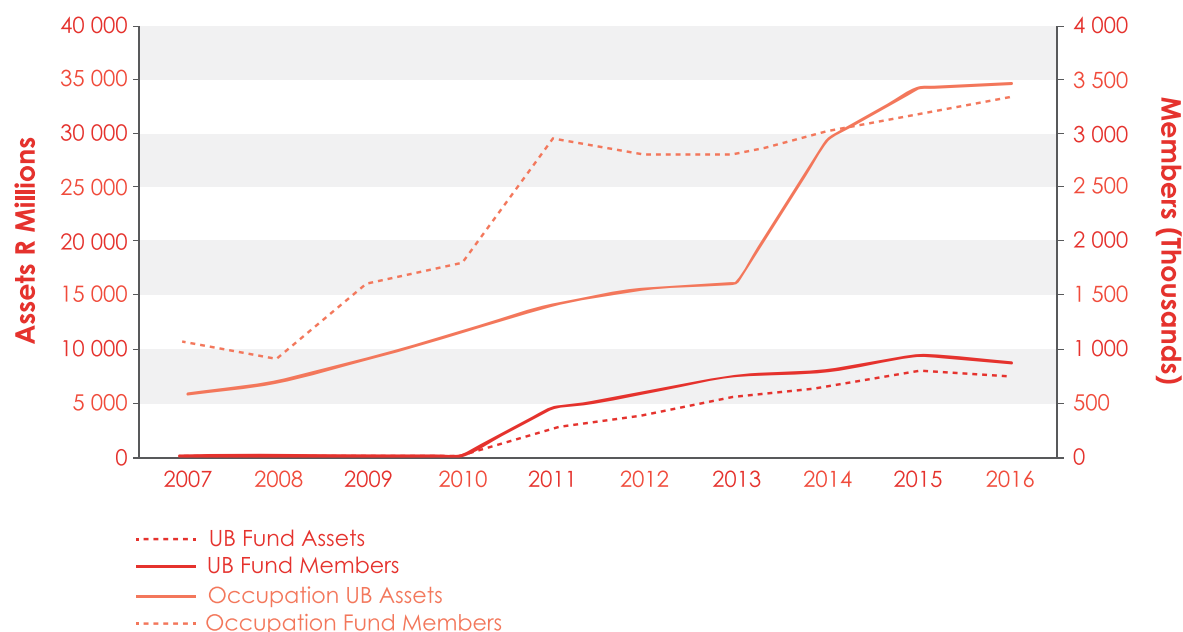


Figure 1. Unclaimed benefits trends.

The figure above highlights the following key points:

- **Overall the number of members** in unclaimed benefits has risen from approximately 1 million to 4 million over the past 10 years – a 300% increase.
- **Overall the amount of money** in unclaimed benefits has risen from around R5 billion to R43 billion over the past 10 years.

The FSB states that some of the reasons for the increase in the funds value and members are due to:

- Surplus apportionment schemes were submitted, and funds were unable to trace and pay former members and therefore classified these as unclaimed as defined in the Pension Fund Act.
- Two large funds changed their accounting policy resulting in the reclassification of R11 billion worth of assets as unclaimed benefits.
- The increase in asset value is also due to income earned from investment on the assets relating to these unclaimed benefits.

The following table highlights some of the key reasons why social protection benefits may be unclaimed:

1	Failure of members to update Funds of change in their details or their beneficiaries.
2	Failure of Employers to provide Funds with the complete details of the member.
3	Many employers and/or Funds do not provide enough information about entitlements, processes and requirements to the members on their benefits and how to claim.
4	Poor administration/record keeping by funds – this may be due to the fund/administrator no longer existing.
5	Foreign workers who have to leave after their work permit expires, lack sufficient mechanisms to enable them to claim from their home countries.
6	Fund members do not always inform their dependents of the benefits if they die/injured in service and how to access these.
7	Failure by Fund boards to take reasonable steps to trace and pay those entitled to unclaimed benefits.

Table 3: Key Reasons for Unclaimed Benefits (FSB: 2017)

In terms of social protection funds for mineworkers, who worked on the mines in South Africa but originated from countries outside South Africa, the challenges in terms of paying or providing benefits cross-border are minimal, aside from finding the beneficiaries. In other words, compensation, pension and provident funds for mineworkers do not have restrictions in terms of paying out to foreign mine worker from the 5 countries identified for this project. However, administration costs such as the tracing of ex-mineworkers or making international payments may be higher, than in South Africa and this can impact on the amount paid out.

Policy and Legislation

The United Nations International Convention on the Protection of the Rights of all Migrant Workers and members of their Families (UNCPRMWMF) states that these people should have same treatment as nationals with regards to social protection as the country allows. However only 2 of the member states applicable to this project, have signed and ratified this convention.

Member State	Signature	Ratification
Botswana	✗	✗
Lesotho	(2004) ✓	(2005) ✓
Mozambique	(2012) ✓	(2013) ✓
South Africa	✗	✗
Swaziland	✗	✗

Table 4: Signatory and Ratification of UNCPRMWMF by Country

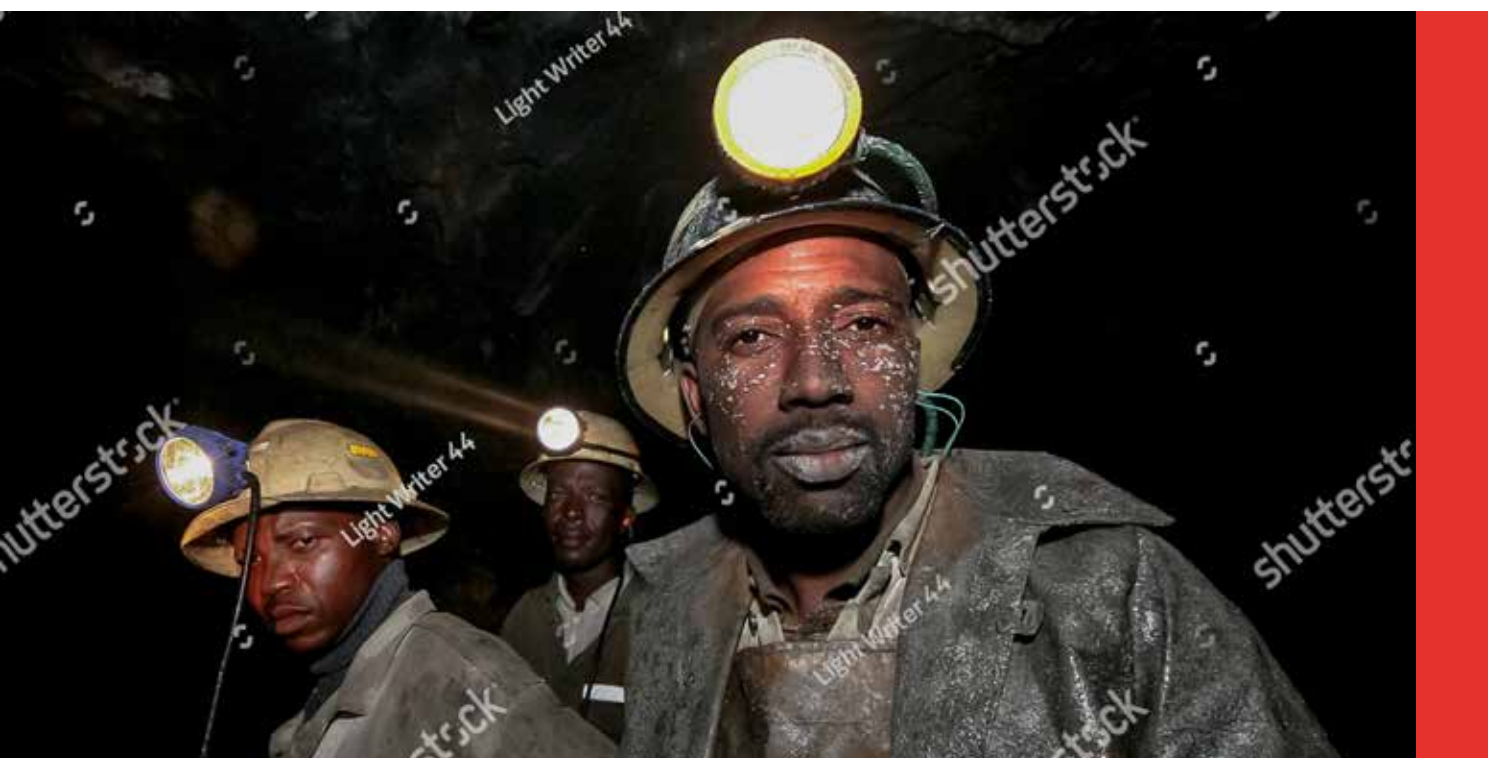
This can impact on the rights of migrant workers, however for social security, like disease or injury compensation, migrant workers have the same rights as South Africans.

The International Labour Organisation' (ILO) conventions applicable to social protection are as follows:

Member State	Equality of Treatment Accident Compensation Convention 19 of 1925	Equality of Treatment Social Protection Convention 118 of 1962	Maintenance of Social Security Rights Convention 157 of 1982	Social Security Seafarers Convention 165 of 1987	Migration for Employment Convention 97 of 1949
Botswana	✓	✗	✗	✗	✗
Lesotho	✓	✗	✗	✗	✗
Mozambique	✗	✗	✗	✗	✗
South Africa	✓	✗	✗	✗	✗
Swaziland	✓	✗	✗	✗	✗

Table 5: Ratification of selected ILO social security conventions by elected SADC countries

This table clearly highlights either the reluctance or apathy by certain countries to ratify the conventions. The impact of this is that the co-ordination principles are not being met and a co-ordination instrument is harder to achieve, potentially impacting the portability of social protection benefits across borders. However, pension and provident funds paid into by migrant mineworkers while working in South Africa, can be paid out.



The Southern African Development Community (SADC) provides structure that supports social protection relevant to this project. It also supports the rationale for the development of a cross-sectoral database to unlock social protection for mineworkers across Botswana, Lesotho, Mozambique, South Africa and Swaziland. Issues of nationality have little impact because of the regulations of contributory social insurance schemes and the South African legislation around disease and injury compensation. If the mineworker was legally allowed to work in the country and primarily has a record of service, this would enable the payment of due social protection benefits.

The main legislations that affect formally employed mining workers who are South African citizens, permanent residents, lawful refugees and lawful migrant workers are:

- The National Health Insurance Act No. 61 of 2003.
- Social Assistance Act 13 of 2004.
- Unemployment Insurance Act of 2001.
- Unemployment Insurance Contributions Act 4 of 2002.
- The Compensation and Occupational Injury Disease Act – Act No. 130 of 1993.
- The Occupational Disease and Mining Worker Act – Act No. 78 of 1973.
- The Pension Funds Act 24 of 1956.

For temporary mining employees, the pension benefits are more complicated as it really depends on the employer. In 2013, an estimated 67,000 mine workers were temporary or contracted labourers.⁴ The migrant foreign workers benefits are dependent on whether they were part of legal migration and the treaties between the workers home country and South Africa. However, for both domestic and foreign workers while they may have benefits, due to the lack of knowledge and complex method of accessing these benefits, they are woefully under-protected.

⁴ Financial Services Board (2017) Unclaimed Benefits. Available at <https://www.fsb.co.za/NewsLibrary/Unclaimed%20Benefits%20Funds%20-%20FSB%20Presentation%2004%20September%202017.pdf> [Accessed: 15 November 2017]

The South African POPI Act (2013) ensures that South African institutions and organisations are accountable and responsible when collecting, processing, storing and sharing peoples' personal information to prevent abuse or compromise of this information. However, this Act has implications for the building of a cross-sectoral database of mineworkers for the unlocking of social protection benefits in that it limits the sharing of information that would aid the industry working together to find and pay beneficiaries. Legal advice would need to be sought to clarify.

Organisation and Management of Social Protection for Mineworkers

For the mining industry in South Africa, which has a history of a large migrant workforce, the retirement, pension and compensation funds are multiple. Some of these appear as follows:



Figure 2. Retirement, Pension, Provident, Compensation Funds for Relief trusts in South Africa for Mineworkers (FSB -2018).

The social protection benefits for mineworkers are primarily of a social insurance nature and can be divided into the following categories:

- **Compensation funds** – Compensation for Occupational Injury and Diseases Act and The Occupational Diseases in Mines and Works Act.
- **Retirement funds, pension and provident funds** – For Example: Mineworkers Provident Fund, Sentinel Retirement Fund; Mines 1970 Fund. However, there are around 20 different Funds for the mining industry.
- **Relief funds following litigation** – For example: Asbestos Relief Trust and Kgalagadi Relief Trust.

Elicitation Research

Elicitation Research was conducted using semi-structured key informant interviews with 5 social protection funds known to be key players within the mining industry. They were as follows:

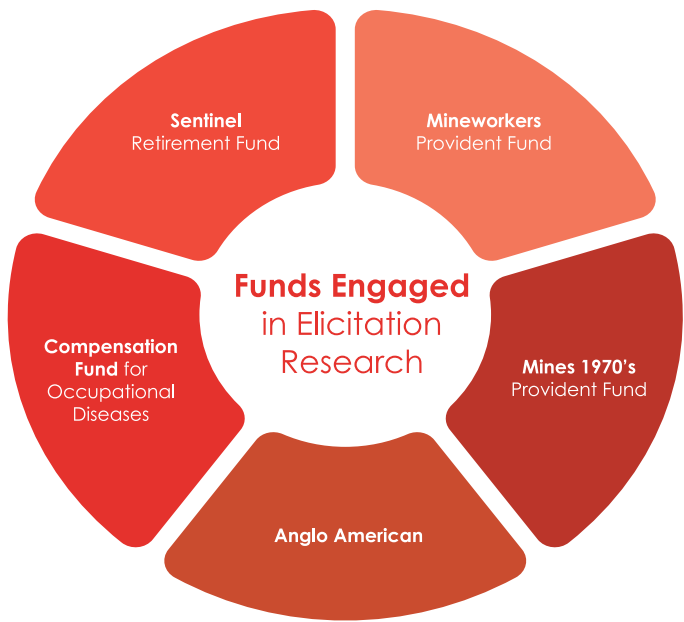


Figure 3. Funds Engaged with in Elicitation Research.

All Funds were all asked about:

- Their unclaimed benefit assets, the amounts and number of members.
- The databases of information they held.
- The approaches they used to unlocking unclaimed benefits.
- The key challenges they identified in unlocking unclaimed benefits.
- And the documentation requirements to unlock a benefit.

The findings highlighted multiple challenges to unlocking benefits for mineworkers and their families/beneficiaries. Of these, some of the key issues identified were:

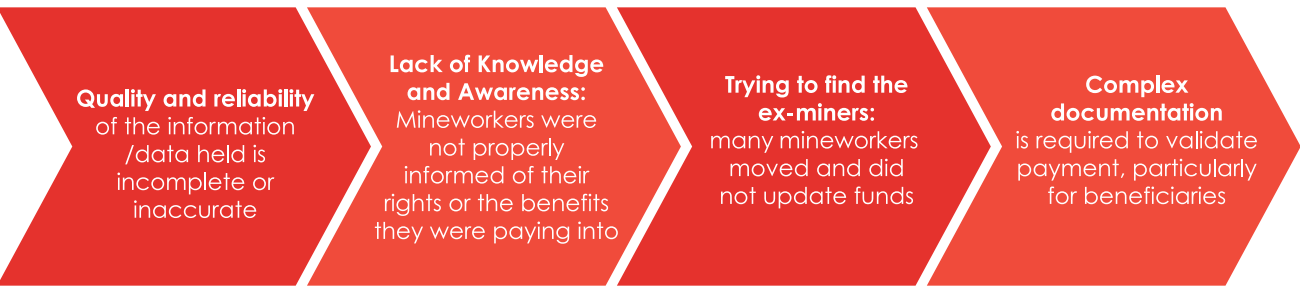


Figure 4. Key Issues in unlocking Unclaimed Benefits as identified by Funds.

While the pension, provident and compensation funds are all engaged in tracing activities to find ex-mineworkers or their beneficiaries and unlock their benefits, there is still a significant amount sitting in unclaimed benefit funds.

Consolidated Findings

SWOT Analysis:

- Strengths	- Opportunities
<ul style="list-style-type: none"> • Legislation has improved for current mineworkers in terms of knowing their rights and ensuring demographic and beneficiary details are up to date. • FSB is able to disaggregate unclaimed benefits information relating to the mining industry and have a database platform and look up function. • The South African pensions fund act protects the rights of members. 	<ul style="list-style-type: none"> • The FSB have a project aimed at educating consumers about financial matters and benefits. • FSB unclaimed benefits search engine. • Other organisations' unclaimed benefits search engines. • More needs to be done to create knowledge and awareness. • Collaboration by the mining industry to have a single tracer co funded. • Amendments have been proposed to the Pension Funds Act to provide for a Central unclaimed retirement benefit Fund to house all Unclaimed Retirement Benefits. • A cross sectoral database to share information and aid tracing.
- Weaknesses	- Threats
<ul style="list-style-type: none"> • International (ILO) and Regional (SADC) instruments around social protection do not necessarily protect migrant miners in terms of their rights to benefits. • Data quality of the mineworker's demographics is poor. • Multiple organisations doing multiple tracking and tracing – potentially confusing for recipient and open to fraud. • The cost of opening a bank account; bank fees and account closure if dormant inhibits payment of funds. • Complex lists of documentation required to access benefit, particularly for beneficiaries. • Mineworkers don't know who to inform when changing address – particularly for migrant workers who return to their country of origin. • Temporary and contracted mineworkers do not always have access to benefits. • POPI law prevents funds from sharing information. • Access to information re: pension and provident funds due is challenging from outside South Africa or from rural areas. • Lack of knowledge and awareness. • Industry working in silos. 	<ul style="list-style-type: none"> • Unclaimed benefit funds could be channelled to resolve fiscal debt and other government projects. Should this occur International (ILO) and Regional (SADC) policy and legislation may not protect the migrant worker's rights. • Requirements for tax numbers discourage some claimants from claiming. • Nearly 1.8 million benefits are less than R250 and this poses a dilemma in terms of the actual cost of tracing and paying out such a small amount. • Fraud.

Key Challenges and Recommendations:

	Key Challenge	Recommendation
1	Data quality issues	Working together the Mining Industry Funds need to share information and establish a common database which ensures data verification and updating.
2	Fraud and identity theft problems	A common tracer and access to single points for information for the Mining industry Funds. Information provided to ex-miner communities must clearly stipulate that services are for free and where to access them.
3	Protection of personal information	Identify how to work within the parameters of the POPI Act by engaging with the POPI regulator.
4	Lack of knowledge and awareness	Information needs to be disseminated out into the areas with high numbers of ex-mineworkers to raise awareness combined with consolidated 'go-to' places for help that have a good footprint in these areas.
5	Working across the Mining Industry	Mining Industry Funds to work together through the convenorship of the Chamber of Mines South Africa, including the sharing of information.
6	Complex documentation requirements to validate payment	By the industry working together, sharing information and utilising a common database, it may be easier to validate beneficiary details and ensure the unlocking of these unclaimed benefits.
7	Requirements for a bank account	Working with the Banking Association of South Africa, low fee or no fee bank accounts that don't expire needs to be established.
8	Funds working in silos	The Mining Industry Pension/Provident and Compensation Funds need to work together and share information through a common database and the use of common tracers. It is recommended that the Chamber of Mines South Africa and the FSB be the convenors of this collaboration.

