

# SUMMARY OF OCCUPATIONAL HEALTH AND SAFETY ACT (ACT No. 85 OF 1993)

CHART 1

THIS IS A SUMMARY OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (CHART) AND REGULATIONS (CHART 2). THE FULL ACT & REGULATIONS CAN BE FOUND AT WWW.LABOUR.GOV.ZA

## 1. DEFINITIONS

(11 In this Act, unless the context otherwise indicates-

**"accident"** means an accident arising out of and in the course of an employee's employment and resulting in a personal injury, illness or the death of the employee.

**"approved inspection authority"** means an inspection authority approved by the chief inspector: Provided that an inspection authority approved by the chief inspector with respect to any particular service shall be an approved inspection authority with respect to that service only.

**"biological monitoring"** means a planned programme of periodic collection and analysis of body fluid, tissues, excreta or exhaled air in order to detect and quantify the exposure to or absorption of any substance or organism by persons.

**"building"** includes-

- any structure attached to the soil;
- building or such structure or part thereof which is in the process of being erected; or
- any prefabricated building or structure not attached to the soil.

**"Chief executive officer"** in relation to a body corporate or an enterprise conducted by the State, means the person who is responsible for the overall management and control of the business of such body corporate or enterprise.

**"Chief inspector"** means the officer designated under section 27 as chief inspector and includes any officer acting as chief inspector.

**"Council"** means the Advisory Council for Occupational Health and Safety established by section 2.

**"danger"** means anything which may cause injury damage to a person or property.

**"Department"** means the Department of Manpower.

**"employee"** means, subject to the provisions of subsection (2), any person who is employed by or works for an employer and who receives or is entitled to receive any remuneration or who works under the direction or supervision of an employer or any other person.

**"employer"** means, subject to the provisions of subsection (2), any person who employs or provides work for any person and remunerates that person or expressly or tacitly undertakes to remunerate him but excludes a labour broker as defined in section 1(1) of the Labour Relations Act, 1956 (Act No. 28 of 1956).

**"employers' organisation"** means an employers' organisation as defined in section 1 of the Labour Relations Act, 1956 (Act No.28 of 1956).

**"employment"** or **"employed"** means employment or employed as an employee.

**"explosives"** means any substance or article as listed in Class I Explosives in the South African Bureau of Standards Code of Practice for the Identification and Classification of Dangerous Substances and Goods, SABS 0228.

**"hazard"** means a source of or exposure to danger.

**"Health and safety committee"** means a committee established under section 19.

**"Health and safety equipment"** means any article or part thereof which is manufactured, provided or installed in the interest of the health or safety of any person.

**"Health and safety representative"** means a person designated in terms of section 17(1).

**"Health and safety standard"** means any standard, irrespective of whether or not it has the force of law, which, if applied for the purposes of this Act, will in the opinion of the Minister promote the attainment of an object of this Act.

**"healthy"** means free from illness or injury attributable to occupational causes.

**"incident"** means an incident as contemplated in section 24(1).

**"Industrial court"** means the industrial court referred to in section 17 of the Labor Relations Act, 1956 (Act No. 28 of 1956).

**"inspection authority"** means any person who with the aid of specialized knowledge or equipment or after such investigations, tests, sampling or analyses as he may consider necessary, and whether for reward or otherwise, renders a service by making special findings, purporting to be objective findings, As to-

- the health of any person;
- the safety of risk to the health of any work, article, substance, plant or machinery, or of any condition prevalent on or in any premises; or
- the question of whether any particular standard has been or is being complied with, with respect to any work, article, substance, plant or machinery, or with respect to work or a condition prevalent on or in any premises, or with respect to any other matter, and by issuing a certificate, stating such findings, to the person to whom the service is rendered.

