



Asbestos Relief Trust

and

Kgalagadi Relief Trust

An Introduction to and Overview of the
Trusts

12 March 2020

DEFF Asbestos and Land Remediation
Workshop



Background

Asbestos Relief Trust (ART)

- **Registered** in March 2003 - out of court settlement between SA mining companies **Gefco, Msauli & holding company Gencor**, and several claimants who were ill with or had died from **asbestos related diseases** contracted as a result of the operations of these companies
- **Founding Document:** the ART's activities are governed by a Deed of Trust which sets out its primary objective, claims criteria, powers and responsibilities of the Trustees, etc.
- **Trustees:** run by a Board of Trustees consisting of 5 trustees
- **Primary Objective** is to compensate qualifying claimants who have been exposed to asbestos from operations owned by or associated with the founders and who have developed a compensable asbestos related disease, as fully and as effectively as its means allow.
- **Duration** of the ART is 25 years, with an option to reduce or extend the life by 5 years.
- The ART, its administration, claims process and compensation is separate from the SA statutory benefit system under Occupational Diseases in Mines and Works Act (ODMWA).



Background Cont.

Kgalagadi Relief Trust (KRT)

- **Registered** in February 2006 following an agreement between Swiss-based company Becon and the legal representatives of former workers affected by their exposure to asbestos.
- **Founding Document:** the KRT's activities are governed by a Deed of Trust which sets out its primary objective, claims criteria, powers and responsibilities of the Trustees, etc.
- **Trustees:** run by a Board of Trustees consisting of 3 trustees.
- **Primary Objective** is to compensate qualifying claimants who have been exposed to asbestos from operations of **Kuruman Cape Blue Asbestos and Danielskuil Cape Blue Asbestos**, and who have developed a compensable asbestos related disease, as fully and as effectively as its means allow.
- **Duration** of the KRT is 20 years, with an option to reduce or extend the life by 5 years.
- The KRT, its administration, claims process and compensation is separate from the SA statutory benefit system under Occupational Diseases in Mines and Works Act (ODMWA).



Comparing the ART & the KRT

- The ART administers the KRT due to operational efficiencies and cost savings.
- They are though completely separate entities, each with its own Trust Deed, separate Boards of Trustees and books of account.
- Both the ART and the KRT have however similar objectives i.e. to compensate qualifying claimants who have developed ARDs as fully and effectively as their means allow.
- The key difference is that they cover different asbestos mines – the ART covers Gefco & Msauli mines and the KRT covers KCBA and DCBA mines.
- The medical criteria for asbestosis diagnosis is the same for both trusts.
- Together both trusts are estimated to cover approximately 85% of all the asbestos mines in South Africa.



Asbestos Related Social Projects

- Kuruman Palliative care service
 - Run by two professional nurses
- Continued support to:
 - Asbestos Interest Group
 - Cancer Charity's Workers
- Neil White Bursary
- Research
- Outreach



Asbestos Trusts Footprint

- Asbestos mining was banned officially on 28 March 2008
- The mines covered by the asbestos trusts were located in the Northern Cape, Limpopo and Mpumalanga provinces of South Africa and Swaziland, but because of the migrant labour and recruitment practices, our claimants come from all over Southern Africa, namely:
 - * Northern Cape
 - * Limpopo
 - * Mpumalanga
 - * Eastern Cape
 - * Free State
 - * Lesotho
 - * Swaziland
 - * Botswana

Asbestos Mining in South Africa



- Northern Cape
 - blue crocidolite, most dangerous
 - Mining stopped in 1998
- Brown
 - amosite
 - Penge stopped in 1992
- White
 - chrysotile
 - Msauli stopped in 2001/2
 - Not likely to cause ARD3/4

Claim Types and Classifications

Claim Types:

- **Occupational Claims**

Claimant must have worked for a qualifying asbestos mine

- **Environmental Claims**

Claimant must have lived within the vicinity of a qualifying operation

Claim Classifications:

- **Living Claims**

The claimant was alive at the time of lodging a claim. If he subsequently dies, it is referred to as an Estate claim. The deceased's estate will then pursue the claim.

- **Dependant Claims**

The wife or, if none, person who was financially dependant on the deceased, if any, may lodge a claim.

Claims Criteria

Key Criteria

- Exposure to asbestos from a qualifying operation

A qualifying operation is a mine/mill owned by or associated with a founder of the trust

This applies to both environmental and occupational claims

- Asbestos Related Disease

- Dependant Claims

Financially dependant and must Claim within 3 years of date of death

Deceased must have been exposed to asbestos from a qualifying operation

Deceased must have died from mesothelioma or asbestos related lung cancer



Compensable Asbestos Related Diseases

ARD1: Asbestos related pleural thickening and/or asbestosis, with mild to moderate lung function impairment

ARD2: Asbestos related pleural thickening and/or asbestosis, with severe lung function impairment

ARD3: Asbestos related lung cancer

ARD4: Mesothelioma



Compensable Asbestos Related Diseases *cont.*

- Latency period for an ARD is up to 40 years.
- All persons who were exposed to asbestos are at a lifelong risk of developing an ARD but not everyone will develop one. Trust statistics indicate that approximately 30% of claimants have developed an ARD.
- Where a claimant contracts an ARD1 or an ARD2 and subsequently develops an asbestos cancer (ARD3 or ARD4), he may lodge a second claim for compensation for the more severe illness.
- There is an appeal process if a claimant feels the medical diagnosis is not correct.
- Trust will not pay for additional compensation unless the medical shows there has been disease progression

Challenges

- The asbestos trusts have a specific mandate as set out in the Trust Deed. They do not represent the mines or were set up to deal with matters such as pension or provident funds.
- The asbestos trusts cannot and do not speak for the attorneys who represented claimants in the legal process which led to their creation.
- Not everyone who worked for or lived near a qualifying mine will be eligible for compensation.
- The MBOD / CCOD claims process is separate and independent of the asbestos trusts' claims process.
- Post mortems may be the last chance to claim compensation.





Thank you



Contact Details

Trust Offices

**Sherborne Square - Building One
5 Sherborne Road, Parktown**

Tel: (011) 482 1000

Fax: (011) 726 3880

Please Call Me: 066 323 6831

artinfo@asbestostrust.co.za

enquiries@kgalagadirelieftrust.co.za

www.asbestostrust.co.za