Table 7: Key Challenges and Recommendations Identified

Conclusion

With an estimated R10 billion Rands worth of unclaimed benefits owing to mineworkers/ex-mineworkers and their beneficiaries, it would make sense, that through the convenorship of the Chamber of Mines South Africa and the FSB, that the pension, provident and compensation funds work together in a pragmatic and targeted manner to unlock these benefits.

The building of a cross sectoral database for the industry, provides a foundation and platform to enable this to happen. Already, it has been noted there is appetite within the industry to work together and through the Department for International Development (DFID) and the Southern Africa Trust (SAT) the piloting of such a database will hopefully unlock monies to alleviate poverty to ex-mineworker communities in Botswana, Lesotho, Mozambique, South Africa and Swaziland, but the industry needs to come together now to tackle the challenges.

1. INTRODUCTION

1.1 Background

For over a century, the mining sector in South Africa has been an integral part of the Southern African economy. It formally employs about 500 000 workers and has a legacy of about 2 million ex-mineworkers, attracting labour from across the Southern African Development Community (SADC) as well as from the provinces within South Africa.

The table below highlights the history of the mining internal (domestic) and international migrant workers:

Year	RSA	Mozambique	Lesotho	Swaziland	% Non-RSA (Migrant Mineworkers)
1920	74,452	77,921	10,439	3,449	57
1940	178,708	74,883	52,044	7,152	49
1960	141,406	101,733	48,824	6,623	62
1980	233,055	39,636	96,308	5,050	44
1995	122,562	55,140	87,935	15,304	58
2000	99,575	57,034	58,224	9,360	57
2010	152,486	35,782	35,179	5,009	34

Table 8: Migrant Mineworkers in South Africa, 1920-2010. Source: TEBA

Lesotho, Mozambique and South Africa are heavily represented labour-sending areas, including Swaziland and Botswana, for South Africa's internal (domestic) and international migrant mineworkers and have significant numbers of ex-mineworkers in their communities.

It has been reported by the Financial Services Bureau (FSB) that currently South Africa's social protection systems hold around R43 billion⁵ in unclaimed benefits across the region mainly from pension and provident funds with some unclaimed funds in injury and compensation systems. This covers all industries not just mining. The database of the Compensation Fund within the Department of Health currently covers 600 000 claimant files across Southern Africa with approximately 80% in South Africa and 20% from neighbouring countries. These files relate to current and ex-mineworkers. Some of the files however are not complete with vital information to unlock unpaid benefits missing. For example, 300 000 files have a known country of origin, leaving 50% of the claimant files with no location data. In addition, a range of other funds exists that cover mineworkers e.g. pension funds which each manage their own databases and client relationships.



⁵ Michelle, G. (2017) Billions lie unclaimed in miners fund. Business Day Available at: <https://www.businesslive.co.za/bd/national/2017-07-27-billions-lie-unclaimed-in-miners-fund/> [Accessed: 5 December 2017]

The World Bank led a regional "Initiative for Strengthening the Response to TB and HIV in Mining Communities in Southern Africa" from 2014-16, which laid bare some of the problems the South African compensation system is facing in relation to finding and paying out decades of legacy entitlements to mineworkers across Southern Africa. Systems and innovative approaches were developed to track and trace ex-mineworkers in South Africa and neighbouring countries, to update their files and ensure payments of compensation. The tracking and tracing of mineworkers is an approach that is also used by pension and provident funds across the industry. Finding ex-mineworkers; updating their records; creating knowledge and awareness of their rights to social protection funds are all critical first steps towards paying out benefits. Working together across the industry will aid in paying out benefits, since the issue of incomplete records has been a major bottleneck in disbursing funds to date.

1.2 Problem Statement:

Across the government departments of South Africa (Treasury, Labour, Mineral Resources and Health), there are multiple policy and legal frameworks covering health, compensation & other social protection benefits. In addition, there are multiple public and private social protection systems with unclaimed funds.

A total of R30bn lies unclaimed from the pension and provident funds of former miners who worked during apartheid but never received their money ⁶.

Migrant workers within South Africa and cross-borders may have contributed to or been part of social protection systems but are unaware they have a benefit to claim, including their beneficiaries.

Within the mining industry, the following is an example of the social protection funds and the unclaimed benefits held:

Social protection funds	Number of workers covered	Legacy claims	Unclaimed benefits
Occupational Diseases and Mine Works Act (ODMWA)	600,000	Unknown	103,000 claims worth R 1.2bn
Compensation for occupational Injuries and Disabilities Act (COIDA)	Unknown	Unknown	Unknown
Unemployment Insurance Fund (UIF)	8,753,689 ⁷ workers	Unknown	Unknown
Mine Workers Provident Fund	88 000	Unknown	Circa: R 3 billion
Mines 1970's Fund	69 000	Unknown	Circa: R 600 million
Sentinel Fund	46 000	Unknown	Circa: R 240 million
Anglo American	36 000	Unknown	Circa: R 175 million

Table 9: Unclaimed Benefits across a selection of Social Protection Funds in South Africa

⁶ Department of Labour. Unemployment Insurance Fund UIF 2014/2015. Available at: <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/unemployment-insurance-fund/2015/uifannualreport2015.pdf> [Accessed: 5 December 2017]

⁷ Anetos, P. and Henderson, R. (2018) 'Unclaimed R43bn a tempting target' Sunday Times

Despite requests to the FSB to provide a summary of the pension, provident and compensation funds due from within the mining industry, this information has not been made available to date – making it challenging to summarise the extent of the problem. However, in a presentation given in September 2017 to the Southern Africa Trust, the FSB highlighted the following data in terms of unclaimed benefits for mineworkers:

Mining Funds - Unclaimed Beneficiaries	2016	2015	2014
Mineworkers Provident Fund	72 566	101 290	85 763
Mines 1970 UB Preservation Funds	62 314	66 682	64 973
Sentinel Retirement Fund	6 951	7 547	8 092
Amplats Group Provident Fund	40 032	41 817	45 678
Total	179 027	217 336	204 506
Mining Funds - Unclaimed Assets⁴	2016 (Rm)	2015 (Rm)	2014 (Rm)
Mineworkers Provident Fund	3 177	3 756	3 219
Mines 1970 UB Preservation Funds	652	663	616
Sentinel Retirement Fund	175	206	223
Amplats Group Provident Fund	223	228	178
Total	4 227	4 863	4 236

Table10: Unclaimed Benefits in the Mining Industry (FSB: 2017)

This figure shows the variance in the amounts and numbers of beneficiaries over the past 3 years. While the trend would indicate a reduction in the number of members and assets value – meaning mineworkers are being found and paid out their unclaimed benefits – still more needs to be done. The figure also only represents 4 of the big pension/provident funds applicable to the mining industry and there are many more funds for mineworkers.

There has been a fragmented service for mineworkers and ex-mineworkers across multiple funds owing in part to a lack of common vision with these funds for the same client. As a result, payment mechanisms for mining compensation and pension fund distribution, have proved to be largely inefficient and ineffective. More efficient systems are needed to organise and standardise processes to unlock these unclaimed benefits for mineworkers.

Poor administration; misinformation; relatives ignorant of the benefits or the primary beneficiaries forgetting about the money, account for only some of the reasons why the unclaimed benefits have been accumulating. Some of the funds are likely to never be claimed because sadly the first name and shaft number was the only information recorded where the mineworker worked⁸.

According to the FSB, Regulation 33 was inserted during 2001 to compel employers to provide funds with detailed member details, amongst others, full name, date of birth, ID number or employer pay number, or other means of identification to enable a member to be identified. Funds should therefore maintain more accurate membership data and contact details of its members⁹, however this remains a challenge for those captured pre: 2001.

In summary some of the key problem areas identified are:

- **Lack of a common vision to work together** in finding and processing claims by social protection funds within the mining industry.
- **Lack of documentation** including but not exclusive to: identity documents; death registration certificates; traditional marriage registrations; multiple beneficiaries; record of service.
- **Inability for claimants to access banking services** given that many funds can only pay into bank accounts.
- **Lack of feedback to claimants / beneficiaries** of the claims process and payments being made.
- **Lack of knowledge and awareness** amongst mineworkers and or their beneficiaries of their entitlement to benefit funds and how to access these.

⁸ Financial Services Board (2017) Unclaimed Benefits. Available at <https://www.fsb.co.za/NewsLibrary/Unclaimed%20Benefits%20Funds%20-%20FSB%20Presentation%2004%20September%202017.pdf> [Accessed: 15 November 2017]

⁹ South African Development Community (2008) Code on Social Security in SADC. Available at: <http://www.sadc.int/documents-publications/show/Code%20on%20Social%20Security%20in%20SADC> [Accessed: 27 October 2017]



1.3 Project Aims and Objectives:

Botswana, Lesotho, Mozambique, South Africa (internal migration) and Swaziland have been identified for this project primarily owing to the large number of migrant mining workforce from these countries into the mines in South Africa and hence the potential to unlock unclaimed benefits.

A central database with an interface across the multiple funds databases, IT and operational systems will support the additional missing information required and identify where mineworkers may be due multiple claims or benefits. Where miners with multiple claims have been identified via the central database, tracking and tracing activities aim to find and pay the unclaimed benefits. While the ideal would be to create one Unclaimed Benefits Fund, this may be resisted by the multiple pension, provident and compensation funds. Hence an interface design architecture with a common track and trace database would assist as a first step towards a one-stop service for claimants.

This objectives of this desktop review and elicitation research are to:

1. Understand what is meant by social protection and unclaimed benefits in relation to mineworkers.
2. Review the policy and legislature concerning social protection from a macro to a micro level as applicable to mineworkers who worked on the mines in South Africa; understanding how this may or may not impact on social protection for them.
3. Understand the management and organisation of social protection as it relates to the mining industry in South Africa.
4. Generate a greater understanding of at least 5 social protection funds for current and ex-mineworkers and thereby identifying the challenges and opportunities this brings to unlocking unclaimed benefits.
5. Critically analyse these 5 funds and others in terms of their ability to unlock unclaimed benefits and suggest a way forward.
6. Identify the challenges experienced in the claims process for unlocking benefits and suggest some recommendations for addressing these.

2. APPROACH AND METHODOLOGY

2.1 Desktop Review

The desktop review followed a 4-step process based on Whittemore and Knaf's (2005) integrated review, namely:

- Conduct a desktop review of the topic.
- Conduct a literature search of the topic.
- Analyse and evaluate information where applicable.
- Present the key themes and understanding relevant to the project.

This was done via searches on the internet, PubMed, EBSCOhost, and Google Scholar utilising the key words and phrases relevant to the topic: social protection, unclaimed benefits, mineworkers and databases. The review predominantly included literature from 1996 to 2017 and prioritised peer reviewed records as they already have a level of scrutiny. The review also included published and unpublished (grey) literature; relevant documents, policies and legislature and web-based information. Selection criteria was based on a priority system as follows:

Priority 1	Literature/Articles/Documents/Websites with all the key phrases.
Priority 2	Websites with all key phrases and/or specific relevance to social protection and the management and legislation therefore relating to the topic.
Priority 3	Literature/Articles/Documents/Websites with 2 or 3 of the key phrases.

Table 11: Selection Criteria for Desktop Information

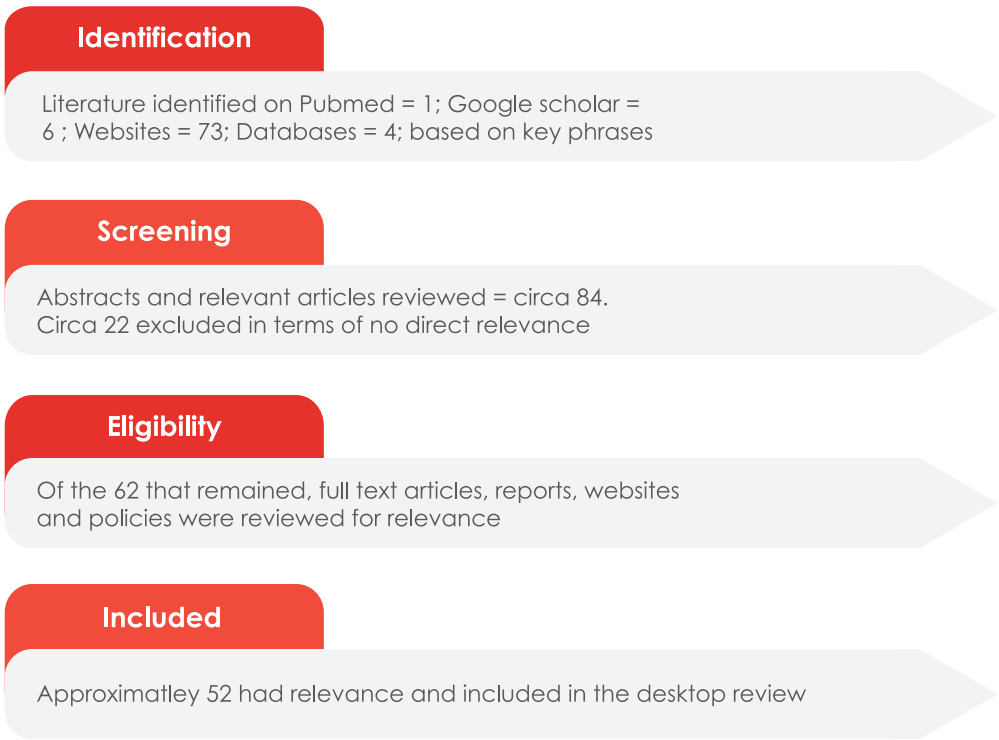


Figure 5: Process of the Review

2.2 Elicitation Research

This fieldwork aspect was required to elicit further information that cannot be gleaned from desktop and was primarily focussed on a selection of social insurance funds within the mining sector of South Africa. This qualitative approach, involved semi-structured key informant interviews, completed either through face to face meetings or telephonically.

The objectives of the elicitation research were primarily to:

1. Identify **5 key social protection funds** who would engage in the project.
2. Gather further information to support and enhance the understanding and findings from the desktop review relating to benefit funds.
3. Develop an understanding of the gaps, challenges and parallel needs of stakeholders in terms of unclaimed benefits.

4. Elicit the views and opinions of stakeholders of a cross sectoral database for the unlocking of benefits.
5. Understand the benefits they offer and requirements they need to process a claim.
6. Identify the activities they engage in to unlock benefits.

Five stakeholders were chosen for the elicitation research based on information obtained from the Chamber of Mines Pension Officer and other industry stakeholders who identified these five to be relevant and key players in the provision of social protection to mineworkers who worked on the mines in South Africa. The table below shows the stakeholders that agreed to meet and discuss the topic.

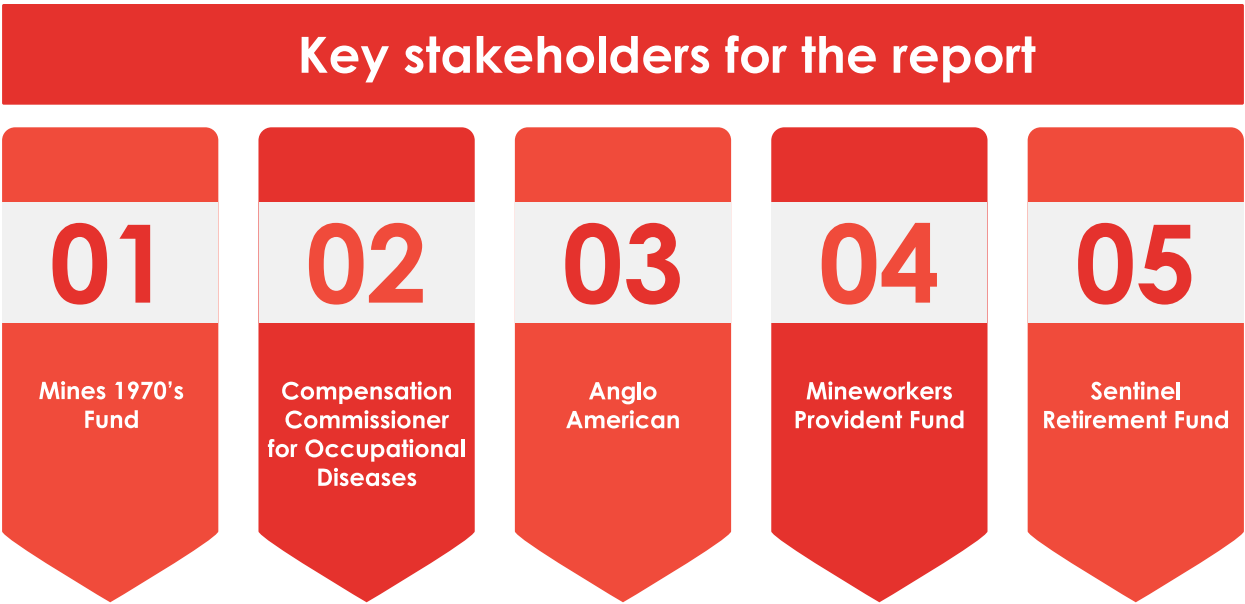


Figure 6: Stakeholders who Informed the Report

APPENDIX 1: Key Informant Details from Elicitation Research (page 56) displays the details of the key informants met for the elicitation research. For each of the 5 organisations involved, 2 people were interviewed at the same time and notes were made based on a semi-structured interview form (Please see APPENDIX 2: In-depth Key Informant Interviews; pages 57 – 60) which outlines the questions carried out with the key informants.

The figure below shows the methodological framework used for the desktop review and elicitation research



Figure 7: Methodology



3. DESKTOP REVIEW

3.1 Understanding the Topic

3.1.1 Social Protection

Social protection is one of the most recent, yet fastest-growing sectors in social policy in low and middle-income countries. At least 50 countries in Africa have non-contributory social protection programmes targeting poor and vulnerable households and individuals (Honorati et al., 2015). Evidence of the successful impacts of social protection programmes has encouraged a growing number of governments to develop, strengthen and allocate larger financial resources to social protection systems. Yet, in spite of the impressive rise of social protection over the past two decades, coverage remains low and more than 70% of Africans lack access to any form of social protection (Garcia & Moore, 2012; ILO, 2014). Social protection provides governments with a concrete route to addressing the socio-economic challenges facing African countries, but much more investment and advocacy are urgently needed to reach those who are currently excluded. However, where access to and the use of social protection funds occur, household incomes and the quality of life for claimants and their families are improved. Social protection is therefore an important instrument in poverty alleviation.