**"Inspector"** means a person designated under section 28.

**"listed work"** means any work declared to be listed work under section 11.

**"local authority"** means-

(a) any institution or body contemplated in section 84(1)(f) of the Provincial Government Act, 1961 (Act No.32 of 1961);

(b) any regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 100 of 1985);

(c) any other institution or body or the holder of any office declared by the Minister by notice in the Gazette to be a local authority for the purposes of this Act.

**"machinery"** means any article or combination of articles assembled, arranged or connected and which is used or intended to be used for converting any form of energy to performing work, or which is used or intended to be used, whether incidental thereto or not, for developing, receiving, storing, containing, confining, transforming, transmitting, transferring or controlling any form of energy.

**"major hazard installation"** means an installation-

- where more than the prescribed quantity of any substance is or may be kept, whether permanently or temporarily;
- where any substance is produced, processed, used, handled or stored in such a form and quantity that it has the potential to cause a major incident;

**"major incident"** means an occurrence of catastrophic proportions, resulting from the use of plant and machinery, or from activities at a workplace;

**"mandatory"** includes an agent, a contractor or a subcontractor for work, but without derogating from his status in his own right as an employer or a user.

**"medical surveillance"** means a planned programme of periodic examination (which may include clinical examinations, biological monitoring or medical tests) of employees by an occupational health practitioner or, in prescribed cases, by an occupational medicine practitioner.

**"minister"** means the Minister of Manpower.

**"occupational health"** includes occupational hygiene, occupational medicine and biological monitoring.

**"occupational health practitioner"** means an occupational medicine practitioner or a person who holds a qualification in occupational health recognized as such by the South African Medical and Dental Council as referred to in the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), or the South African Nursing Council as referred to in the Nursing Act, 1978 (Act No. 50 of 1978).

**"occupational hygiene"** means the anticipation, recognition, evaluation and control of conditions arising in or from the workplace, which may cause illness or adverse health effects to persons.

**"occupational medicine"** means the prevention, diagnosis and treatment of illness and adverse health effects associated with a particular type of work.

**"occupational medicine practitioner"** means a medical practitioner as defined in the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), who holds a qualification in occupational medicine or an equivalent qualification which qualification or equivalent is recognized as such by the South African Medical and Dental Council referred to in the said Act.

**"office"** means an office as defined in section 1(1) of the Basic Conditions of Employment Act, 1983 (Act No. 3 of 1983).

**"officer"** means an officer or employee as defined in section 1(1) of the Public Service Act 1984 (Act No.111 of 1984).

**"organism"** means any biological entity which is capable of causing illness to persons.

**"plant"** includes fixtures, fittings, implements, equipment tools and appliances, and anything which is used for any purpose in connection with such plant;

**"premises"** includes any building, vehicle, vessel, train or aircraft;

**"prescribed"** means prescribed by regulation.

**"properly used"** means used with reasonable care, and with due regard to any information, instruction or advice supplied by the designer, manufacturer, importer, seller or supplier, as the case may be.

**"reasonably practicable"** means practicable having regard to-

- the severity and scope of the hazard or risk concerned;
- the state of knowledge reasonably available concerning that hazard or risk and of any means of removing or mitigating that hazard or risk;
- the availability and suitability of means to remove or mitigate that hazard or risk; and
- the cost of removing or mitigating that hazard or risk in relation to the benefits deriving therefrom.

**"regulation"** means a regulation made under section 43.

**"remuneration"** Any payment in money or in kind or both in money and in kind, made or owing to any person in pursuance of such person's employment.