3.1.2 Definitions

It is important to clarify what is meant by the variety of terms that cover social protection, because not all forms of social protection are the same. The Southern African Development Community (SADC) Code for Social Security (2007), provides the following definitions in Article 1¹⁰ :

| Social Protection:

Social protection is broader than social security. It encompasses social security and social services, as well as developmental social welfare. Social protection thus refers to public and private, or to mixed public and private measures designed to protect individuals against life-cycle crises that curtail their capacity to meet their needs. The objective is to enhance human welfare. Conceptually and for purposes of this Code social protection includes all forms of social security. However, social protection goes beyond the social security concept. It also covers social services and developmental social welfare and is not restricted to protection against income insecurity caused by particular contingencies. Its objective, therefore, is to enhance human welfare.

| Social Security:

This refers to public and private, or to mixed public and private measures, designed to protect individuals and families against income insecurity caused by contingencies such as unemployment, employment injury, maternity, sickness, invalidity, old age and death. The main objectives of social security are: (a) to maintain income, (b) to provide health care, and (c) to provide benefits to families. Social security includes social insurance, social assistance and social allowances.

| Social Assistance:

This is a form of social security which provides assistance in cash or in kind to persons who lack the means to support themselves and their dependants. Social assistance is means-tested and is funded from government revenues. Normally, the beneficiaries are those who are not covered by any other form of social security. The objective of social assistance is to alleviate poverty through, amongst other things, the provision of minimum income support.

¹⁰ Inter-Departmental Task Team on Social Security and retirement Reform. (2012) Comprehensive Social Security in South Africa Available at: https://www.gov.za/sites/www.gov.za/files/Comprehensive_Social_Security_in_South_Africa_a.pdf [Accessed: 27 October 2017]

| Social Insurance:

This is a form of social security designed to protect income earners and their families against a reduction or loss of income as a result of exposure to risks. These risks impair one's capacity to earn income. Social insurance is contributory with contributions being paid by employers, employees, self-employed persons, or other contributors, depending on the nature of the specific scheme. Social insurance is aimed at achieving a reasonable level of income maintenance.

| Social Allowance:

These are universal payments made to persons in designated categories who are exposed to exceptional need (such as children, older persons, persons with disabilities), designed to assist them in the realisation of their full potential. The objective of social allowances is social compensation. Social allowances are financed from government revenue and are not means-tested. They are paid to all persons falling within the designated categories, regardless of their socio-economic position.



3.1.3 Defining Social Protection for Mineworkers

South African social protection systems were established to provide protection for individuals using contributory and non-contributory cash and in-kind legal guarantees. The system is built on three pillars of; social assistance, mandatory social insurance, and private insurance. It follows a life cycle approach and the system is supported by standards and legislations that are triggered and goes into effect based on the age or life stages of the individual. For mineworkers, the social protection available to them will depend on the following factors:

1. Type of contract: formal or informal,
2. Type of work: professional, skilled or unskilled,
3. Recruitment method: company or labour brokers,
4. National or foreign worker status.

For mineworkers from Botswana, Lesotho, Mozambique, Swaziland and different parts of South Africa, who worked on the mines in South Africa, the definitions or terminology that will be used in this project are as follows:

- **Social Security:** where this will relate to compensation systems for mineworkers and
- **Social Insurance:** where this will relate to pension and provident funds.

3.1.4 Social Security and Social Insurance

"A well-structured social security system seeks to protect every member of society, irrespective of income level or socioeconomic status, from catastrophic risk¹¹."

The aim of social security (like compensation) is to protect workers and their families against loss of income in the event of unemployment, sickness, disability or death.

Social Insurance (like pension and provident funds) generally provides for life-time income at a portion or percentage of their working income or based on a forecasted saving and investment of their contributions. Employees usually set aside a portion of their earnings during their working lives to provide an income in retirement.

Government has a responsibility for protecting worker's rights including a commitment to making social security arrangements available to all members of the labour force, regardless of fluctuations in the economy. However, South Africa lacks statutory pension and insurance arrangements, but it does have a set of social insurance funds that provide benefits under specific circumstances for example: compensation systems for injury and disease from the workplace. Links amongst social security and labour institutions have not yet been fully developed¹².

3.1.5 Social Security Across Borders

Social security systems are established, administered and regulated at a national level, operating within a legal context and institutional framework of that country which determines who, when and where social benefits are payable. Within these frameworks there is often discrimination between nationals and non-nationals, citizens or residents, residing or non-residing in order to draw on these social benefits. In order to alleviate many of these discriminatory factors, bilateral and multilateral social security agreements between countries ensure that benefits for migrants are paid where applicable and

when due. Hence, co-ordination rules exist to fairly adjust and regulate social security benefits for migrants. Mpedi et al (2017) identifies 5 key principles for social security co-ordination:

1. Equality of treatment.
2. Aggregation of insurance periods.
3. Maintenance of acquired rights and benefits.
4. Applicable law.
5. Transferability or portability of benefits¹³.

To this end, co-ordinating instruments exist specifically for migrants, but these are very much dependent upon co-operation between the states.

In terms of social protection funds for mineworkers, who worked on the mines in South Africa but originated from countries outside South Africa, the challenges in terms of paying or providing benefits cross border are minimal, aside from finding the beneficiaries. In other words, compensation, pension and provident funds for mineworkers do not have restrictions in terms of paying out to foreign mine worker from the 5 countries identified for this project.

However, in some instances, not all mineworkers have equal rights to social protection. For example: mineworkers with a valid South African identity document (ID) can claim from the South African Unemployment Insurance Fund (UIF) should they meet the criteria. Non-South African mineworkers, who are working in South Africa legally, should not be contributing to the Unemployment Insurance Fund and hence will not be able to benefit from this fund¹⁴. This is clarified by the South African Department of Labour's: Basic Guide to UIF Unemployment Benefits.

¹¹ Inter-Departmental Task Team on Social Security and retirement Reform. (2012) Comprehensive Social Security in South Africa Available at: https://www.gov.za/sites/www.gov.za/files/Comprehensive_Social_Security_in_South_Africa_a.pdf [Accessed: 27 October 2017]

¹² Mpedi et al (2017) Towards and Instrument for the Portability of Social Security Benefits in the Southern African Development Community: Sun Press, Stellenbosch.

¹³ Unemployment Insurance Fund (2008) Available at: <https://www.skillsportal.co.za/content/do-foreign-workers-qualify-uif> [Accessed: 26 November 2017]

¹⁴ Skills Portal. 'Unclaimed Benefits Available' at: <https://unclaimedbenefits.co.za/unclaimed-benefits/> [Accessed: 2 December 2017]

3.1.6 Unclaimed Benefits in South Africa

An unclaimed benefit refers to any monies due to a person that remains unpaid or unclaimed when a person resigns, is dismissed or retrenched. More than 3 million South Africans are owed more than R45 billion in unpaid benefits from retirement funds they have left already¹⁵.

In terms of Section 1 of the South African Pensions Funds Act, an unclaimed benefit can be defined as any benefit if it has not been claimed after 2 years of the member leaving the fund due to resignation or retrenchment; or after maturation date or the date it is legally due to the beneficiary¹⁶.

According to the Financial Services Bureau of South Africa (FSB), unclaimed benefits have been a significant problem for a while, compounded by the number of migrant workers because they may have been working illegally. There is also no direct relationship between benefits unclaimed and funds cancelled or reinstated by the Registrar of Pension Funds. Funds registered for an extended period of time, and whose only members and assets are unclaimed, are allowed to be transferred to a registered unclaimed benefit fund whose purpose is purely to trace and pay such members or beneficiaries. The responsibility and accountability for tracing and paying these unclaimed benefits remains the responsibility of the Trustees of the unclaimed benefit fund. One of the challenges in tracing is that the funds do not have accurate member data or contact details. Despite changes to the regulation in 2001 of the Pensions Fund Act (1956) whereby employers must provide the funds with detailed member details, the FSB reports that inaccurate data still occurs in certain industries of which mining is one of them¹⁷.

3.1.7 Key Reasons for Unclaimed Benefits

The following table highlights some of the key reasons why benefits may be unclaimed:

1	Failure of members to update Funds of change in their details or their beneficiaries.
2	Failure of Employers to provide Funds with the complete details of the member.
3	Many employers and/or Funds do not provide enough information about entitlements, processes and requirements to the members on their benefits and how to claim.
4	Poor administration/record keeping by funds – this may be due to the fund/administrator no longer existing.
5	Foreign workers who have to leave after their work permit expires, lack sufficient mechanisms to enable them to claim from their home countries.
6	Fund members do not always inform their dependents of the benefits if they die/injured in service and how to access these.
7	Failure by Fund boards to take reasonable steps to trace and pay those entitled to unclaimed benefits.

Table 12: Key Reasons for Unclaimed Benefits (FSB: 2017)

¹⁵ Financial Services Board. 'Unclaimed Retirement Fund Benefits' Available at: <https://www.fsb.co.za/NewsLibrary/Unclaimed%20Benefits%20-%20Questions%20and%20Answers.pdf> [Accessed: 15 November 2017]

¹⁶ Financial Services Board (2017) Unclaimed Benefits. Available at <https://www.fsb.co.za/NewsLibrary/Unclaimed%20Benefits%20Funds%20-%20FSB%20Presentation%2004%20September%202017.pdf> [Accessed: 15 November 2017]

¹⁷ United Nations (1990) 'International Convention on the Protection of the Rights of All Migrant Workers and Members of their families – UN General Assembly Resolution 45/158 of 18 December' Available at <https://www.ohchr.org/en/professionalinterest/pages/cmw.aspx> [Accessed: 25 January 2018]

3.1.8 Trend Analysis of Unclaimed Benefits

An analysis by the FSB of the unclaimed benefits over the past 10 years revealed the following:

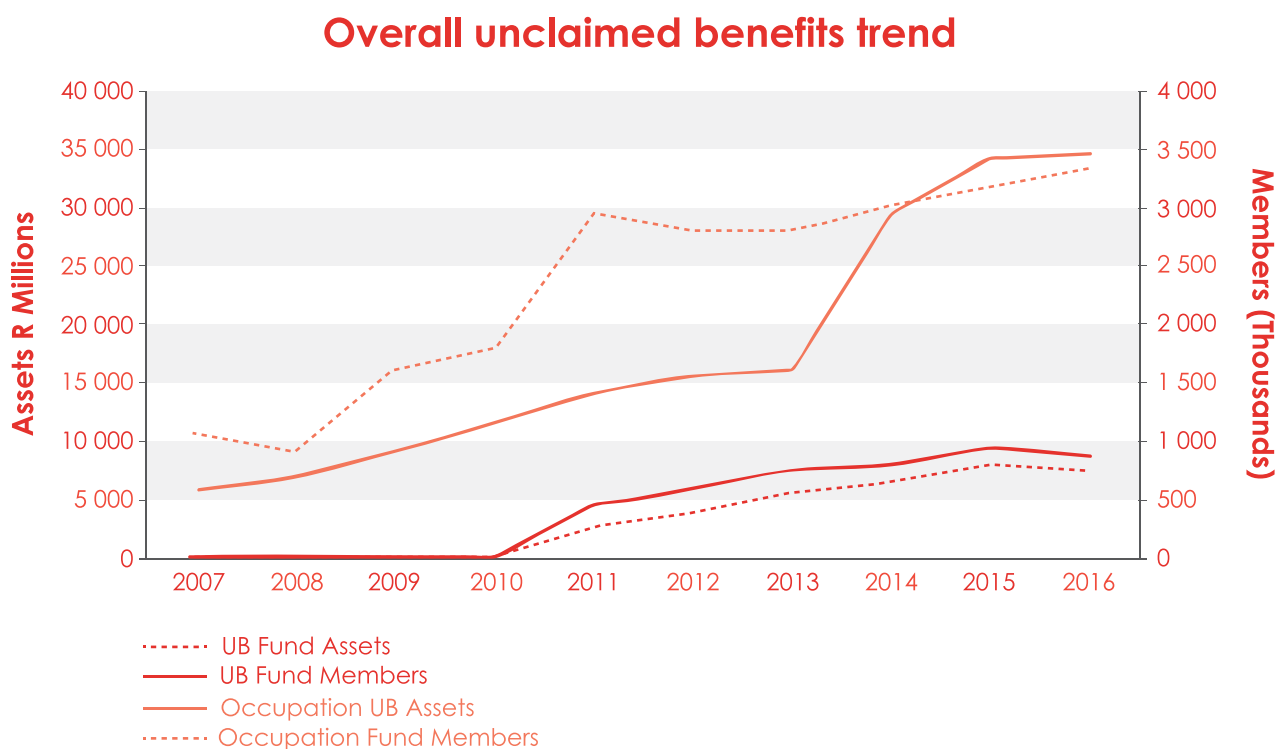


Figure 8: Unclaimed Benefits Trend (FSB- 2017)

The figure above highlights the following key points:

- Overall the number of members in unclaimed benefits has risen from approximately **1 million to 4 million** over the past 10 years – **a 300% increase**.
- Overall the amount of money in unclaimed benefits has risen from around **R5 billion to R43 billion** over the past 10 years.

The FSB states that the reasons for the increase in the funds value and member are as follows:

- surplus apportionment schemes were submitted, and funds were unable to trace and pay former members and therefore classified these as unclaimed as defined in the Pension Fund Act.
- The **increase of 66.5%** in unclaimed benefit assets from 2013 to 2014 was mainly due to two large funds which changed their accounting policy resulting in the reclassification of R11 billion worth of assets as unclaimed benefits.
- From 2009 registered unclaimed benefit funds submitted financial statements and the asset value in the unclaimed benefit funds consisted of transfers of unclaimed benefits from active and dormant funds. This was because the Pension Funds Act made provision for the transfer of any fund's liabilities in respect of unclaimed benefits to these funds.
- The increase in asset value is also due to income earned from investment on the assets relating to these unclaimed benefits.

However, the graph in Figure 8 clearly shows a slowing down in number of members and the amounts in unclaimed benefit funds since 2015. This is hopefully due to efforts throughout the industry and the FSB to trace and pay beneficiaries.

In addition to the above, it is also important to note that from the data that the FSB received from funds, it was estimated that there is:

- 1,1 million members whose unclaimed benefit is less than R250 and
- 715 000 members whose unclaimed benefits are less than R100.

Given the small value of these unclaimed benefits, it only amounts to an estimated 0.2% of total asset value of unclaimed benefits. However, this data and information poses a challenge in that nearly 1.8 million benefits are less than R250 and this poses a dilemma in terms of the actual cost of tracing and the administration costs involved in paying out such a small amount. None-the-less, unclaimed benefits do not necessarily expire after a period and are not lost if a person dies as the benefit is payable to beneficiaries.

3.1.9 Unclaimed Benefits Paid to Date

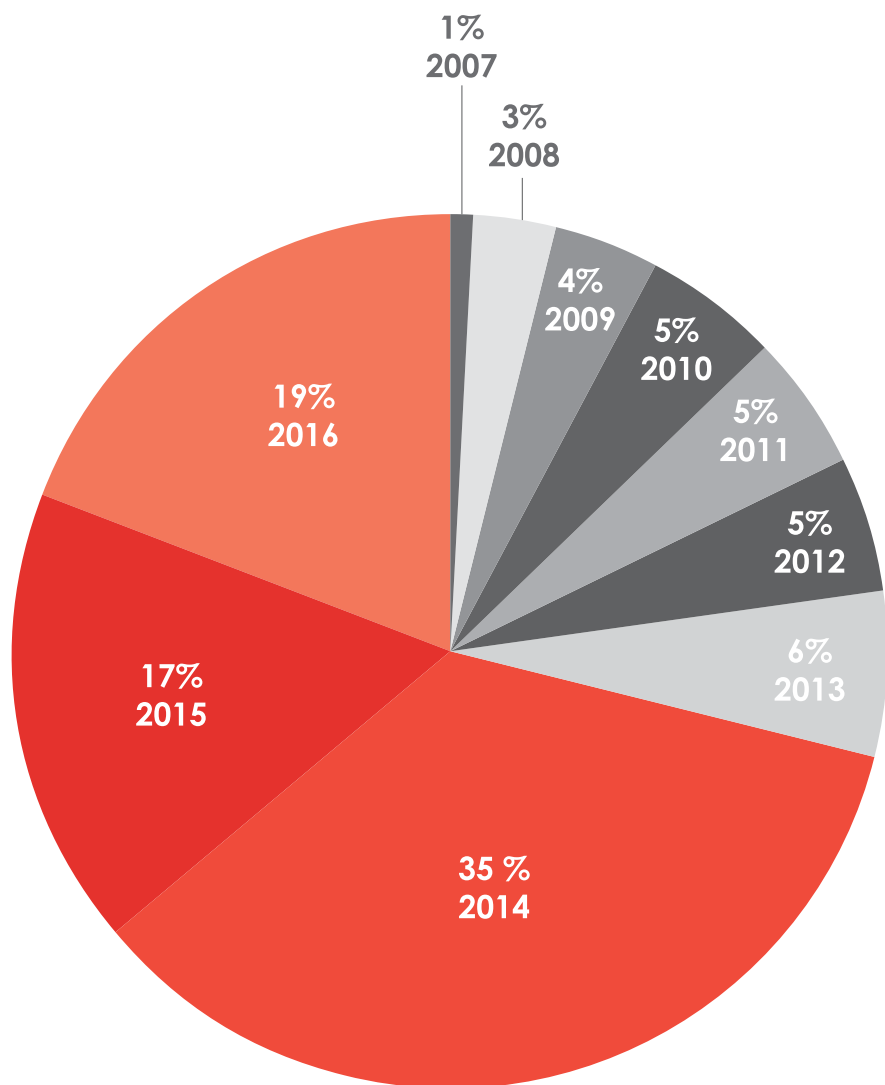


Figure 9. Unclaimed benefits paid to date (FSB:2019)

- From 2007 to 2016, R22 billion unclaimed benefits were paid to almost a million members.
- In the last 5 years R18 billion was paid to 680 000 members and amounts to an average benefit of R26 787 per member.

The FSB have developed an unclaimed benefits search engine but report that the level of detail provided by the funds is often very poor, making it difficult to assign to a claimant or beneficiary. They plan to ask the funds/administrators for quarterly data updates to the unclaimed benefit data. In addition, it is worth noting that amendments have been proposed to the Pension Funds Act to provide for a Central Unclaimed Retirement Benefit Fund to house all Unclaimed Retirement Benefits and possibly be expanded in the future to include other sector such as Insurance Companies and Banks. Hence the FSB welcome any initiative that promotes the unlocking of social protection and unclaimed benefits as well as a tool in order to do this.

3.2 Policy and Legislation

A comprehensive review of the policy and legislature influencing social protection is key to understanding any challenges or barriers that may impact on the development of a cross-sectoral database for the unlocking of social protection for mineworkers. This section reviews policy and legislature from a Macro (international) to a Meso (regional) and Micro level (within South Africa) to enhance a comprehensive understanding.