**"risk"** means the probability that injury or damage will occur;

**"safe"** means free from any hazard;

**"sell"** "includes-

- offer or display for sale or import into the Republic for sale; or
- exchange, donate, lease or offer or display for leasing;

**"shop"** means a shop as defined in section 1(1) of the Basic Conditions of Employment Act, 1983 (Act No.3 of 1983).

**"standard"** means any provision occurring -

- in a specification, compulsory specification, code of practice or standard method as defined in section 1 of the Standards Act, 1993 (Act No.29 of 1993); or
- in any specification, code or any other directive having standardization as its aim and issued by an institution or organization inside or outside the Republic which, whether generally or with respect to any particular article or matter and whether internationally or in any particular country or territory, seeks to promote standardization

**"substance"** means any solid, liquid, vapor, gas or aerosol, or combination thereof.

**"this Act"** includes any regulation

**"trade union"** means a trade union as defined in section 1 of the Labour Relations Act, 1956 (Act No.28 of 1956).

**"user"** in relation to plant or machinery, means the person who uses plant or machinery for his own benefit or who has the right of control over the use of plant or machinery, but does not include a lessor of, or any person employed in connection with, that plant or machinery.

**"work"** means work as an employee or as a self-employed person, and for such purpose an employee is deemed to be at work during the time that he is in the course of his employment, and a self-employed person is deemed to be at work during such time as he devotes to work as a self-employed person.

**"workplace"** means any premises or place where a person performs work in the course of his employment.

(2) The Minister may by notice in the Gazette declare that a person belonging to a category of persons specified in the notice shall for the purposes of this Act or any provision thereof be deemed to be an employee, and thereupon any person vested and charged with the control and supervision of the said person shall for the said purposes be deemed to be the employer of such person.

(3) This Act shall not apply in respect of-

- a mine, a mining area or any works as defined in the Minerals Act, 1991 (Act No. 50 of 1991), except in so far as that Act provides otherwise;
- any load line ship (including a ship holding a load line exemption certificate), fishing boat, sealing boat and whaling boat as defined in section 2(1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), or any floating crane, whether or not such ship, boat or crane is in or out of the water within any harbour in the Republic or within the territorial waters thereof, or in respect of any person present on or in any such mine, mining area, works, ship, boat or crane.

## 7. HEALTH AND SAFETY POLICY

(1) The chief inspector may direct-

- employer in writing; and
  - any category of employers by notice in the Gazette, to prepare a written policy concerning the protection of the health and safety of his employees at an enterprise in a description of his organization and the arrangements for carrying out and reviewing that policy.
- (2) Any direction under subsection (1) shall be accompanied by guidelines concerning the contents of the policy concerned.
- (3) An employer shall prominently display a copy of the policy referred to in subsection (1), signed by the chief executive officer, in the workplace where his employees normally report for service.

## 8. GENERAL DUTIES OF EMPLOYERS TO THEIR EMPLOYEES

- Every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees.
- Without derogating from the generality of an employer's duties under subsection (1), the matters to which those duties refer include in particular-
  - the provision and maintenance of systems of work, plant and machinery that as far as is reasonably practicable, are safe and without risks to health;
  - taking such steps as may be reasonably practicable to eliminate or mitigate any hazard or potential hazard to the safety or health of employees, before resorting to personal protective equipment;
  - making arrangements for ensuring, as far as is reasonably practicable, safety and absence of risks to health in connection with the production, processing, use, handling, storage or transport of articles or substances;
  - establishing, as far as is reasonably practicable, what hazards to the health or safety of persons are attached to any work which is performed, any article or substance which is produced, processed, used, handled, stored or transported and any plant or machinery which is used in his business, and he shall, as far as is reasonably practicable, further establish what precautionary measures should be taken with respect to such work, article, substance, plant or machinery in order to protect the health and safety of persons, and he shall provide the necessary means to apply such precautionary measures;
  - providing such information, instructions, training and supervision as may be necessary to ensure, as far as is reasonably practicable, the health and safety at work of his employees;
  - as far as is reasonably practicable, not permitting any employee to do any work or to produce, process, use, handle, store or transport any article or substance or to operate any plant or machinery, unless the precautionary measures contemplated in paragraphs (b) and (d) or any other precautionary measures which may be prescribed, have been taken;
  - taking all necessary measures to ensure that the requirements of this Act are complied with by every person in his employment or on premises under his control where plant or machinery is used;
  - enforcing such measures as may be necessary in the interest of health and safety;
  - ensuring that work is performed and that plant or machinery is used under the general supervision of a person trained to understand the hazards associated with it and who have the authority to ensure that precautionary measures taken by the employer are implemented;
- causing all employees to be informed regarding the scope of their authority as contemplated in section 37(1)(b).