3.2.1 The United Nations

The United Nations (UN) is an international organization founded in 1945. It is currently made up of 193 Member States of which Botswana, Lesotho, Mozambique, South Africa and Swaziland are all members. The mission and work of the UN are guided by the purposes and principles contained in its founding Charter. In terms of migrant mineworkers, the following UN Convention would be applicable:

The United Nations International Convention on the Protection of the Rights of all Migrant Workers and members of their Families (UNCPRMWMF)

Article 27 (1) states the following:

'With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of Employment can at any time establish the necessary arrangements to determine the modalities of application of this norm'¹⁸.

Article 61(3) also states that migrant workers will be adequately protected by their State of origin while engaging in work in other countries.



¹⁸ Msiska, S. (2013) 'Ahead of high-level meeting, UN officials spotlight migrants' contribution to societies' UN News, Available at: <https://news.un.org/en/story/2013/10/452222-ahead-high-level-meeting-un-officials-spotlight-migrants-contribution-societies#.WiZsl0qWblU> [Accessed: 5 December 2017]

As of March 2017, only 2 of the member states applicable to this project, have signed and ratified this convention:

Member State	Signature	Ratification
Botswana	✗	✗
Lesotho	(2004) ✓	(2005) ✓
Mozambique	(2012) ✓	(2013) ✓
South Africa	✗	✗
Swaziland	✗	✗

Table 13: Signatory and Ratification of UNCPRMWMF by Country

The Committee on the Rights of Migrant Workers oversees implementation of the Convention by States parties. The UN says that ratifying this treaty does not commit States to giving migrant workers special treatment. It does not create new rights nor establish additional rights specifically for migrant workers. What it does do, is give specific form to standards that protect all human beings, so they are meaningful within the context of migration¹⁹. The Convention has been in force for over a decade. While many social insurance or benefit funds, like pensions or compensation, are transferable for migrant mineworkers, other social security may not be due to national laws or agreements between states.

3.2.2 The International Labour Organisation (ILO)

The ILO engages in the collection and dissemination of social security statistics, specifically through its Financial, Actuarial and Statistical Services Branch. Statistics provided by ILO include the cost of social security, social protection coverage, coverage of pension schemes and public social security expenditures, among others.

When it comes to the portability of social protection benefits, especially applicable in the case of migrants, and in this context mineworkers from across the SADC region who work on the mines in South Africa, the following ILO conventions are applicable:

- Equality of Treatment (Accident Compensation) Convention 19 of 1925.
- Equality of Treatment (Social Protection) Convention 118 of 1962.
- Maintenance of Social Security Rights Convention 157 of 1982.
- Migration for Employment Convention 97 of 1949.
- Social Security (Seafarers) Convention 165 of 1987.

Botswana, Lesotho, Mozambique, South Africa and Swaziland are all members of the ILO and in terms of their uptake of these conventions, it appears as follows:

Member State	Equality of Treatment Accident Compensation Convention 19 of 1925	Equality of Treatment Social Protection Convention 118 of 1962	Maintenance of Social Security Rights Convention 157 of 1982	Social Security Seafarers Convention 165 of 1987	Migration for Employment Convention 97 of 1949
Botswana	✓	✗	✗	✗	✗
Lesotho	✓	✗	✗	✗	✗
Mozambique	✗	✗	✗	✗	✗
South Africa	✓	✗	✗	✗	✗
Swaziland	✓	✗	✗	✗	✗

Table 14: Ratification of selected ILO social security conventions by elected SADC countries

¹⁹ International Labour Organisation (2017) World Social Protection Report 2017-2019, Geneva

This table clearly highlights either the reluctance or apathy by certain SADC countries to ratify the conventions. The impact of this is that the co-ordination principles are not being met and a co-ordination instrument is harder to achieve, impacting the portability of social protection benefits across borders to enrich and enhance the lives of migrant workers and aid in alleviating poverty.

ILO have recently launched their World Social Protection report 2017 – 2019. This report highlights that while significant progress has been made in several countries in Southern Africa (namely: Botswana, Lesotho, South Africa and Swaziland) towards universal social protection benefits like old age pensions or disability grants, still more work needs to be done as this is not being fully realised. Mozambique remains behind in comparison to these other countries. Coverage gaps are associated with a significant underinvestment in social protection, particularly in Africa and this leaves people vulnerable to poverty, inequality and social exclusion across the life cycle, thereby constituting a major obstacle to economic development ²⁰.

In terms of migrant mineworkers from outside South Africa, compensation as a result of disease or injury while working on the mines in South Africa is payable, even when these are ex-mineworkers residing back in their country of origin. Those South African pension and provident funds engaged with in the elicitation research, all indicate that these funds can be paid across borders. Hence indirectly this has aided in the payment of unclaimed benefits to mineworkers and their beneficiaries.



3.2.3 International Organisation for Migration (IOM)

The IOM is committed to the principle that humane and orderly migration benefits migrants and society. As the leading international organization for migration, IOM acts with its partners in the international community to:

- Assist in meeting the growing operational challenges of migration management.
- Advance understanding of migration issues.
- Encourage social and economic development through migration.
- Uphold the human dignity and well-being of migrants.

Although IOM has no legal protection mandate, the fact remains that its activities contribute to protecting the human rights of persons involved in migration. This has some influence over issues of social protection in supporting the ILO. However, the extent to which this could influence the payment of unclaimed benefits to mineworkers from outside South Africa, who worked on the mines in South Africa, is limited and unclear.

3.2.4 Southern African Development Community (SADC)

SADC's treaties, codes and regulations play a key role in the development of cross-sectoral reference database for the co-ordination of social security benefits to mineworkers because of its objectives, institutional frameworks and particularly its regulatory frameworks which directly affect social security.

²⁰ Southern African Development Community. (2015) Consolidated Text of the Treaty of SADC - Article 4 Available at: https://www.sadc.int/files/5314/4559/5701/Consolidated_Text_of_the_SADC_Treaty_-_scanned_21_October_2015.pdf [Accessed: 24 January 2018]

The SADC Treaty commits member States to the fundamental principles of:

- **Equality.**
- **Solidarity, peace and security.**
- **Human rights.**
- **Democracy and rule of law.**
- **Equity, balance and mutual benefit.**
- **Peaceful settlement of disputes²¹.**

The vision and objectives of SADC are to realise a common future that will ensure economic well-being; improved standards of living and quality of life; freedom and social justice and peace and security for the people of Southern Africa²². Botswana, Lesotho, Mozambique, Swaziland and South Africa are all member states of SADC. To enable the vision and objectives of SADC to be reached, a: Summit; Organ on Politics; Defence and Security; Council of Ministers; Integrated Committee of Ministers; Standing Committee of Officials; Secretariat; Tribunal and National Committee provides the institutional framework.

The activities of SADC are grouped into 4 directorates and social security falls under the Directorate of Social and Human Development and Special Programmes. Some of the objectives of this directorate are to develop, promote and harmonise policies and programmes, many of which relate indirectly to social protection. In addition, the Employment and Labour Sector (ELS), under this directorate, is responsible for the promotion of employment and labour issues to improve labour and social development in SADC. These structures could aid in reducing the barriers to the unlocking of social protection benefits.

Regulatory Frameworks

The regulatory frameworks of SADC really speak to social security and protection. In particular, are the following:

- Treaty of SADC (discussed above).
- Charter of Fundamental Social Rights in the SADC.
- Certain SADC protocols.
- Code on Social Security.

In addition, a draft Labour Migration Policy has been developed which impacts on the social protection position of intra-SADC migrants²³.

a) The Charter of Fundamental Social Rights in the SADC

Amongst other things, this charter promotes the establishment and harmonisation of social security schemes and social policies. Governments are required to enable an environment for these objectives to be realised and observe the basic rights of the charter²⁴. The charter states the following:

SADC member states shall create an enabling environment such that every worker in the SADC region shall have a right to adequate social protection and shall, regardless of status and the type of employment, enjoy adequate social security benefits. Persons who have been unable to either enter or re-enter the labour market and have no means of subsistence shall be able to receive sufficient resources and social assistance.

²¹ South African Development Community. 'SADC Vision'. Available at: <https://www.sadc.int/about-sadc/overview/sadc-vision/> [Accessed: 22 October 2017]

²² Mpedi et al (2017) Towards and Instrument for the Portability of Social Security Benefits in the Southern African Development Community: Sun Press, Stellenbosch

²³ South African Development Community. (2003) 'Charter of the Fundamental Social Rights in SADC' Available at: <https://www.sadc.int/documents-publications/show/837> [Accessed: 2 November 2017]

²⁴ South African Development Community. 'SADC Tribunal' Available at: <http://www.sadc.int/about-sadc/sadc-institutions/tibun/> [Accessed on 2 November 2017]

b) SADC Protocols

The relevant SADC protocols in terms of social security are the following:

- Draft Protocol on the Facilitation of Movement of Persons (2005). Although adopted but not yet operational, due to a lack of required signatories, it aims to remove the obstacles to the movement of persons across the states. This protocol has undefined timeframes and is subject to national laws. It aids in residency and economic activity and as such the enjoyment to the rights and privileges as determined by the law of the host state, provided all obligations are fulfilled.
- The Protocol on the Tribunal and Rules of Procedure Thereof, adopted in 2000 but reviewed and in 2014 with a new mandate to only deal with inter-state disputes²⁵.
- The Protocol on Employment and Labour.

c) The Code on Social Security in the SADC

Like the Charter of Fundamental Social Rights in the SADC, this code also aims to realise some of the objectives in article 5 of the SADC Treaty. Unfortunately the Code is non-binding, but aims to provide member states with strategic direction and guidelines in the development and improvement of social security schemes in order to enhance the welfare of the people of the SADC region; to provide SADC and member states with a set of general principles and minimum standards of social protection, as well as a framework for monitoring at national and regional levels; and to provide SADC and member states with an effective instrument for the coordination, convergence and harmonisation of social security systems in the region²⁶.

The underlying principles of the code are:

- Solidarity and redistribution.
- There can be variety between states.
- It can involve multiple players but that governments have the overall responsibility.
- The Code ensures that the right to social security is guaranteed to everyone in the region. This includes migrants, foreign workers and refugees. The fundamental principles of the Code are as follows:
- Migrant workers should be able to participate in the social security schemes of the host country.
- Migrant workers should enjoy equal treatment alongside citizens within the social security system of the host country;
- There should be aggregation of insurance periods and the maintenance of acquired rights and benefits between similar schemes in different member states;
- Member states should ensure the facilitation of exportability of benefits, including the payment of benefits in the host country;
- Member states should identify the applicable law for purposes of the implementation of the above principles; and
- Member states should ensure coverage of self-employed migrant workers on the same basis as employed migrants.

The Independent Committee of Experts (established by the Integrated Committee of Ministers) implements, monitors and provides advice on the Code. Overall, the principles of this code should support a cross-sectoral database that unlocks unclaimed benefits for migrant workers across Botswana, Lesotho, Mozambique, South Africa and Swaziland.

3.2.5 Analysis and Evaluation of SADC Policy and Legislation

Mpedi et al (2017) in their analysis of an instrument for the portability of social security benefits in SADC report that the SADC Treaty does not prohibit discrimination based on nationality or citizenship and this is key to the co-ordination of social security.

²⁵ Mpedi et al (2017) Towards and Instrument for the Portability of Social Security Benefits in the Southern African Development Community: Sun Press, Stellenbosch

²⁶ International Labour Office (2016) 'Extending social protection by anchoring rights in law South Africa' Available at: <http://www.social-protection.org/gimi/gess/RessourcePDF.action?ressource.ressourceId=53853> [Accessed: 11 December 2017]

In other words, discrimination can still occur depending on your nationality and this can impact the portability of social protection. In addition, the Treaty also does not guarantee freedom of movement, it only encourages member states to remove the obstacles to free movement of capital and labour, goods and services and the people of SADC. Both pose challenges to portability of social protection and an instrument to facilitate this.

The above-mentioned SADC Protocols envisage and facilitate the co-ordination of social protection across member States, but the Draft Protocol on the Facilitation of Movement of Persons does not guarantee freedom of movement but only encourages it and individual cases for the resolution of social security co-ordination can no longer be dealt with by the reconstituted SADC Tribunal. Implementation of the SADC objectives, institutional and regulatory frameworks is reliant on co-operation between member states and this has lagged because no concrete mechanisms have been established to implement the SADC social protection agenda. While sanctions can be placed on member states this is not occurring as it requires consensus by the SADC institutions and the 'variable geometry' adopted by SADC instruments also means that it is difficult to sanction member states for not complying.

However, SADC's vision, mission, aims and objectives, combined with its Institutional and regulatory frameworks provides the structure that supports social protection relevant to this project. Furthermore, it also supports

the rationale for the development of a cross-sectoral database to unlock social protection for mineworkers across Botswana, Lesotho, Mozambique, South Africa and Swaziland. While issues of nationality may impact certain forms of social protection, when it comes to social security and social insurance for mineworkers who are not South African, this has little impact because of the regulations of contributory social insurance schemes and South African legislation around disease and injury compensation. As long as the mineworker was legally allowed to work in the country and primarily has a record of service, this would enable the payment of due social protection benefits.

3.2.6 South Africa's Social Protection System

South Africa social protection systems were established to provide the following protection for all individuals using contributory and non-contributory cash and in-kind legal guarantees. The system is built on three pillars of; social assistance, mandatory social insurance, and private insurance. It follows a life cycle approach and the system is supported by standards and legislations that are triggered and goes into effect based on the age or life stages of the individual. Below is a summary of South Africa's social protection's legal framework which illustrates the life stage in which an individual may fit into a specific type of social protection support. For mining workers, which social protection available to them will depend on the following factors: 1) type of contract: formal or informal, 2) Type of work: professional, skilled or unskilled, 3) recruitment method: company or labour brokers, 4) national or foreign worker status.

Legislature	South Africa Constitution - Chapter 2, Bill of Rights (Chapter 2 of the Constitution,No. 108 of 1996 and Article 27)				
	National Health Insurance Act (No. 61 of 2003)	Social Assistance Act (SAA) (No. 13 of 2004)		Pension Funds Act 1956	
Beneficiary Types	UIA			COIDA, ODMWA	
	Everyone	Women & Children	Working age individuals	Working age individuals	Old age individuals
	Poor and extremely poor	(SAH's - CSG, CDG & FCG)		-	(SAH's older person grant from)
Formal Sector	Public Sector +	-	+	+	+
	Private Sector +	+	+	+	+
Informal Sector	Domestic Workers	-	+	-	-
	Seasonal Workers	-	+	-	-
	Other Atypical Workers	(Mainly Social Assistance Act)			

Table 15: South African Social Protection Legal Frameworks for South African Citizens²⁷

The main legislations that affect formally employed mining workers who are South African citizens, permanent residents, lawful refugees and lawful migrant workers are:

- The National Health Insurance Act No. 61 of 2003.
- Social Assistance Act 13 of 2004.
- Unemployment Insurance Act of 2001.
- Unemployment Insurance Contributions Act 4 of 2002.
- The Compensation and Occupational Injury Disease Act – Act No. 130 of 1993.
- The Occupational Disease and Mining Worker Act – Act No. 78 of 1973.
- The Pension Funds Act 24 of 1956.

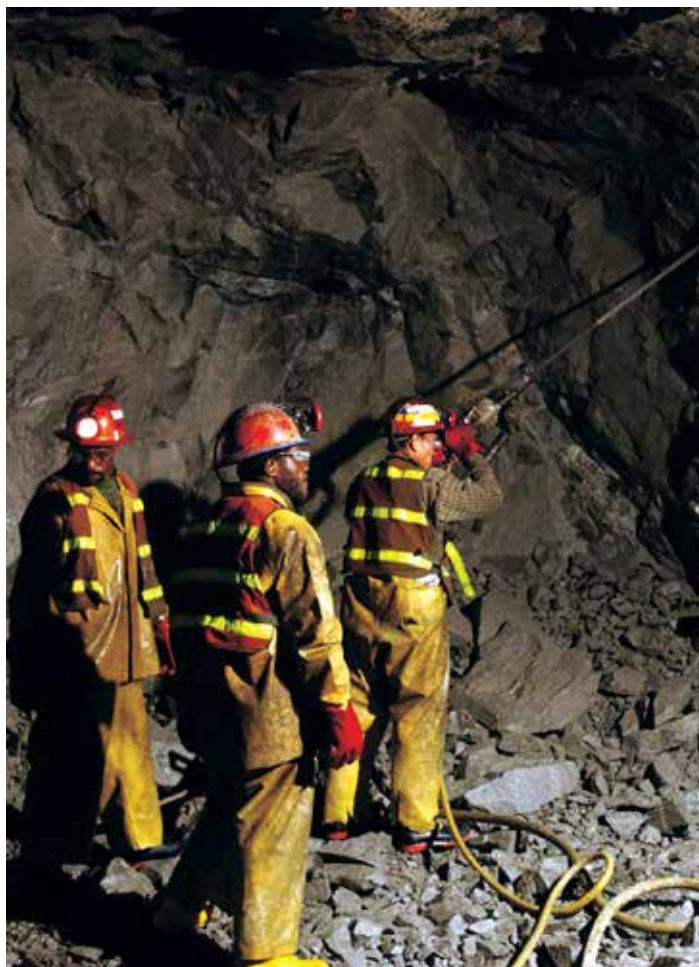
For temporary mining employees, the pension benefits are more complicated as it really depends on the employer whether it was a mining company, large labour broker like TEBA or smaller labour brokers providing only unskilled temporary workers. In 2013, an estimated 67,000 mine workers were temporary or contracted labourers²⁷. The migrant foreign workers benefits are dependent on whether they were part of legal migration and the treaties between the workers home country and South Africa. However, for both domestic and foreign workers while they may have rightfully benefits, due the lack of knowledge and complex method of accessing these benefits, they are woefully under-protected. Meanwhile, there are an estimated 10,000 small scale and/or artisanal miners in South Africa of which only 6,000 were registered who may fit into the self-employed or atypical worker group whose rights to social benefits may fit more with the rest of the atypical workers in South Africa.

3.2.7 The South African Pension Funds Act

Retirement Funds in South Africa are governed by the Pension Funds Act No 24 of 1956 (as amended), that came into operation on 01 January 1958. Since then, all retirement Funds (Pension, Provident and Retirement Annuity Funds), must be registered in terms of this Act. This act primarily regulates private pension funds. Through the legislation of the Pension Fund Act, retirement saving funds for mineworkers were established including the Provident Funds of 1970, and Mineworkers Provident Fund in 1989.

The main aims of the Pension Funds Act are to:

- Register and regulate all entities operating as retirement funds.
- Protect the rights of members.
- That Funds maintain minimum solvency standards (i.e. that employers do not renege on their commitments to employees and leave them destitute in their old age).
- The Funds, as separate legal entities, ensuring balanced ownership and accountability of the participating parties.
- Dissolve Funds that are financially unsound or wilfully violate the Act.



²⁷ Fin24 (2013) 'Labour brokers made inroads into mines' Available at: <https://www.fin24.com/Economy/Labour-brokers-make-inroads-into-mines-20130830> [Accessed: 11 December 2017]

²⁸ Financial Services Board (2017) Unclaimed Benefits. Available at <https://www.fsb.co.za/NewsLibrary/Unclaimed%20Benefits%20Funds%20-%20FSB%20Presentation%2004%20September%202017.pdf> [Accessed: 15 November 2017]

The system is fragmented however with over 14,000 privately managed funds. This act has been amended many times over the years to improve fiduciary responsibilities, fairness to customers, and relevant issues of concern that surfaced over the years such as the significant amount of unclaimed benefits and untraceable dependents and nominees of mineworkers. For example, the act had many additional amendments from 1976 to 1996 that addressed how benefits should be paid to dependents and beneficiary nominees within certain time frame from the death of the mineworker members. Clause 37b and 37d provide further instruction to what happens in the case of untraceable dependents and nominees and pay-out of funds under different circumstances such as cases where members have liability to employer. Many clauses in the Act are only applicable upon or after the date the amendments were legislated. Therefore, it is not a simple task to know which clause is applicable unless the date when the nominee was added is also known.

Section 1 of the Pension Funds Act defines an unclaimed benefit as:

'Any benefit not paid by a fund to a member, former member or beneficiary/spouse within 24 months of the date in which it became legally due and payable, even if they cannot be traced'.

They also define an Unclaimed Benefit Fund as:

'A fund that is established for the receipt of unclaimed benefits contemplated in the definitions of a pension preservation fund and a provident preservation fund in section 1 of the Income Tax Act, 1962'²⁹.

Previously under the Pensions Fund Act (1952) unclaimed benefits could not be transferred out of the original fund. However, in 2011 an amendment allowed for:

- The transfers of unclaimed benefits from a registered fund to an unclaimed benefit fund;
- Transfers between unclaimed benefit funds.
- Transfers between retirement annuity funds.
- Transfers between preservation funds.

This meant, that with the permission of the pensions fund registrar, unclaimed benefit funds could be transferred but that claimants/beneficiaries could still claim. The challenge with this lies in the fact that the member may lose track of where their unclaimed benefit may be lying. Hence a cross-sectoral reference database with links to all other social protection funds with unclaimed funds and a single point of contact could facilitate the unlocking of benefits.

Funds have been given leeway to use a portion of the interest that has been accruing on the claims to help offset tracing costs thanks to changes to the Pension Fund Act³⁰.

²⁹ HR Pulse News Desk (2015) 'Claims pouring in at TEBA Limited' Available at: <http://www.hrpulse.co.za/news/231846-claims-pouring-in-at-teba-limited> [Accessed: 13 December 2017]

³⁰ Department of Labour: COIDA Act No. 130 of 1993 Available at: <http://www.labour.gov.za/DOL/downloads/legislation/acts> [Accessed 6 December 2017]

The key legislative milestones are as follows:

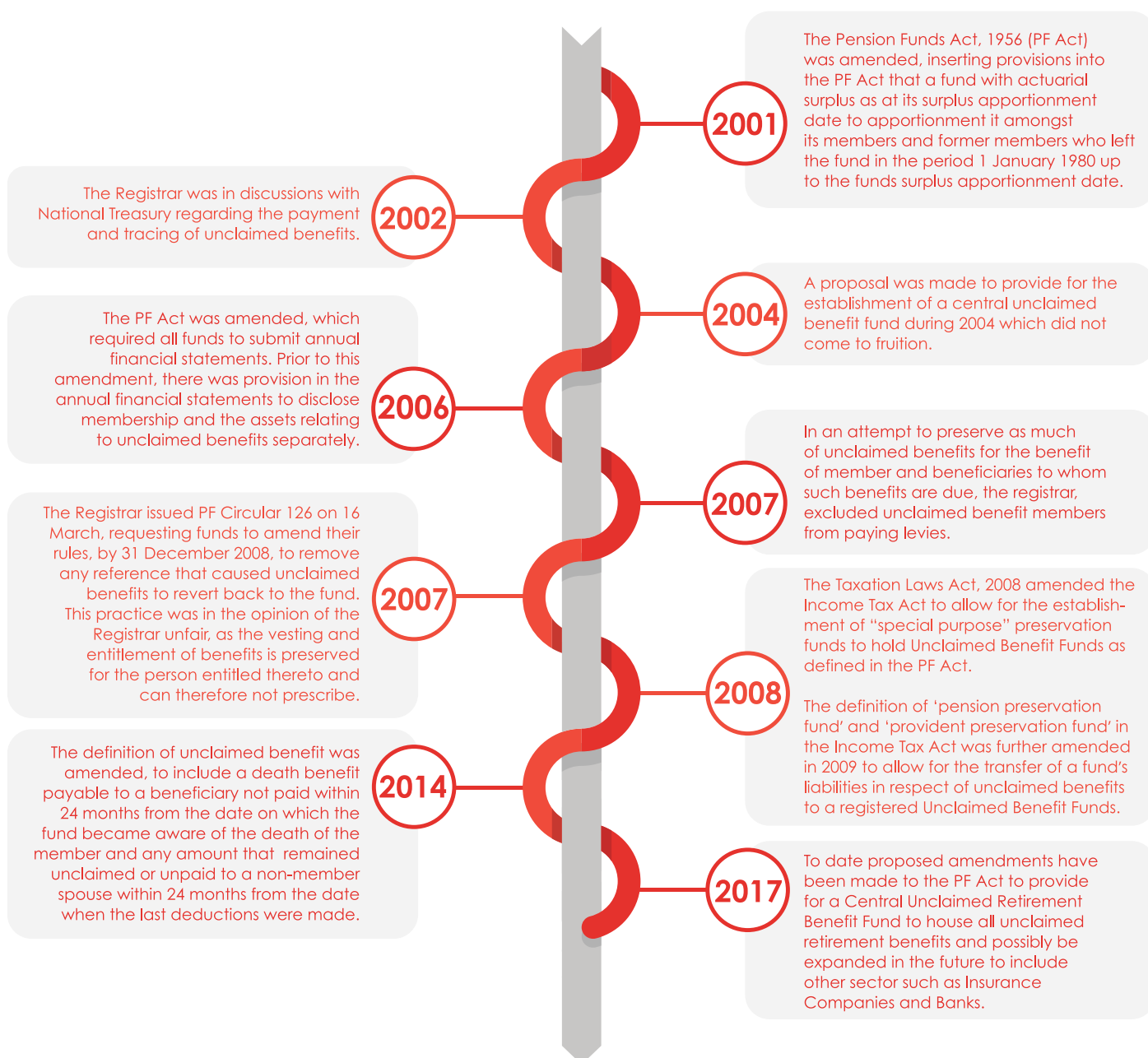


Figure 10: Key Legislative Milestones (FSB: 2017)

3.2.8 Compensation for Occupational Injuries and Diseases Act (COIDA)

Under the Department of Labour South Africa (DOL), this act provides for compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees during their employment, or for death resulting from such injuries or diseases³¹. This act is applicable to all employers and industries including mining. It covers all occupational injuries and diseases

excluding 6 defined compensable diseases acquired in controlled mines and works. Under COIDA, all types of work relationships are covered including those which have been brokered and for employees no longer in employment but who develop an occupational disease. In the latter, compensation is calculated based on earnings if the worker was still working.

³¹ Department of Labour: COIDA Act No. 130 of 1993 Available at: <http://www.labour.gov.za/DOL/downloads/legislation/acts> [Accessed 6 December 2017]

COIDA provides a system of no-fault compensation and payment can be made across borders. All employers are obliged to register with a carrier like RMA, FEMA, or the Compensation Fund. Failure to register for compensation constitutes an offense. Under COIDA, injuries are classified in the form of the following:

- **temporary partial disablement**
- **temporary total disablement**
- **permanent disablement**

The right to compensation for temporary total or temporary partial disablement shall expire once the disablement has discontinued and the employee resumes work or any other work at his/her normal rate or more.

Compensation is usually paid in the form of a lump sum in these instances. Compensation can also be awarded again for the temporary total or partial disablement if the disablement reoccurs or further medical assistance is needed requiring the employee to be off work, provided this intervention reduces the disablement. For permanent disablement compensation is either awarded as a lump sum or as a pension.

In terms of the South African Pensions Fund Act (1956), progress and amendments have been made in terms of unclaimed benefits. For example, in 2007 the act was amended to exclude unclaimed benefit members from paying levies. It also prevented funds from removing unclaimed benefit assets and reverting them back to the Fund.

3.2.9 Occupational Diseases in Mine and Works Act 78 of 1973 (ODMWA)

The ODMWA is over 100 years old and was last amended in 1994. The Act provides compensation for occupational lung diseases in miners and ex-miners only. This act is applicable to controlled mines and works. It covers the six defined compensable lung diseases in controlled mines and works which are: silicosis, pneumoconiosis, tuberculosis, joint condition of pneumoconiosis and tuberculosis, chronic obstructive respiratory disease, any other permanent diseases of the cardio-respiratory organs, and progressive systemic sclerosis. Under this Act, all miners domestic or foreign mineworkers are entitled to receive the benefit of a medical lung function exam within 12 months of departure from the mine to determine eligibility for compensation if the ex-miner has been treated for tuberculosis before. Ex-mineworkers are also entitled to a biennial medical benefit exam for the rest of their lives to monitor and evaluate potential occupational lung diseases³².



The operations of the Medical Bureau for Occupational Diseases (MBOD) are a government function under the Department of Health, though its funds available for distribution to eligible claimants are sourced from regular employer contributions from controlled mines and works. ODMWA provides for benefit medical examinations (BME's) and compensation as well as reviews claims for compensation from current and former mineworkers through the Medical Bureau for Occupational Diseases (MBOD) and the Compensation Commissioner for Occupational Diseases (CCOD)³³. It also provides for post-mortem benefits for miners if an occupational disease is found, even if it was not the cause of death.

ODMWA pays lump sum benefits based on the level of impairment and does not make any further pension provision. This is as follows:

- **R47 160** for 1st degree silicosis and
- a lump sum payment of **R105 000** for 2nd degree silicosis.

The combination of silicosis and tuberculosis is classified as 2nd degree silicosis

³² Mine Health and Safety Council (2014) 'Protecting Employees' Available at: <http://www.oldcollab.co.za/downloads/send/7-2016/11-factsheet-comparing-coida-and-odmwa> [Accessed: 6 December 2017]

³³ Mine Health and Safety Council (2014) 'Protecting Employees' Available at: <http://www.oldcollab.co.za/downloads/send/7-2016/11-factsheet-comparing-coida-and-odmwa> [Accessed: 6 December 2017]

However, under COIDA, mineworkers who become sick or are injured in the course of their employment are eligible for substantially higher compensation than employees suffering occupational lung disease falling under ODMWA. The table below highlights these differences:

	COIDA	ODMWA
Responsible government department	Department of labour	Department of Health
Administration cost	Included in levies on employers	Borne by the state
Applicability	All employers and industries (including mining)	Controlled mines and works
Cover	All occupational injuries and diseases excluding 6 defined compensable diseases acquired in controlled mines and works	6 defined compensable lung diseases in controlled mines and works
Compliance with international norms and standards	Fully compliant and, in some instances, exceeds	Non-compliant
Protection for employers against civil actions	Provided (Section 35)	None
Medical care	For two years or longer under certain circumstances	Lifelong subject to certain conditions
Maximum salary on which compensation is based	R 312 480 a year	R 36 000 a year

Table 16: Difference between COIDA and ODMWA³⁴

Currently a solution is being sought which is comprehensive, fair and sustainable for all concerned, with the preferred goal, that all current and future employees should be covered by COIDA and ex-miners by ODMWA.

3.2.10 Unemployment Insurance Act of 2001 and Unemployment Contributions Act 4 of 2002

These acts provide benefits to workers including mineworkers in case of unemployment, sickness, and maternity, however are primarily applicable to South African Citizens with South African identity document.

3.2.11 Protection of Personal Information Act 4, 2013 (POPI Act)

The POPI Act was signed into law in November 2013. The planned date for the Act to come into effect was the 1 April 2018. However, it is unclear as to the extent of its enforcement to date. The purpose of the POPI Act is to ensure that South African institutions and organisations are accountable and responsible when collecting, processing, storing and sharing peoples' personal information to prevent abuse or compromise of this information.

³⁴ Fin24 (2017) R10bn unclaimed in mineworkers' retirement funds. Available at: <https://www.fin24.com/Money/Retirement/r10bn-unclaimed-in-mineworkers-retirement-funds-20170412> [Accessed 26 November 2017]



There are 8 key principles:

Principle 1: Processing Limitation – consent needed to process the information or to comply with a legal obligation, public law duty or contractual obligation.

Principle 2: Specific Purpose – must be collected for a specific, explicitly defined and legitimate purpose.

Principle 3: Further Processing Limitation – it may only be processed further if it can be shown that the purpose for further processing is compatible with the original purpose.

Principle 4: Information Quality – information must be complete, up to date and accurate.

Principle 5: Openness – people must be aware that their information is being collected, who is collecting it, how it will be used and the type of consent.

Principle 6: Security Safeguards – the information must be kept safe and secure by the collector.

Principle 7: Individual Participation – the person has a right to their information and how it is being used.

Principle 8: Accountability – the institution that holds personal information must adhere to the principles.

This Act clearly has implications for the building of a cross-sectoral database of mineworkers for the unlocking of Social Protection Benefits. If the pension/provident and compensation funds across mining industry are to work together to unlock benefits, the sharing of information is a vital component to address the challenge of missing information. While a non-disclosure agreement between funds would protect the persons data, the sharing of data could be seen as a going against the principles 1 and 3: 'Processing limitation'. This is despite the fact that such sharing would be in the best interests of the person. Legal advice would need to be sought to clarify.

3.3. Organisation and Management

3.3.1 Financial Services Bureau South Africa (FSB)

Following changes in legislation in 2008, funds are now required to retain benefits until the benefit is claimed or legislation allows for other arrangements. The Registrar of Pension Funds' office assists members or beneficiaries in tracing an unclaimed benefit by liaising with the fund/ fund administrator and they do not charge a fee for this service. The FSB makes enquiries with the relevant pension fund if the member has not done so already. However, the FSB does not keep records of the individual members but only records of the retirement funds and fund administrators. However, they do assist in facilitating the members' enquiry. The FSB does have disaggregated mining industry information relating to retirement, pension and provident funds for mineworkers, however the FSB was unable to provide us with this information to date. An article in the Fin24 states that: There is R10bn of unclaimed former mineworkers' retirement benefits in various pension and provident funds, according to the Presidency³⁵.

³⁵ Inter-Departmental Task Team on Social Security and retirement Reform. (2012) Comprehensive Social Security in South Africa Available at: https://www.gov.za/sites/www.gov.za/files/Comprehensive_Social_Security_in_South_Africa_a.pdf [Accessed: 27 October 2017]

For the mining industry in South Africa, which has a history of a large migrant workforce, the retirement, pension and compensation funds are multiple and some of these appear as follows:



Figure 11: Retirement, Pension, Provident, Compensation Funds and Relief Trusts in South Africa for Mineworkers (FSB – 2018)

The social protection benefits for mineworkers are primarily of a social insurance nature and can be divided into the following categories:

- Compensation funds.
- Retirement, pension and provident funds.
- Relief funds following litigation.

These will be discussed in more detail on the next page.



3.3.2 Compensation Benefits for Mineworkers

Compensation is a form of social security. The funds established under the Compensation Fund for Occupational Injuries and Diseases Act (COIDA) and the Occupational Diseases in Mines and Works Act (ODMWA) pay medical care and income benefits to workers who suffer a disability or illness related to their employment. They also provide survivor benefits to families of victims of job-related fatalities and funding for vocational rehabilitation of disabled workers. Costs for these compensation systems are recovered through levies on employers. These are often based on the company's risk profile and accident record. There are three principles that underpin the design of compensation funds:

1. *"Work-relatedness: The accident or disease was caused by the worker's job."*
 2. *"No fault: Employees who receive benefits from the Compensation Fund lose their right to sue their employer, and the employer cannot assign fault to the employee."*
 3. *"The prevention of occupational accidents and diseases. The risk-based levy encourages employers to improve health and safety standards. Inspection teams monitor employment conditions."*
- (Compensation social security in South Africa, 2012:15).

The largest of the compensation benefits is the Compensation Fund, which is administered by the Department of Labour and serves private sector employees. Employers operating under COIDA have a choice of registration either with the Compensation Fund or two independently managed arrangements – the Rand Mutual Association and the Federated Employers' Mutual Assurance – which compensate injured workers from the mining and building industries respectively. These funds are monitored by the Department of Labour and operate under licenses granted by the Minister of Labour.

The Compensation Commissioner for Occupational Diseases (CCOD), in the Department of Health (DOH), provides compensation to miners and former miners who have contracted lung-related diseases. Assessment and validation of mineworkers with a compensable disease is undertaken by the Medical Bureau for Occupational Diseases (DOH) and payment/compensation is calculated and paid through the CCOD.

The benefits offered under COIDA and ODMWA are poorly aligned. COIDA benefits are higher and take the form of an income stream (unless awards are relatively small), whereas ODMWA only pays lump-sum benefits. The result of having to Acts administered by 2 separate government departments are as follows:

1. **Uncoordinated policy-making:** In the absence of an overarching institution responsible for social security, the entities develop policies that are aligned to their own mandate without considering the activities of other social security agencies.
2. **Lack of benefit alignment:** COIDA and ODMWA each have their own benefit levels, eligibility rules, and assessment criteria. This creates inequity in the compensation environment, where beneficiaries under COIDA receive higher benefits than those provided by ODMWA.
3. **Fragmented administration:** There has also been no attempt to rationalise the common processes and administrative functions that exist between them, like contribution collection, case management and benefit payment. This has led to unnecessarily high administrative costs and a system that is vulnerable to fraud.
4. **Financial discrepancies:** There are major discrepancies in terms of each entity's financial wellbeing. Hence a consolidation of the social insurance funds will result in greater transparency and efficiency.

Previous attempts to address the challenges of the 2 compensation acts and funds have to date not led to a resolution. This needs to be seen as a priority for the government of South Africa to resolve.



3.3.2.1 Compensation for Occupational Injuries and Diseases

The Department of Labour in South Africa administers the Compensation for Occupational Diseases and Injuries Act No. 130 of 1993 (COIDA). It delivers compensation benefits via the Compensation Fund and through licensing agencies such as Rand Mutual Assurance (RMA) and Federated Employers Mutual Association (FEMA).

| The Compensation Fund

The Compensation Fund is managed directly by the Department of Labour South Africa and covers all employees of employers who are registered with the COIDA. It covers some mineworkers (mainly contractual workers), but the bulk are with RMA.