## 9. GENERAL DUTIES OF EMPLOYERS AND SELF-EMPLOYED PERSONS TO PERSONS OTHER THAN THEIR EMPLOYEES

- Every employer shall conduct his undertaking in such a manner as to ensure, as far as is reasonably practicable, that persons other than those in his employment who may be directly affected by his activities are not thereby exposed to hazards to their health or safety.
- Every self-employed person shall conduct his undertaking in such a manner as to ensure, as far as is reasonably practicable, that he and other persons who may be directly affected by his activities are not thereby exposed to hazards to their health or safety.

## 10. GENERAL DUTIES OF MANUFACTURERS AND OTHERS REGARDING ARTICLES AND SUBSTANCES FOR USE AT WORK

- Any person who designs, manufactures, imports, sells or supplies any article for use at work shall ensure, as far as is reasonably practicable, that the article is safe and without risks to health when properly used and that it complies with all prescribed requirements.
- Any person who erects or installs any article for use at work or in or in any premises shall ensure, as far as is reasonably practicable, that nothing about the manner in which it is erected or installed makes it unsafe or creates a risk to health when properly used.
- Any person who manufactures, imports, sells or supplies any substance for use at work shall -
  - ensure, as far as is reasonably practicable, that the substance is safe and without risks to health when properly used; and
  - take such steps as may be necessary to ensure that information is available with regard to the use of the substance at work, the risks to health and safety associated with such substance, the conditions necessary to ensure that the substance will be safe and without risks to health when properly used and the procedures to be followed in the case of an accident involving such substance.
- Where a person designs, manufactures, imports, sells or supplies an article or substance for or to another person and that other person undertakes in writing to take specified steps sufficient to ensure, as far as is reasonably practicable, that the article or substance will comply with all prescribed requirements and will be safe and without risks to health when properly used, the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed upon him by this section to such an extent as may be reasonable having regard to the terms of the undertaking.

## 13. DUTY TO INFORM

Without derogating from any specific duty imposed on an employer by this Act, every employer shall-

- as far as is reasonably practicable, cause every employee to be made conversant with the hazards to his health and safety attached to any work which he has to perform, any article or substance which he has to produce, process, use, handle, store or transport and any plant or machinery which he is required or permitted to use, as well as with the precautionary measures which should be taken and observed with respect to those hazards;

- inform the health & safety representatives concerned beforehand of inspections, investigations or formal inquiries of which he has been notified by an inspector, and of any application for exemption made by him in terms of section 40; and
- inform a health and safety representative as soon as reasonably practicable of the occurrence of an incident in the workplace or section of the workplace for which such representative has been designated.

## 14. GENERAL DUTIES OF EMPLOYEES AT WORK

Every employee shall at work-

- take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions;
- as regards any duty or requirement imposed on his employer or any other person by this Act, co-operate with such employer or person to enable that duty or requirement to be performed or complied with;
- carry out any lawful order given to him, and obey the health and safety rules and procedures laid down by his employer or by anyone authorized thereto by his employer, in the interest of health or safety;
- if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable report such situation to his employer, or to the health & safety representative for his workplace or section thereof, as the case may be, who should report it to the employer; and
- if he is involved in any incident which may affect his health or which has caused an injury to himself, report such incident to his employer or to anyone authorized thereto by the employer, or to his health and safety representative, as soon as practicable but not later than the end of the particular shift during which the incident occurred, unless the circumstances were such that the reporting of the incident was not possible, in which case he shall report the incident as soon as practicable thereafter.

## 15. DUTY NOT TO INTERFERE WITH, DAMAGE OR MISUSE THINGS

No person shall intentionally or recklessly interfere with damage or misuse anything which is provided in the interest of health or safety.