The type of benefits available under the Compensation

Fund include:

1. Monthly pensions until death;
2. Lump sum payments;
3. Recovery pay not exceeding 24 months;
4. Medical expenses not exceeding 24 months;
5. Assistive devices and chronic medication;
6. Rehabilitation, death and burial expenses;

Access is as follows:

In South Africa: Visit any Department of Labour 'labour centre' and or provincial offices in the country

Outside South Africa: Visit the different Consulates of the Southern Africa Development Community (SADC) for assistance in making contact with the Compensation Fund.

| Rand Mutual Assurance

Rand Mutual Assurance (RMA) is licensed by the Department of Labour to provide compensation to class IV mineworkers for disablement (caused by occupational injuries) or for disease (sustained or contracted during employment), or for death resulting from such injuries or diseases in terms of section 30 of COIDA. The types of benefits provided are as follows:

- Days off up to 75% of earnings (RMA pay full earnings) subject to earnings cap whilst recovering up to 2 years;
- Medical expenses either up to Maximum Medical Improvement (MMI) or 2 years;
- Medical expenses either up to Maximum Medical Improvement (MMI) or 2 years;
- Ongoing medical expenses if further treatment is going to improve disablement for reported injury/disease;
- Fatal Pension – comprising of monthly pension, once-off lump sum for widows and funeral expenses;
- Constant Attendance Allowance (CAA) for pensioners assessed at 100% permanent disability and therefore incapable of performing daily activities;
- RMA pays a family allowance to pensioners assessed at 100% permanent disability and who has a spouse/spouses and more than one child under the age of 18, at the time of the accident (2014:5).

RMA's services can be accessed as follows:

Through the employer for new claims.

In South Africa: RMA has offices in all active mining regions across South Africa. These include: Carletonville, Emalahleni, Johannesburg, Klerksdorp, Kimberley, Rustenburg and Welkom. There is also a satellite office in Mthatha, Eastern Cape.

Outside South Africa: RMA has satellite offices in former high recruiting areas for the mining industry at Maseru in Lesotho and Xai-Xai in Mozambique.

| Federated Employers Mutual Assurance

The Federated Employers Mutual Assurance (FEMA) primarily compensates for the building industry and hence do not cover mineworkers. However, they would cover contractors working for building and engineering companies, such as Murray and Roberts, who deliver services within the mining industry.

3.3.2.2 Compensation for Occupational Lung Diseases

The Department of Health provides medical examinations and compensation as well as reviews claims for compensation from current and former mineworkers through the Medical Bureau for Occupational Diseases (MBOD) and the Compensation Commissioner for Occupational Diseases (CCOD) who administer the Occupational Diseases in Mines and Works (ODMWA), Act No. 78 of 1973. The types of benefits include:

1. Provision of benefit medical examinations (BME) for current and ex-mineworkers in controlled mines and works for compensable heart and lung diseases.
2. Assessment of post mortem findings on heart and lungs in deceased miners and ex-mineworkers for compensable heart and lung diseases.
3. Payment of compensation to eligible miners and ex-mineworkers or their beneficiaries.

For applicants to be eligible they require a record of service in a controlled mine or works in South Africa. It can be accessed as follows:

In South Africa: A Benefit Medical Examination has to be performed at any of the following: At the MBOD (based in Braamfontein, Johannesburg) In a government hospital; or At a Service Provider contracted by the Department of Health.

Outside South Africa: A few SADC countries provide for Benefit Medical Examinations at their government hospitals (e.g. Botswana and Lesotho). Alternatively, the claimant is directed to the nearest South African government hospital that is providing the service.

3.3.3 Social Insurance – Retirement, Pension and Provident Funds for Mineworkers

The Constitution of South Africa lacks arrangements for a mandatory pension and insurance system. Such a system would need to be compulsory, provide sufficient inexpensive benefits and share the risk across the different groups of the workforce. This would then be consistent with the Constitution as it would envisage an integrated social security system that would cover all citizens, permanent residents and migrant workers³⁶. Significant steps have been gained over the past 5 years to improve on pension and insurance systems in South Africa, but more needs to be done. South Africa's history and the apartheid legacy has often meant that for underground mineworkers, access to pension and provident funds has either been limited or inequitable. For example, black workers were not allowed to participate in provident funds until 1989³⁷.

Multiple funds exist for all types of mineworkers and mines across the industry, making it challenging to navigate and understand but also complicated in terms of tracing the miners' funds, who in many instances have also worked for multiple mining companies during their careers. In addition, the information provided to mineworkers historically about their contributions and the funds they belonged to was often limited creating a lack of knowledge and awareness of their rights and entitlements to these funds. Information specific to the mine industry from FSB has not been available to date.

This section focuses primarily on those retirement, pension and provident funds with a significant history or footprint on mineworkers, both foreign and local, and those involved in this project.

³⁶ 'Presentation by the Chamber of Mines (Chamber) on the Ex-Mineworkers' Union' Available at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/2007/071113cmsa.htm> [Accessed: 8 January 2018]

³⁷ Sentinel Retirement Fund (2017) 'Integrated Annual Report' Available at: <http://sentinel-reports.co.za/Sentinel-iar-2017/pdf/sentinel-membership-benefits-contribution-statistics.pdf> [Accessed: 10 January 2018]



3.3.3.1 Sentinel Retirement Fund

The Sentinel Mining Industry Retirement Fund was first formed in 1946. It was originally founded as the Mine Officials Pension Fund, predominantly for white mine officials. It is one of the largest self-administered pension funds in South Africa, managing funds of R82 billion as at 30 June 2017. The vision of Sentinel is to position and grow the company in order to continually provide sustainable retirement solutions to all its members in a socially responsible manner.

Sentinel is structured as a defined contribution pension fund that also provides self-insured risk benefit cover (death & disability) and monthly pensions.

Sentinel is registered in terms of the Pension Funds Act, No 24 of 1956 and the Income Tax Act, No 58 of 1962. The Fund's head office is in Parktown, Johannesburg. The fund currently has approximately 40 640 active and deferred members as well as 92 participating employers. The management and staff of Sentinel administer the Fund and are accountable to the Sentinel Board of Trustees. 50% of the Board comprises employers and 50% of the Board comprises representatives from organised labour, enabling a comprehensive view of employer, employee and pensioner affairs.

In 2017, R4 113 million annual pension payments were made to 34 420 pensioners and beneficiaries³⁸.

Participating Employers

The list of participating employers is extensive but those with the highest stake are highlighted in the figure below.

Contributory members per participating employer %

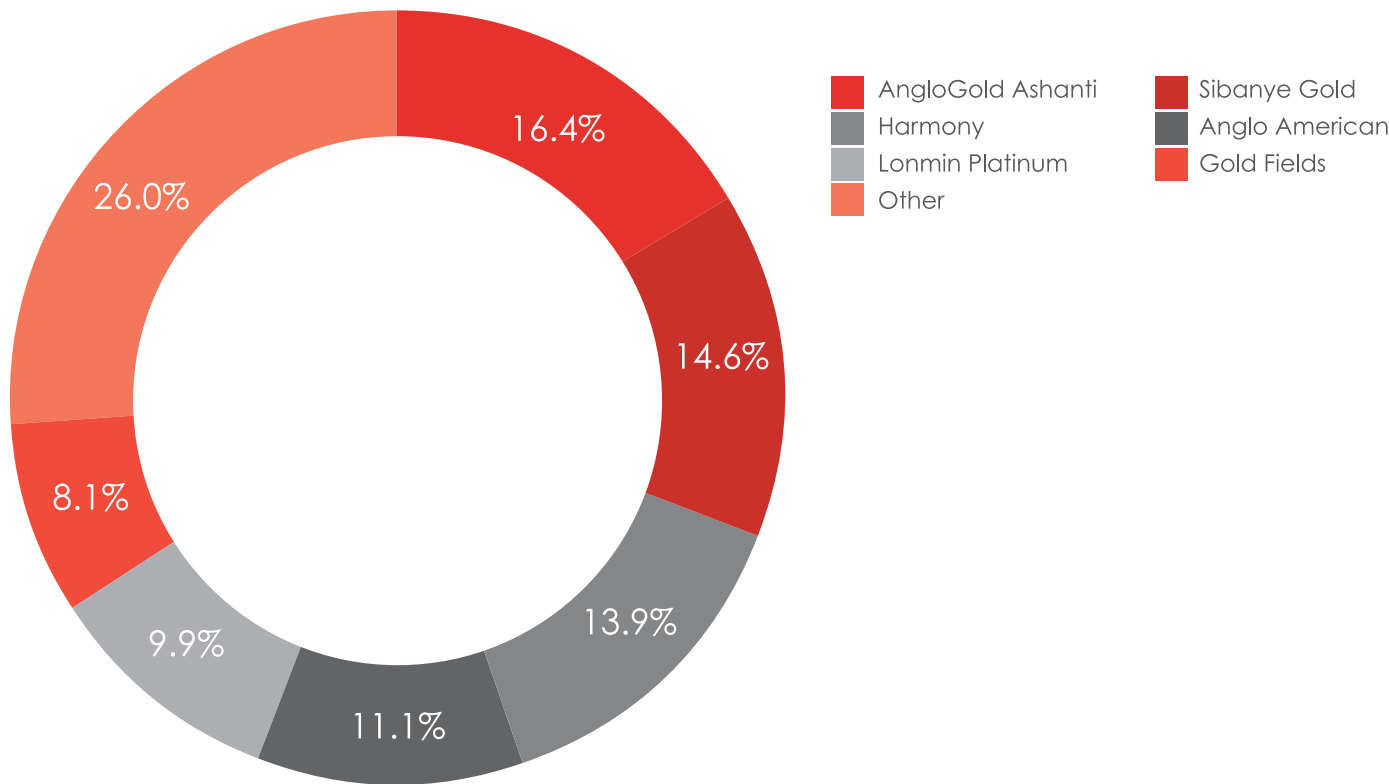


Figure 12: Sentinel Participating Employers (Sentinel, 2018)

³⁸ Nkosi, K. (2008) 'Report from The Mines 1970's Fund to the Adhoc Committee on Matters Related to Ex-Mineworkers' Available at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/080215mines1970sfund.htm> [Accessed: 27 November 2017]

Benefits:

- Retirement, disability and withdrawal benefits.
- Death benefits to beneficiaries upon death of members and pensioners;
- Unclaimed benefits;" (2014:9).

Access:

Benefits can be accessed from both within and outside South Africa. An all-inclusive member orientated service is also provided from five Client Service Centres which are located in Parktown, Welkom, Klerksdorp, Carletonville and Witbank. Sentinel also has a devoted Client Contact Centre.

3.3.3.2 Mineworkers Provident Fund (MWPF)

The Mineworkers Provident Fund aims to be the retirement fund of choice in the mining industry, offering dignity, respect and legacy. It is one of South Africa's oldest black retirement funds within the financial services arena and was formed in 1989 as the retirement fund of choice in the mining industry. The fund moved its key services in-house in 2011 with an improvement of administrative processes and the establishment of effective corporate governance in 2012. A Board of Trustees manages the Fund in compliance with its rules and legislation. There are 20 Trustees: 9 appointed by the unions; 9 appointed by the Chamber of Mines and 2 independent. MWPF is registered with the FSB and is governed by the Pensions Act, No. 24 of 1956.

The Fund is a defined contribution fund. This means that the member's retirement benefit is dependent on the contributions made and the investment growth thereon. The MWPF has approximately 100,000 active members. There assets are in excess of R28 billion. Members can expect a return of 4.5% above inflation over any consecutive 5-year period.

All permanent Employees of participating Employers under the age of 60 for underground employees and 63 for other employees are eligible to belong to the Fund.

Participating employers:

The following are the main contributors to the fund, however there are around 62 participating employers.

AngloGold Ashanti	Tendele (coal)
Harmony	Exxaro (coal)
Goldfields	Glencore
Sibaye	UMUSA Mining
African Rainbow Minerals (ARM)	BHP Billiton
Ingwe Minerals (coal)	

Table 17. Main contributors to the fund

Access:

MWPF has service centres throughout South Africa and satellite offices in the Eastern Cape and Mozambique. The documents required to claim benefits for beneficiaries is extensive and complex, However, this is not unique to the MWPF.



3.3.3.3 Mines 1970's Provident Fund and Mines 1970 Unclaimed Benefits Preservation Fund

The 1970's Provident Fund was established to provide retirement savings for mining workers. The contributions to the fund were mandatory and defined through payroll deduction established to provide mining workers, their families and beneficiaries with a retirement saving. The 1970's fund was preferred over other private pension fund because mineworkers can receive a lump sum pay-out which was the preferred method of payment by mineworker unions versus the smaller upfront lump sum pay-out followed by monthly payment which was typical of other pension funds due to tax consideration.

By the end of 1991 enrolment of new members into the fund had declined significantly and mineworkers moved over to other pension/provident funds, predominantly with The Mineworkers Provident Fund. By 1998, the Mine's 1970's Fund became the Mines 1970's Unclaimed Benefits Preservation Fund and only lapsed members remained in the fund³⁹. The sole activity of the fund was to trace lapsed members and make appropriate pay-out. In 2001, the FSB advised the 1970s Fund to establish a database of lapsed members. The Employment Bureau of Africa (TEBA) services are used to trace lapsed members through their database of ex-mineworkers. Unclaimed benefits with lapsed period greater than 2 years and untraceable dependents or nominees are then placed into the Guardian's Trust. Approximately 70% of the fund is held with local miners and 30% with foreign.

³⁹ Sonto, M. (2008) 'Mineworker's Provident Fund & Mines 1970's Provident Fund briefings' Available at: <https://pmg.org.za/committee-meeting/8790/> [Accessed:]

Participating Employers

The 1970's fund was established for mineworkers that were part of the Chamber of Mines⁴⁰. Contractors into the mining industry were never part of the fund.

Benefits

Retirement Saving in the event of retirement, end of work due to injury, illness, disability or death.

Access

Alexander Forbes Administer the fund and queries can be placed through them. However, it was noted that information relating to the Mines 1970's fund is limited via desktop as there is no Website for information.

3.3.3.4 Anglo American Corporation Fund

Anglo American was founded in South Africa in 1917. This international mining company has headquarters in London and Johannesburg. Their mining operations are in Southern Africa, North and South America and Australia. It is the world's largest producer of platinum, with around 40% of world output, as well as being a major producer of diamonds, copper, nickel, iron ore and metallurgical and thermal coal. The company focuses on natural resources with six core businesses: Kumba Iron Ore; Iron Ore Brazil; Coal (thermal and metallurgical); Base metals (Copper, Nickel, Niobium, Phosphates); Platinum; Diamonds, through De Beers, in which it owns an 85% share. Anglo American used to operate many gold mines in South African but sold off a lot of these to other mining companies. Information relating to unclaimed benefits and pension funds is limited from their website.

3.3.4 Relief Trusts

| Asbestos Relief Trust and Kgalagadi Relief Trust

Historically, mineworkers for asbestos mines were not originally considered employees and only day wages were paid. Many of the workers were black and women who did not have legal rights under apartheid. Therefore, records were not kept but exposures to asbestos were prolific to workers who worked for these mines and their families; the communities where the mines existed or labour sending communities such as Limpopo, Northern Cape and Mpumalanga. After successful liability lawsuits were won in court, companies that were held liable established two trusts for the liability compensation to people who have contracted asbestosis due to the exposure of working in asbestos mining or second hand environmental exposure. Two trusts named Asbestos and Kgalagadi Relief Funds were established to pay compensation to claimants. The trusts' assets are very modest given that probably millions of people were probably exposed and/or contracted asbestosis. As of 2015, Asbestos Trust⁴¹ had approximately, R309.2M and the Kgalagadi Relief Fund had R60M in assets.

3.3.5 Long Service Award

The Long Service Award Benefits of 1970 (LSAB) fund was established to provide retirement benefits to black mineworkers instead of provident funds because prior to 1989, Black mineworkers were not allowed to participate in provident funds or other mainstream financial services. TEBA was asked by the Chamber of Mines to manage the pay-out of this fund for those mines who were members of the Chamber of Mines. TEBA would process the claim for benefits which is then verified by the mining company and then payment is transferred and process through TEBA⁴².

⁴⁰ Asbestos & Kgalagadi Relief Trust Available at: <https://asbestostrust.co.za/> [Accessed]

⁴¹ 'Presentation by the Chamber of Mines (Chamber) on the Ex-Mineworkers' Union' Available at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/2007/071113cmsa.htm> [Accessed: 8 January 2018]

⁴² Department of Health (2014) 'Compensation and other Social Protection Benefits for Workers and Ex-Workers in the Mining Sector' Available in: <https://www.health-e.org.za/wp-content/uploads/2014/04/South-Africa-compensation-and-other-benefits-brochure.pdf>

[Accessed: 9 November 2017]

3.3.6 Towards a Comprehensive Database of Mineworkers

In Southern Africa; across government departments, across borders and across the sector, historically there has been a disjointed reaction to services for mineworkers and ex-mineworkers at multiple levels⁴³. Through the leadership of the former SA Deputy President, an initiative to re-arrange the sector is aiding in providing better-quality services to current and ex-mineworkers with respect to health, social and rehabilitation services including access to compensation and other social protection benefits via a one stop service delivery framework. This framework provides for the following:

1. Setting up a comprehensive database of current and ex-mineworkers;
2. Mapping where workers and ex-workers are; mapping where the mines are and mapping current services;
3. Delivery of health, social and rehabilitation services;
4. Access to compensation services;
5. Access to social protection benefits such as Unemployment Insurance, Provident and Pension Funds.

The FSB have recently undertaken 2 initiatives relating to unclaimed benefits. These include the following:



Figure 13: FSB Initiatives - Sept 2017⁴⁴

| Unclaimed Benefits Search Engine

To assist in the tracing and payment of unclaimed benefits, the FSB has obtained data from funds and administrators to host a search engine on the FSB Website for members of the public to ascertain if there are any possible unclaimed benefits due to them. This facility can be accessed either through the FSB website or by sending an e-mail, SMS or facsimile. The SMS-facility will enable the public to enquire free of charge as all costs relating to the sending and receiving an SMS will be carried by the FSB. Over and above this, members can still send a letter, contact the toll-free call centre or visit the FSB office to obtain assistance. Should there be any possible benefits identified during the enquiry, a person will be provided with the relevant contact details of the fund or administrator to lodge a formal enquiry. These services are provided by the FSB free of charge.

⁴³ Financial Services Board (2017) Unclaimed Benefits. Available at <https://www.fsb.co.za/NewsLibrary/Unclaimed%20Benefits%20Funds%20-%20FSB%20Presentation%2004%20September%202017.pdf> [Accessed: 15 November 2017]

⁴⁴ Manual, T (2001) 'Pension Funds Act of No. 24 of 1956' Available at: http://www.into-sa.com/uploads/download/file/237/Pension_Funds_Act__1956_.pdf [Accessed:]

The future plans of the FSB include:

1. Quarterly data updates from funds/ administrators regarding the unclaimed benefit data.
2. Central Unclaimed Retirement Benefit Fund: Proposed amendments have been made to the Pension Funds Act to provide for a Central Unclaimed Retirement Benefit Fund to house all Unclaimed Retirement Benefits.