## 16. CHIEF EXECUTIVE OFFICER CHARGED WITH CERTAIN DUTIES

- Every chief executive officer shall as far as it is reasonably practicable ensure that the duties of his employer as contemplated in this Act, are properly discharged.
- Without derogating from his responsibility or liability in terms of subsection (1), a chief executive officer may assign any duty contemplated in the said subsection, to any person under his control, which person shall be subject to the control and directions of the chief executive officer.
- The provisions of subsection (1) shall not be subject to the provisions of section 37, relieve an employer of any responsibility or liability under this Act.
- For the purpose of subsection (1), the head of department of any department of State shall be deemed to be the chief executive officer of that department.

## 17. HEALTH AND SAFETY REPRESENTATIVES

- Subject to the provisions of subsection (2), every employer who has more than 20 employees in his employment at any workplace, shall, within four months after the commencement of this Act or after commencing business, or from such time as the number of employees exceeds 20, as the case may be, designate in writing for a specified period health & safety representatives for such workplace, or for different sections thereof.
- An employer and the representatives of his employees recognized by him or, where there are no such representatives, the employees shall consult in good faith regarding the arrangements and procedures for the nomination or election, period of office and subsequent designation of health and safety representatives in terms of subsection (1): Provided that if such consultation fails, the matter shall be referred for arbitration to a person mutually agreed upon, whose decision shall be final: Provided further that if the parties do not agree within 14 days on an arbitrator, the employer shall give notice to this effect in writing to the President of the Industrial Court, who shall in consultation with the chief inspector designate an arbitrator, whose decision shall be final.
- Arbitration in terms of subsection (2) shall not be subject to the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), and a failure of the consultation contemplated in that subsection shall not be deemed to be a dispute in terms of the Labour Relations Act, 1956 (Act No. 28 of 1956): Provided that the Minister may prescribe the manner of arbitration and the remuneration of the arbitrator designated by the President of the Industrial Court.
- Only those employees employed in a full-time capacity at a specific workplace and who are acquainted with conditions and activities at that workplace section thereof, as the case maybe, shall be eligible for designation as health and safety representatives for that workplace or section.
- The number of health and safety representatives for a workplace or section thereof shall in the case of shops and offices be at least one health and safety representative for every 100 employees or part thereof, and in the case of all other workplaces at least one health and safety representative for every 50 employees or part thereof: Provided that those employees performing work at a workplace other than that where they ordinarily report for duty, shall be deemed to be working at the workplace where they so report for duty.
- If an inspector is of the opinion that the number of health and safety representatives for any workplace or section thereof, including a workplace or section with 20 or fewer employees, is inadequate, he may by notice in writing direct the employer to designate such number of employees as the inspector may determine as health and safety representatives for that workplace or section thereof in accordance with the arrangements and procedures referred to in subsection (2).
- All activities in connection with the designation, functions and training of health and safety representatives shall be performed during ordinary working hours, and any time reasonably spent by any employee in this regard shall for all purposes be deemed to be time spent by him in the carrying out of his duties as an employee.