To what extent this can be disaggregated for mineworkers is unknown.

4. ELICITATION RESEARCH

The primary aim of this section is to enhance the findings from the desktop review and hence improve the understanding of the topic. Due to the number of retirement, pension, provident and compensation funds, only a select few that would be involved in this project on building a cross sectoral databases to unlock benefits for mineworkers, were chosen. Please see Appendix 1. All funds gave their verbal consent to participate.

4.1 Findings:

4.1.1 Chamber of Mines:

Pension Officer Role

The Chamber of Mines South Africa (COM), identified through working with key stakeholders in the mining industry in South Africa and the Financial Service Bureau (FSB), the challenges of unlocking benefits for mineworkers and funds available to them. Mineworkers and the industry appealed to the COM for help and multiple initiatives funded by the COM have taken place over the past decades to unlock social protection and/or compensation. Currently a Pensions Officer has been employed to assist with the multiple queries arising from mineworkers and their beneficiaries to the COM, identifying and directing them to mine worker pension and provident funds to establish if any unclaimed benefits are due. This person was interviewed as part of the elicitation research.

Key Funds

Through this process the COM identified the following key funds most dealt with:

Name of Fund	
1	Impala
2	Anglo-American
3	Sentinel Retirement Fund
4	Mineworkers Provident Fund
5	Mine's 1970 Fund

Table 18: Key Pension and Provident Funds as identified by the Chamber of Mines

Documentation Requirements

In terms of the funds requirements they report that the different funds expect different documentation and that additional requirements are needed for beneficiaries. These are inclusive of the following (but not exclusive):



a) Mineworkers:

Documentation Requirements of mine worker

- 1 Identity or Passport Number.
- 2 Record of Service (ROS) – this is key as it tells us which mining industry/s (Gold, Platinum, Diamonds or Coal) the mine worker worked for and hence which funds may be applicable.
- 3 Bank Statement (not older than 3 months) .
- 4 Tax Reference Number or IRP5.
- 5 Payslip if ROS not available.

Table 19: Documentation requirements as identified by the Chamber of Mines

b) Beneficiaries:

In addition, the beneficiaries of mineworkers may require the following to validate that they are indeed the beneficiary:

Documentation Requirements of beneficiaries

- 1 Certified copy of Death Certificate (in the case of compensation – needs to state the cause of death). If the beneficiary is a child, then both parent's death certificates are required.
- 2 Marriage Certificate (formal or traditional) if spouse.
- 3 Letter of Authority – to prove that a spouse is the legal beneficiary. In some instances, the fund (like CCOD) may provide a letter to support getting a letter of authority from the Master of the Court).
- 4 Certified ID of spouse.
- 5 Other: documents that prove that the person is the beneficiary e.g.: will.

Table 20: Documentation requirements for beneficiaries as identified by the Chamber of Mines

Challenges

- Multiple spouses.
- Fraudsters and companies posing as support services to unlocking benefits.
- Proving they are the beneficiary.
- Obtaining the letter of authority (may need to pay for this, unless the fund provides supporting letter).

Suggested Additional Actions to Unlock Benefits

- Joined up approach between social protection funds.
- Advertising at schools in the areas where there are high numbers of ex-miners.
- More proactive tracing approaches.
- Feedback to ex-miner's beneficiaries of the outcomes.
- More Mobile services for claimants.



4.1.2 Mineworkers Provident Funds (MWPF)

Organisation

The MWPF commenced in 1989 as the retirement fund of choice within the mining industry, especially for black mineworkers. It has the biggest unclaimed benefits within the industry. The fund is a defined contribution fund with around 62 different mines contributing.

Benefits

The fund has approximately 100,000 active members. Their assets are more than R28 billion. The unclaimed benefit pot is worth around R3 billion with approximately 88000 members. The benefits offered include:

- Disability Benefits
- Death Benefits
- Terminally Ill Benefits
- Dismissal Benefits
- Funeral Benefits

Database

The MWPF has a database of all members including those that are unclaimed. The fund is self-administered. They do not charge a fee for mineworkers checking to see if they have an unclaimed benefit, neither do they charge a fee to process any unclaimed benefit where found.

Activities to Unlock Benefits

The MWPF holds regular roadshows, particularly at the mines to update details of the mineworkers. They also hold unclaimed benefit roadshows based on data concentrations of where mineworkers live. The MWPF also make use of tracing agents to find mineworkers with unclaimed benefits. For mineworkers seeking to understanding if they have an unclaimed benefit, there is a portal on their website, where you can leave your industry number as well as a call centre and walk in service centres in: Johannesburg, Carletonville, Orkney, Welkom, Witbank, Queenstown, Mthatha and Mozambique.

Challenges to Unlocking Benefits

- Initially when the MWPF started there was no legislation enforcing the updating of demographic details. Despite changes to the Pensions Fund Act (1956) in 2001 whereby employers must provide the funds with detailed member details, inaccurate data still occurs, posing a challenge.
- The history of migrant workers not having proper documents and hence records are incomplete.
- Lack of knowledge and awareness amongst mineworkers of their benefits and how to access these.
- Lawyers assisting mineworkers to track and find their unclaimed benefits and charging large fees.

Key Documentation Required

- Identity number
- Record of service
- Bank details



4.1.3 1970's Fund

Organisation

The Mines 1970's Fund is a closed fund since 1998 in that it no longer has contributing members. Members predominantly moved over to MWPF and other funds depending on the mining company. The Fund is managed by a Board of Trustees with an operational manager and administrative clerk. The fund itself is administered by Alexander Forbes who have a contact helpdesk to support previous members or those seek their unclaimed benefit.

Benefits

The fund asset is circa: R600 million. The fund has approximately 69000 members of which around 35000 have been tracked and traced with the majority of these having been paid out or in the process of being paid. If the payment is under R1500, there is no administrative fee charged. However, if the amount is over R1500 an incremental percentage is charged. Amounts are paid out as lump sum. Because contributions ended in 1992, the majority of queries are from those 60 years or older and all relate to ex-mineworkers only.



Database

Details and information relating to the members sit on a database with Alexander Forbes. Due to the history and complexity of the mining industry, including migrant labourers, some information in the database is missing or unsubstantial to find and pay the ex-mineworkers.

Activities to Unlock Benefits

The 1970's fund has had good success with unlocking benefits through the use of tracing agents which have been approved through the fund. Advertisements and Roadshows have contributed to this success including sharing information with other funds to either enhance the database of information or find the mineworker or their beneficiaries.

Challenges to Unlocking Unclaimed Benefits

Cross border migrant workers due an unclaimed benefit doesn't necessarily pose a challenge as they are able to pay out benefits across borders. They do however, require a bank account to pay the benefit into. Some of the challenges highlighted by the 1970's fund in terms of unlocking benefits include:

- Rogue tracing agents - demand fee for service but don't deliver.
- Lawyers assisting mineworkers to trace their demands and charging high fees.
- Miners not having the required documentation (although if they have a payslip showing a contribution to the Mines 1970's fund, then payment can be processed).
- Tax numbers pose a challenge particularly if mineworker is deceased – SARS won't give the tax number.
- Finding and paying beneficiaries because records not held or out of date.

Key Documentation Required

For miners:

- Tax number – need directive from SARS
- Industry Number or Record of Service
- Payslip
- Identity documents/passport

For beneficiaries

- Letter of Executorship
- Letter of Authority
- Death certificate

4.1.4 Sentinel

Organisation

The Sentinel Mining Industry Retirement Fund was first formed for predominantly white mine officials. However, this changed in 1994 and now includes all mineworkers. It is one of the largest self-administered pension funds. Sentinel is structured as a defined contribution pension fund.

Benefits

Sentinel has approximately 46000 members. Of these around 30000 sits in pension benefits and 2000 in currently paid out pensions. Sentinel's assets sit at around R90 billion. Of the total members, there are approximately 5600 unclaimed benefits totalling around R240 million. It is estimated that there are around 900 deaths of this 5600 and Sentinel report challenges to finding the beneficiaries. Of the R240 million, around R100 million sits with claimants who they know and know where they are. In other words, they are not missing. For multiple reasons these members, despite being contactable and being informed have not come forward to claim their benefits. In total around 4000 cases pose a problem for Sentinel as they are unable to find these members to process payments. Approximately 1500 are new unclaimed benefits within the last year.

Database

Sentinel is a self-administered fund with its own database, that it maintains and updates with records of mineworkers currently in employment and those with unclaimed benefits.

Activities to Unlock Benefits

In February and March each year, Sentinel conduct tracking and tracing activities with various organisations across SADC utilising ex-mineworker associations such as the Mozambican Mine Workers Association (AMIMO) and Swaziland Migrant Mineworkers Association (SWAMMIWA). In addition, Annual Roadshows across the 5 countries of this project are conducted to raise awareness, including promotion on Radio.

Challenges to unlocking benefits

Cross border migrant workers due an unclaimed benefit does not necessarily pose a unique challenge. Sentinel can pay out benefits across borders. They do require a bank account to pay the benefit into however, but this is not unique within the industry. The key challenges are:

- Finding the beneficiaries.
- Ensuring the beneficiary is bona fida.
- Those members with U-Bank accounts can be problematic as Sentinel are required to process bank payments through banks on Bankserv (Bankserv Africa is an automated clearing house located in Johannesburg, South Africa and operates both nationally and within Africa – banking transactions/transfer of payments etc are required to be processed through Bankserv). However, Sentinel report that U-Bank members knowing they have a claim often open another bank account to access their benefit.
- Fraud can be a challenge – noted through tracing agents, utilising their bank own accounts for the beneficiary.

Key Documentation Required:

- Industry Number or Record of Service (ROS) from TEBA.
- Proof of Identity – Identity document or Passport – however the latter can change.
- Address.
- Last Employer.

Overall Sentinel are keen a willing to engage in being part of the cross sectoral database project to unlock unclaimed benefits. This would require a level of agreement and non-disclosure agreement around the sharing of information, particularly observation of Protection of Personal Information Act (POPI).

4.1.5 Anglo American

Organisation

Anglo American are a globally diversified mining business. In South African, Anglo American has had a long history of mining across the industry from Gold and more recently to platinum. In addition, mines have been sold between and across the industry. This complex and diversified history has led to 2 unclaimed benefit funds, administered by Old Mutual and Sanlam.

Benefits

The Old Mutual Fund is a superfund and has a pot of R8 million unclaimed benefits for about 150 to 200 members. The Sanlam unclaimed benefit fund is around R167 million with about 35000 members. In 2004 Sanlam were appointed to administer the fund. The benefits include pension, retirement, disability, death, terminally ill, dismissal and funeral benefits, but these vary across the 2 funds.

Database

The databases held by Anglo American, primarily with Sanlam, goes back to the 1980's. There are issues with the data in terms of the quantity and quality of detail relating to the mineworkers stemming from when the fund was self-administered.

Activities to Unlock Benefits

Both the funds with Anglo American (Old Mutual and Sanlam) utilise tracing agents to find beneficiaries. TEBA (The Employment Bureau of Africa) is the primary tracer used by both funds and are also contracted to provide record of service and/or industry number where required by the funds.

Challenges to Unlocking Unclaimed Benefits

The challenges experienced by the 2 funds at Anglo American to unlock the benefits are not unique to the industry. These include:

- Generic dates of birth.
- Multiple mineworkers with the same name.
- Mineworker no longer at recorded address.
- Bank accounts set-up close after 3 months before payment can be made.
- Bank and administrative fees.
- When the benefit is low, the cost of tracing (which comes out of the benefit) including bank and administrative fees impact on the overall benefit paid.

Key Documentation Required

Anglo American identify that the documents required depend on if it is the mineworkers or the beneficiary. These include many of those identified by the other funds including:

- Proof of identity.
- Bank account.
- Proof of employment, record of service or industry number.
- Letter of authority/executorship; death certificate; marriage certificate; birth certificates etc depending on beneficiary.



4.1.6 Department of Health: Medical Bureau for Occupational Diseases

Organisation

The Medical Bureau for Occupational Diseases (MBOD) is responsible for benefit medical examinations (BME's) of mine workers to establish the degree of occupational disease and once a compensable disease is certified, the known claimant is compensated through the Compensation Commissioner for Occupational Diseases. This is in line with ODMWA. Under this Act, all mineworkers are entitled to receive a medical lung function exam within 12 months of departure from the mine to determine eligibility for compensation. Ex-mineworkers are also entitled to a biennial BME for the rest of their lives to monitor and evaluate potential occupational lung diseases.

Benefits

ODMWA pays lump sum benefits based on the level of impairment and does not make any further pension provision. This is as follows:

- a lump sum payment of **R105 000** for 2nd degree silicosis and
- **R47 160** for 1st degree silicosis.

The combination of silicosis and tuberculosis is classified as 2nd degree.

Activities to Unlock Benefits

The MBOD and CCOD have undergone extensive programmes to unlock benefits; primarily updating their internal administrative process and conducting BME's. These include the following:

- Sorting out paper records and files.
- Creating an electronic web-based database of ex-mineworkers.
- Sorting out the actuarial functions of the CCOD.
- Establishing one stop occupational health centres for BME's.
- Conducting mobile BME's across Southern Africa.
- Tracking and tracing across Southern Africa.

Challenges to unlocking benefits

Cross border migrant workers vs migrant workers from South Africa who are due an unclaimed benefit does not necessarily pose a unique challenge for the MBOD. The CCOD are able to pay out benefits across borders. They do require a bank account to pay the benefit into however. Some of the key challenges reported are:

- Out-of-date contact details.
- Conducting Benefit Medical Examinations (BME).
- Tracing the claimant's due compensation.
- Ensuring the beneficiary is bona fida – this requires a degree of paperwork and biometrics.
- Fraud can be a challenge – noted through tracing agents asking for payment to process claims.
- Claimants without bank accounts.

Key Documentation/Information Required

- Industry Number or Record of Service (ROS) from TEBA.
- Proof of Identity – Identity document or Passport – however the latter can change.
- Address.
- Fingerprints.
- Certified record of lung disease.
- Bank details.

4.1.7 Financial Services Bureau

Following the monthly Pensions Fund meetings convened and hosted by the Chamber of Mines South Africa, the FSB agreed to support the project and provide information relating to unclaimed benefits relating to the mining industry disaggregated into the respective funds. To date, despite numerous emails and telephone calls, this information has not been forthcoming. However, the project team will continue to pursue the FSB for this information to enhance the findings and understanding.

5. CONSOLIDATED FINDINGS

This section of the report corroborates the findings from the desktop review with the elicitation research.

This will provide an assessment, analysis and summary overview of the information obtained, to identify the key challenges and information that will inform the baseline, design and operation of the project.

5.1 Summary of Findings from Social Protection Funds

Name	Approximate No. of Members	Size of Funds	Participating Employers	Benefits Cover	Unclaimed Benefits
The Mines 1970 Unclaimed Benefits Preservation and Provident Fund	11 712 pension fund beneficiaries 57,450 provident beneficiaries	R600M	Not applicable	Retirement Fund	R200M
Mineworkers Provident Fund (MPF)	100,000	R28B	66 employers http://www.mwvf.co.za/employers.html	Retirement, funeral insurance for member and dependent, disability,	R3B
Sentinel Fund	39,635 members 34,420 beneficiaries	R82.5B	98 employers (http://www.sentinel.za.com/Fund %20 Statistics/SENTINEL%20 Year%20End%20Stats%20 2012.pdf)	Retirement payment, funeral insurance, disability cover	6,183 R101M
Anglo-American	Old Mutual – 150 to 200 members Sanlam - 35000	Old Mutual = R8 M Sanlam = R167 M	Not applicable	Retirement / Pension	R175 M
1970 Long Service Award Benefits (LSAB) for gold mineworkers managed by TEBA (because black workers were not allowed to participate in provident funds until 1989) ⁱ	12,136 members	TEBA would process the claim and the mining house would pay directly, so the fund amount is not available	Chamber of Mines Members	Retirement and death benefits	Not available
Asbestos Trust and Kgalagadi Trust ⁱⁱ	Unknown but estimated to be millions	R309.2M (2015) and R60M (2015) respectively	Not available	Occupational health and 3 rd party environmental exposure liability compensation benefit	Not available
RMA (COIDA)	N/A as compensatory	R180M ⁱⁱⁱ	All mining companies	Disability and death benefit to workers or their dependents; benefits dependent on level of disability with min of R54,657 lump sum or max value of up 75% of monthly earnings and capital value of R1,350,00 for age 55 years.	Not available
CCOD (ODMWA)	N/A as compensatory	Circa: R5 billion	Mining Employers from controlled mines and works	Benefit dependent on % of disability, lump sum payment between R47,160 to R105,000	Not available

Table 21: Summary of Selected Funds

5.2 Types of Factors That Affect Claims Eligibility:

1. Funds are required to clear debt to employers, and mortgage loans offered through fund or employer, before benefits are paid to the dependents of deceased ex-mineworkers. Even if mineworkers who are fund members have submitted the names of beneficiary nominees that were different than dependent family members, it is dependent family member who the benefit should be paid out to. Only after not being able to trace dependent family members would funds trace and process payment to nominees⁴⁵.
2. If dependents and nominees were not traceable after 24 months, then the unclaimed benefits or remaining portion of the benefit amount would be placed into the estate of the member or a Guardian's Trust as per Section 37 of the Pensions Fund Act (1956)⁴⁶.
3. Other factors that affect benefit claim eligibility or access and type of benefit eligibility include:
 - Type of employment: permanent, temporary
 - Type of employer: mining company, large employment services such as TEBA, small labour broker
 - Domestic or foreign work permit
 - Contractual agreement between South Africa and the labour sending country such as, Botswana, Lesotho, Swaziland and Mozambique
 - Age of the mineworker, some fund will only pay out after 60 years, or at the age of 50-53 for early retirement or 60-63 years old for normal retirement.
 - Percentage of disability determined by RMA.
 - Type of workers and the time frame prior to apartheid and post-apartheid: professional, skilled, or unskilled, or underground work

5.3 Requirements to Access Benefits

Across all the different social protection benefit funds that affect mineworkers and their dependents, there are common requirements to access the claims as a member and dependents or nominee beneficiaries:

1. Identification documents for mineworkers or ex-mineworkers and beneficiary⁴⁷
 - ID number of the mineworker which were used at the mining company or companies.
 - Certified ID documents to verify the ID of the mineworker or ex-mineworker.
 - Certified copies of ID documents such as birth certificate or marriage license to verify that the claimant is a dependent or nominee of the mineworker or ex-mineworker.
 - In case of not legally married, a letter signed by 3 relatives of the deceased in front of their Chief Magistrate with certified copies of their identity documents or certified passports confirming that the member was never married and had no children.
 - In case of marriage registered at Home Affairs after death, an original certified copy of ID document or passport of the spouse, union letter signed by three of the deceased family members before their Chief Magistrate together with their certified identity documents copies or passport copies should be submitted.
2. Proof of past employment in mining and pension/provident fund/insurance membership.
 - Employee ID number, TEBA ID number or Temporary Employment Services ID number.
 - Fund membership acknowledgement letter from fund the or insurance company.
 - Underground service record.