## 18. FUNCTIONS OF HEALTH AND SAFETY REPRESENTATIVES

- A health & safety representative may perform the following functions in respect of the workplace or section of the workplace for which he has been designated, namely-
  - review the effectiveness of health and safety measures;
  - identify potential hazards and potential major incidents at the workplace;
  - in collaboration with his employer, examine the causes of incidents at the workplace;
  - investigate complaints by any employee relating to that employee's health or safety at work;
  - make representations to the employer or a health and safety committee on matters arising from paragraphs (a), (b), (c) or (d), or where such representations are unsuccessful, to an inspector;
  - make representations to the employer on general matters affecting the health or safety of the employees at the workplace;
  - inspect the workplace, including any article, substance, plant, machinery or health and safety equipment at that workplace with a view to the health and safety of employees, at such intervals as may be agreed upon with the employer: Provided that the health and safety representative shall give reasonable notice of his intention to carry out such an inspection to the employer, who may be present during the inspection;
  - participate in consultations with inspectors at the workplace and accompany inspectors on inspections of the workplace;
  - receive information from inspectors as contemplated in section 36; and
  - in his capacity as a health and safety representative attend meetings of the health and safety committee of which he is a member with any of the above functions.
- A health and safety representative shall, in respect of the workplace or section of the workplace for which he has been designated be entitled to-
  - visit the site of an incident at all reasonable times and attend any inspection in loco;
  - attend any investigation or formal inquiry held in terms of this Act;
  - in so far as it is reasonably necessary for performing his functions, inspect any document which the employer is required to keep in terms of this Act;
  - accompany an inspector on any inspection;
  - with the approval of the employer (which approval shall not be unreasonably withheld), be accompanied by a technical adviser, on any inspection; and
  - participate in any internal health or safety audit.
- An employer shall provide such facilities, assistance and training as a health and safety representative may reasonably require and as have been agreed upon for the carrying out of his functions.
- A health and safety representative shall not incur any civil liability by reason of the fact only that he failed to do anything which he may do or is required to do in terms of this Act.

## 19. HEALTH AND SAFETY COMMITTEES

- An employer shall in respect of each workplace where two or more health and safety representatives have been designated, establish one or more health and safety committees and, at every meeting of such a committee as contemplated in subsection (4), consult with the committee with a view to initiating, developing, promoting, maintaining and reviewing measures to ensure the health and safety of his employees at work.
- A health and safety committee shall consist of such number of members as the employer may from time to time determine: Provided that-
  - if one health and safety committee has been established in respect of a workplace, all the health and safety representatives for that workplace shall be members of the committee;

- if two or more health and safety committees have been established in respect of a workplace, each health and safety representative for that workplace shall be a member of at least one of those committees; and
- the number of persons nominated by an employer on any health and safety committee established in terms of this section should not exceed the number of health and safety representatives on that committee.

(3) The persons nominated by an employer on a health and safety committee shall be designated in writing by the employer for such period as may be determined by him, while the health and safety representatives shall be members of the committee for the period of their designation in terms of section 17(1).

(4) A health and safety committee shall hold meetings as often as may be necessary, but at least once every three months, at a time and place determined by the committee: Provided that an inspector may by notice in writing direct the members of a health and safety committee to hold a meeting at a time and place determined by him: Provided further that, if more than 10 per cent of the employees at a specific workplace has handed a written request to an inspector, the inspector may by written notice that such a meeting be held.

(SI) The procedure at meetings of a health and safety committee shall be determined by the committee.

(6) (a) A health and safety committee may co-opt one or more persons by reason of his or their knowledge of health or safety matters as an advisory member or as advisory member of the committee.

(b) An advisory member shall not be entitled to vote on any matter before the committee.

(7) If an inspector is of the opinion that the number of health and safety committees established for any workplace is inadequate, he may in writing direct the employer to establish for such workplace such number of health and safety committees as the inspector may determine.

## 20. FUNCTIONS OF HEALTH AND SAFETY COMMITTEES

(1) A health and safety committee-

- make recommendations to the employer or, where the recommendations fail to resolve the matter, to an inspector regarding any matter affecting the health or safety of persons at the workplace or any section thereof for which such committee has been established;
  - shall discuss any incident at the workplace or section thereof in which or in consequence of which any person was injured, became ill or died, and may in writing report on the incident to an inspector; and
  - shall perform such other function as may be prescribed.
- (2) A health and safety committee shall keep a record of each recommendation made to an employer in terms of subsection (1)(a) and of any report made to an inspector in terms of subsection (1)(b).
- (3) A health and safety committee or a member thereof shall not incur any civil liability by reason of the fact only that it or he failed to do anything which it or he may or is required to do in terms of this Act.
- (4) An employer shall take the prescribed steps to ensure that a health and safety committee complies with the provisions of section 19(4) and performs the duties assigned to it by subsections (1) and (2).