⁴⁵ Manual, T (2001) 'Pension Funds Act, section 37' Available at: http://www.into-sa.com/uploads/download/file/237/Pension_Funds_Act__1956_.pdf [Accessed:]

⁴⁶ Sentinel Pension Fund. Member Forms Available at: <http://www.1.sentinel.za.com/Member%20Forms.html> [Accessed: 7 February 2018] Mineworkers Provident Fund. How to Claim. Available at: <http://www.mwvf.co.za/claim.html> [Accessed: 7 February 2018]

⁴⁷ Nkosi, K. (2008) 'Report from The Mines 1970's Fund to the Adhoc Committee on Matters Related to Ex-Mineworkers' Available at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/080215mines1970sfund.htm> [Accessed: 27 November 2017]

3. Documentation required for specific life event triggers for claim

- Letter from employer confirming retirement.
- Death claim form signed by two authorized signatories and stamped by the mine.
- Beneficiaries fully completed affidavit of dependency forms (MW16) signed and stamped by Commissioner of Oaths listing all minor children must be submitted.
- Major children must complete their own affidavit of dependency, signed and stamped by the Commissioner of Oaths.
- Death certificate.
- Letter from MBOD certifying occupation disease and extent of disability.
- Medical certificate for terminal illness.
- Death certificate and certified English translation of death certificate.

4. Claim forms and supporting documents required

- Completion of appropriate claim form for appropriate claim event trigger for the appropriate fund. An ex-mineworker may be a member in more than one funds depending on what the employer(s) offered or if a lump sum was paid out when the mineworker joined a different employer.
- Major children up to age 21 or 23 must submit a letter from school or the institution confirming that they are still at school.
- Bank accounts details of ex-miners or beneficiaries or guardian's bank account details for minor beneficiaries or other methods such as TEBA facilitated account for payment to be made.

In order to process a claim, documents are required. However, there are similar requirements for all of them. The table below highlights the generic documentation required. This information will form an essential part of the tracking and tracing documentation produced for this project.

Fund	Generic Document and Information Requirements					
	ID	ROS or Industry Number	Address	Tel. No	Bank Account	Tax Docs
Sentinel	✓	✓	✓	✓	✓	✓
MWPF	✓	✓	✓	✓	✓	✓
Anglo American	✓	✓	✓	✓	✓	
1970's	✓	✓	✓	✓	✓	✓
MBOD	✓	✓	✓	✓	✓	

Table 22: Summary Table of Key Document Requirements

All fund administrators have their unique claims processing forms. In addition, the requirement for beneficiaries of dead mineworkers are extensive and unique to each situation, depending on the type of beneficiary i.e.: spouse, child, brother, etc. In the absence of industry numbers or records of service, payslips can also be utilised for some funds.

5.4 SWOT Analysis

- Strengths	- Opportunities
<ul style="list-style-type: none"> • Legislation has improved for current mineworkers in terms of knowing their rights and ensuring demographic and beneficiary details are up to date. • FSB is able to disaggregate unclaimed benefits information relating to the mining industry and have a database platform and look up function. • The South African pensions fund act protects the rights of members. 	<ul style="list-style-type: none"> • The FSB have a project aimed at educating consumers about financial matters and benefits. • FSB unclaimed benefits search engine. • Other organisations' unclaimed benefits search engines. • More needs to be done to create knowledge and awareness. • Collaboration by the mining industry to have a single tracer co funded. • Amendments have been proposed to the Pension Funds Act to provide for a Central unclaimed retirement benefit Fund to house all Unclaimed Retirement Benefits. • A cross sectoral database to share information and aid tracing.
- Weaknesses	- Threats
<ul style="list-style-type: none"> • International (ILO) and Regional (SADC) instruments around social protection do not necessarily protect migrant miners in terms of their rights to benefits. • Data quality of the mineworker's demographics is poor. • Multiple organisations doing multiple tracking and tracing – potentially confusing for recipient and open to fraud. • The cost of opening a bank account; bank fees and account closure if dormant inhibits payment of funds. • Complex lists of documentation required to access benefit, particularly for beneficiaries. • Mineworkers don't know who to inform when changing address – particularly for migrant workers who return to their country of origin. • Temporary and contracted mineworkers do not always have access to benefits. • POPI law prevents funds from sharing information. • Access to information re: pension and provident funds due is challenging from outside South Africa or from rural areas. • Lack of knowledge and awareness. • Industry working in silos. 	<ul style="list-style-type: none"> • Unclaimed benefit funds could be channelled to resolve fiscal debt and other government projects. Should this occur International (ILO) and Regional (SADC) policy and legislation may not protect the migrant worker's rights. • Requirements for tax numbers discourage some claimants from claiming. • Nearly 1.8 million benefits are less than R250 and this poses a dilemma in terms of the actual cost of tracing and paying out such a small amount. • Fraud.

Table 23: SWOT Analysis

5.5 Key Challenges and Recommendations

Below are the key challenges that still impede pay-out and the unlocking of unclaimed social protection benefits to ex-mineworkers and their dependents or nominees. For each challenge, a recommendation to address these, is identified.

| Challenge 1: Data Quality Issues

- Many funds have difficulties with date of birth. It was a common practice at that time to enter the birthdate of mineworkers as January 1 of the following year the mineworker was born. The Fund's recorded birthdate and that of the mineworkers' Home Affairs documents were almost always not matching. Therefore, when ex-mine workers and their beneficiaries file the claim, the birthdate often did not match.
- There are situations where mineworkers would end a contract with one mining house and join another under a different name. This sometimes occurred when mineworkers who had been diagnosed with TB or were previously ill due to TB, might try to avoid work restriction.
- The ID numbers of mineworkers are often an issue for Funds due to poor record keeping at that time and identity numbers didn't exist for many workers, especially foreign workers. In 1989, the Mineworkers Provident Fund started using the ID number from TEBA and this provided better tracing. However, TEBA was originally established to recruit mostly foreign mineworkers. There is also a growing percentage being recruited by other labour brokers, especially for short term temporary work. The smaller labour brokers may not have systems and organization like TEBA, so it is an unknown at this time about the data quality of their records. It has been reported that the growth of this type of recruitment is growing and may contribute as much as 20% of total mineworkers.
- Foreign migrant workers not recruited by TEBA or joined a mining company through other labour brokers or directly, may not have a universal ID number. Some African countries like Tanzania do not have a common personal identification number and only 50% of people have an ID number of any kind. These mineworkers would have a mining company ID, but if they work for more than one mining house as temporary employees, they would have more than one employee ID number ⁴⁸.
- Dependents' and nominee's identification and contact information may not be available or correctly captured, and the year that the beneficiary nominee was added are often not available or known to the beneficiaries of deceased mineworkers. Going forward, this type of information needs to be captured for the database to be useful.
- Changes to address and contact details. Mineworkers frequently registered their addresses, and particularly migrant mineworkers, at the address of the employer. Once retired and returned to their country or region of origin, funds are unable to track and trace the mineworker.

Two key Recommendation:

Recommendations were identified to address the issue of data quality:

1. Sharing of Information

From the elicitation research, all funds expressed issues with poor data quality and limited information with regards to the mineworkers. By sharing information, it may be possible to alleviate this, as some funds may have information that others are lacking thereby aiding to finding and unlocking benefits. With the help of legal consultation and the mining industry working together, a review needs to occur of what is possible within the confines of the POPI legislation, given the long-term benefit of unlocking millions of Rands to impoverished communities.

⁴⁸ Nkosi, K. (2008) 'Report from The Mines 1970's Fund to the Adhoc Committee on Matters Related to Ex-Mineworkers' Available at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/080215mines1970sfund.htm> [Accessed: 27 November 2017]



2. A Common Database

A common database or reference database which consolidates all the information across the funds applicable to the mining industry is required. If a common database is not practicable or achievable (given concerns around the POPI Act and the sharing of information), then the reference database or cross-sectoral database should interlink with all the pension and provident funds in the identification of mineworkers due a benefit. In order for this to occur and be effective, it is recommended that:

- An institution or organisation should be identified to have oversight of the database and be the point of contact for all affected parties.
- Regular 'washing' of data against other fund databases must be considered. Banks or IEC electoral roles should be considered too.
- Funds must agree to work together for the common good of unlocking unclaimed benefits.

Perhaps a good example of a working database with similar type of information capture would be the database for Unemployment Insurance Fund which is a relatively new database which became fully functional in 2005⁴⁹.

| Challenge 2: Fraud and Identity Theft Problems

- People posing as tracing agents are charging for their services to help claimants in getting their benefits and with no input, feedback or payment.
- Certain people are also taking the opportunity to utilise the identity of ex-miners to try and claim benefits. This is sometimes the case with beneficiaries, who may not be the nominated beneficiary. Hence, fund administrators expect large amounts of paperwork to ensure validity of the beneficiary.

■ ⁴⁹ Anetos, P. and Henderson, R. (2018) 'Unclaimed R43bn a tempting target' Sunday Times

Recommendation:

Two key recommendations were identified to address the issue of fraud and identity theft:

1. Pension/provident and compensation funds must work together using a common tracer and limited access points to information, building on this network. 1 Tracer and/or 1 known 'go to' point of contact that becomes well recognised, limits fraudulent agents posing as tracers.
2. The provision of information to communities must stipulate that the services to claim an unclaimed benefit are free and they should not pay for this. In addition, any written information provided to ex-mineworker communities should have a fraud hotline number for people to contact if they suspect fraudulent activity.

| Challenge 3: Protection of Personal Information

- The Protection of Personal Information Act (POPI Act) may also create some challenges in the sharing of information required through a cross-sectoral or common database.

Recommendation:

It is highly recommended that legal advice is sought regarding what can be shared and how it can be shared between the pension and provident funds, in line with the POPI Act. While non-disclosure agreements are beneficial for the sake of one off exchanges or interactions between limited parties; building a cross sectoral or common database for the industry to alleviate the data quality issues must consider POPI further.

| Challenge 4: Lack of Knowledge and Awareness

- One of the biggest problem of unclaimed benefits is that the dependents and beneficiaries are not aware of the benefits that they are entitled. The database will only become useful when someone makes a claim, but in most cases, there isn't a claim from a beneficiary because of a lack of knowledge about the deceased workers provident fund membership or how to access the membership benefits.
- Another challenge to accessing the benefit for the ex-mineworkers or their beneficiaries are the unbelievable amount of paperwork and requirements for how these documents need to be presented are far beyond the semi-literate or low literacy level⁵⁰ or financial situation of many poor people in these communities especially the beneficiaries from other countries.

Recommendation:

Information needs to be disseminated out into the areas with high numbers of ex-mineworker populations to raise awareness. In conjunction, an agency or organisation with a good footprint in these areas should be the 'go-to' place to facilitate mineworkers who may think they are due a benefit and aid in the facilitation and co-ordination of these mineworkers to the various funds through a look-up function on a common database.

⁵⁰ Bhorat, H. et al (2013) 'Unemployment Insurance in South Africa: A Descriptive Overview of Claimants and Claims' Available at: <https://www.brookings.edu/research/unemployment-insurance-in-south-africa-a-descriptive-overview-of-claimants-and-claims/> [Accessed: 30 November 2017]

| Challenge 5: Working Across the Mining Industry

- Mineworkers who may have worked with numerous mining companies across the industry in South Africa may find it difficult to navigate the multiple funds. This means a fragmented response for mineworkers with multiple benefits.

Recommendation:

The Funds must start working together to alleviate this challenge. Currently the Chamber of Mines is convening the pension funds within the mining industry to work together to resolve the issues of the unclaimed benefits. However, there appears to be a lack of commitment, with these meetings being frequently poorly attended. It is recommended that this should continue under the stewardship of the Chamber of Mines but with greater engagement and participation from the pension funds.

In addition, like the recommendations for Challenge 1: Data quality; the sharing of information across the Funds and a common database will all aid in unlocking multiple benefits that may be due to the ex-mineworker from across the industry.

| Challenge 6: Complex Documentation Requirements to Validate Payment

- Multiple Beneficiaries and the documentation required to establish payment pose a challenge.

Recommendation:

While this is likely to remain a challenge to ensure benefits are going to the right person and that fraud is mitigated; once again by the industry working together, sharing information and utilising a common database, it may be easier to validate beneficiary details and ensure the unlocking of these unclaimed benefits.

| Challenge 7: Requirement for a Bank Account

- In most instances payment of funds into a bank account is required. In some instance mineworkers do not have recognised bank accounts. This may be further compounded by FICA requirements in South Africa to validate address and ID for the opening of a bank account. In addition, the following challenges regarding banking has also been noted:
 - a. Bank Charges.
 - b. Access to Banking facilities in rural areas.
 - c. Account dormancy and closure.
 - d. Interbank transfers are costly.

Recommendation:

The issues of bank accounts for local and foreign ex-mineworkers needs to be addressed with the Banking Industry. Under the convenorship of the CCOD, meetings with the BASA and the SADC Banking association should outline and highlight the issues to the banking industry with their input into finding workable solutions for ex-mineworkers needing to open bank accounts to receive their benefit pay outs, is required.

| Challenge 8: Funds Working in Silos

This does not aid the process of unlocking unclaimed benefits to impoverished ex-miner communities. From the elicitation research it became clear that Funds are all doing similar things to address the issue of unclaimed benefits. Multiple tracers, roadshows, agents and information is being deployed into communities, making it confusing for ex-miners and frequently raising expectation that a benefit may be owing, when none may be due. This duplication is also creating inefficiency.

Recommendation:

It comes as no surprise that as per previous recommendations, that the Mining Industry Pension/Provident and Compensation Funds need to work together and share information through a common database. It is recommended that the Chamber of Mines South Africa and the FSB be the convenors of this working together.

In addition, the use of a common tracer and a network of common 'go-to' points for information must be standardised. Utilising a common tracer for the mining industry, supported by a cross sectoral database, will produce economies of scale, prevent duplication and possibly reduce fraud. It will also make it easier for ex-miners to identify the right people and who and where to go to for information. In addition, it is recommended that this be an established organisation with a good footprint across the labour sending countries.

5.5 Conclusion



With an estimated R10 billion Rand worth of unclaimed benefits owing to mineworkers/ex-mineworkers and their beneficiaries, it would make sense, that through the convenorship of the Chamber of Mines South Africa and the FSB, that the pension, provident and compensation funds work together in a pragmatic and targeted manner to unlock these benefits.

The building of a cross sectoral database for the industry, provides a foundation and platform to enable this to happen. Already, it has been noted there is appetite within the industry to work together and through the Department for International Development (DFID) and the Southern Africa Trust (SAT) the piloting of such a database will hopefully unlock monies to alleviate poverty to ex-mineworker communities in Botswana, Lesotho, Mozambique, South Africa and Swaziland, but the industry needs to come together now to tackle the challenges.

APPENDIX 1: Key informant details from elicitation research

The following personnel either consulted or participated during the interviews:

Name	Organisation	Job Title	E-mail	Phone No.
Nobesuthu Moshepe	Chamber of Mines	Pensions Officer	nmotsepe@chamberofmines.org.za	072 510 5769
Alan Smith	Mines 1970 Unclaimed Benefits Funds	Principal Officer	asmith@mines1970fund.org.za	011 391 0741
Philda Mphephu	Mineworkers provident Fund	Principal Officer	pmphephu@mineworkers.co.za	0 101 003 0999
Mike Matchley	Sentinel	Chief Operations Officer	mikem@sentinel.za.com	082 882 4932
Madula Manaye	Sentinel	Principal Officer	madula@sentinel.za.com	082 966 7051
Gert Van Heerden	MBOD/CCOD (IP Capital)	Actuary MBOD/CCOD	gert@ipcapital.co.za	083 212 5603
Aveetha Naidoo	MBOD	Project Manager MBOD	aveethasingh1@gmail.com	082 561 4477
Barry Kistnasamy	CCOD	Compensation Commissioner	barry@fnbconnect.co.za	072 220 0247
Zanele Shongwe	Anglo America	Pensions Officer	Zanele.Shongwe@angloamerican.com	
Motlatjo Seima	Anglo America	Pensions Officer	Motlatjo.Seima@angloamerican.com	

Table 24: Key Informants from Elicitation Research

APPENDIX 2: In-Depth Key Informant Interviews

Participants: (name and position)	
Researcher:	
Date:	

Introduction	
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I am _____ and my colleague is _____ and we are from _____

- ✓ General purpose of the project.
- ✓ Aims of the interview and expected duration.
- ✓ Who is involved in the process (other participants).
- ✓ Why the participant's cooperation is important.
- ✓ What will happen with the collected information and how the participant/target group will benefit.
- ✓ Any questions?

Topic and Probes	
Thematic area	Questions
Organisation Background, Vision and Objectives	Can you tell us about your organisation and what you do?
	- What is the vision of your organisation?
	- What are your objectives?
	- Which mining companies/ mining employers belong to the fund?
	Gold: Sibaye; Harmony; AngloGold Ashanti; Goldfields; others.....
	Coal: Delmas
	Platinum:
	- What type of a pension fund is it? E.g.: Defined Contribution Fund

Benefits	How many members do you have?
	Are these all mine workers?
	Are they both current and ex-mine workers?
	How much is your benefit pot?
	How much is sitting in unclaimed benefits?
	How many beneficiaries are known to be unclaimed?
	- What types of benefits do you offer? E.g.: disability, funeral, dismissal, injury etc
	- Do you have a specific unclaimed benefit pot or a unclaimed fund and who administers this?
	- Do you charge a fee for people checking to see if they have an unclaimed benefit?
	- Do you charge an admin fee to process the unclaimed benefit, where found?
Database	Can you explain more about the database you hold of the members?
	- Are all database field parameters complete or do you have missing information?
	- Does the database generate reports about unclaimed benefits and amount?
Activities to Unlock Benefits	What activities have been undertaken to date to unlock unclaimed benefits?
	What would assist your company in unlocking these benefits?
	Do you have a 'proactive' track and track approach and what are these or have these been?
Challenges to unlocking unclaimed benefits	What are the key challenges to unlocking the unclaimed benefits?
	- Do cross border migrant workers pose a challenge?
	- Are you able to pay benefits across borders?
	- Do you have to pay into a bank account?
	- Do you have the names of the beneficiaries on your databases? If Yes, then what are the challenges to paying?
	- Do you have a flowchart of the process and/or timelines that a mine worker may need to go through to unlock their benefit?
Key Documentation Requirements	What are the essential criteria/documentation required to unlock a benefit? e.g.: ROS; ID No; Address; Bank Account etc
Engagement	Would you be willing to engage in the project and what requirements do you need to be met in order to engage?
	- NDA
	- Approval

Closing

Is there anything else you think is important that we have not talked about?

a Summarise

b Thank participant

c Provide extra information and contacts to participants

Other:

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