## 23. CERTAIN DEDUCTIONS PROHIBITED

No employer shall in respect of anything which he is in terms of this Act required to provide or to doing the interest of the health or safety of an employee, make any remuneration from any employee or require or permit any employee to make any payment to him or any other person.

## 24. REPORT TO INSPECTORS REGARDING CERTAIN INCIDENTS

- Each incident occurring at work or arising out of or in connection with the activities of persons at work, or in connection with the use of plant or machinery, in which, or in consequence of which-
  - any person dies, becomes unconscious, suffers the loss of a limb or part of a limb or is otherwise injured or becomes ill to such a degree that he is likely either to die or to suffer a permanent physical defect likely to be unable for a period of at least 14 days either to work or to continue with the activity for which he was employed or is usually employed;
  - a major incident occurred; or
  - the health or safety of any person was endangered and where-
    - dangerous substance was spilled;
    - the uncontrolled release of any substance under pressure took place;
    - moving objects; or
    - any machinery ran out of control,shall, within the prescribed period and in the prescribed manner, be reported to an inspector by the employer or the user of the plant or machinery concerned, as the case may be.
- In the event of an incident in which a person died, or was injured to such an extent that he is likely to die, or suffered the loss of a limb or part of a limb, no person shall without the consent of an inspector disturb the site at which the incident occurred or remove any article or substance involved in the incident therefrom: Provided that such action may be taken as is necessary to prevent a further incident, to remove the injured or dead, or to rescue persons from danger.
- (a) a traffic accident on a public road;
- (b) an incident occurring in a private household, provided the householder forthwith reports the incident to the South African Police; or
- (c) any accident which is to be investigated under section 12 of the Aviation Act, 1962 (Act No. 74 of 1962).
- A member of the South African Police to whom an incident was reported in terms of subsection (3)(b), shall forthwith notify an inspector thereof.

## 26. VICTIMIZATION FORBIDDEN

- No employer shall dismiss an employee, or reduce the rate of his remuneration, or alter the terms or conditions of his employment terms, or conditions less favorable to him, or after his position relative to other employees employed by that employer to his disadvantage, by reason of the fact, or because he suspects or believes, whether or not the suspicion or belief is justified or correct, that that employee has given information to the Minister or to any other person charged with the administration of a provision of this Act which in terms of this Act he is required to give or which relates to the terms, conditions or circumstances of his employment or to those of any other employee of his employer, or has complied with a lawful prohibition, requirement, request or direction of an inspector, or has given evidence before a court of law or the industrial court, or has done anything which he may or is required to do in terms of this Act or has refused to do anything which he is prohibited from doing in terms of this Act.
- No employer shall unfairly dismiss an employee, or reduce the rate of his remuneration, or alter the terms or conditions of his employment to terms or conditions less favorable to him, or alter his position relative to other employees employed by that employer to his disadvantage, by reason of the information that the employer has obtained regarding the results contemplated in section 12(2) or by reason of a report made to the employer in terms of section 25.

## 35. APPEAL AGAINST DECISION OF INSPECTOR

- Any person aggrieved by any decision taken by an inspector under a provision of this Act may appeal against such decision to the chief inspector, and the chief inspector shall, after he has considered the grounds of the appeal and the inspector's reasons for the decision, confirm, set aside or vary the decision or substitute for such decision any other decision which the inspector in the chief inspector's opinion ought to have taken.
- Any person who wishes to appeal in terms of subsection (1), shall within 60 days after the inspector's decision was made, lodge such an appeal with the chief inspector in writing, setting out the grounds on which it is made.
- Any person aggrieved by a decision taken by the chief inspector under subsection (1) or in the exercise of any power under this Act, may appeal against such decision to the Labour Court, and the Labour Court shall inquire into and consider the matter forming the subject of the appeal and confirm, set aside or vary the decision or substitute for such decision any other decision which the chief inspector in the opinion of the Labour Court ought to have taken.
- Any person who wishes to appeal in terms of subsection (3), shall within 60 days after the chief inspector's decision was given, lodge the appeal with the registrar of the Labour Court in accordance with the Labour Relations Act, 1995, and the rules of the Labour Court.
- An appeal under subsection (1) or (3) in connection with a prohibition imposed under section 30(1)(a) or (b) shall not suspend the operation of such prohibition.

## 37. ACTS OR OMISSIONS BY EMPLOYEES OR MANDATARIES

- Whenever an employee does or omits to do any act which it would be an offence in terms of this Act for the employer of such employee or a user to do or omit to do, then, unless it is proved that-
  - in doing or omitting to do that act the employee was acting without the connivance or permission of the employer or any such user;
  - it was not under any condition or in any circumstances within the scope of the authority of the employee to do or omit to do an act, whether lawful or unlawful, of the character of the act or omission charged; and
  - all reasonable steps were taken by the employer or any such user to prevent any act or omission of the kind in question, the employer or any such user himself shall be presumed to have done or omitted to do that act, and shall be liable to be convicted and sentenced in respect thereof; and the fact that he issued instructions for ordering any act or omission of the kind in question shall not, in itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.



# SUMMARY OF OCCUPATIONAL HEALTH AND SAFETY ACT NO. 85 OF 1993 CHART 2

## SUMMARY OF ENVIRONMENTAL REGULATIONS FOR WORKPLACES 1987

### 1. LIGHTING

- Every employer shall ensure every workplace in his undertaking to be lighted in accordance with the provisions of the regulations in which such duties are prescribed.
- Provided that where specialized lighting is necessary for the performance of any particular type of work, irrespective of whether that title of work is listed in the Schedule of such specialized lighting is available to and issued by such employees.

- The chief inspector may, by notice in the Gazette, from time to time modify the Schedule of such specialized lighting.
- With respect to the lighting to be provided in terms of sub regulation (1), the employers shall ensure that:
  - the average illuminance at any floor level in a workplace within five meters of a task is not less than one fifth of the average illuminance on that task;
  - glare in any workplace is reduced to a level that does not impair vision;
  - lighting of rotating machinery in such that the hazard of strobeoscopic effects is eliminated; and
  - luminaires and lamps are kept clean and, when defective, are replaced or repaired forthwith.

- With a view to the emergency evacuation of indoor workplaces without natural lighting or in which persons habitually work at night, every employer shall, in such workplaces, provide emergency sources of lighting which are such that:
  - an illuminance of not less than 0.3 lux is obtained at floor level to enable employees to evacuate such workplaces; Provided that where it is necessary to stop machinery or shut down plant or processes before evacuating the workplace, or where dangerous materials are present or dangerous processes are carried out, the illuminance shall be not less than 20 lux;
- An employer shall ensure that the emergency sources of lighting prescribed by sub regulation (4):
  - are capable of being activated within 15 seconds of the failure of the lighting prescribed by sub regulation (1);
  - will last long enough to ensure a safe evacuation of all indoor workplaces;
  - are kept in good working order and tested for efficient operation at intervals of not more than three months; and
  - where directional luminaires are installed, these are mounted at a height of not less than two meters above floor level and are so placed that they do not cast light below the horizontal line on which they are installed.
- An employer engaged in building work shall cause all rooms, stairways, passageways, gangways, lifts, basements and other places where danger may exist through the lack of light, to be lighted such that it will be safe.

### 1. WINDOWS

- In order to effect visual contact between a workplace, where employees work the majority of their shift in a room of which the area is less than 100 square meters, the employer of such employees shall ensure every window to be provided with:
  - the square meters of the window is not less than three fifths of the square meter of the floor area of such room; both are measured in square meters;
  - the windows and window heads are not lower than one centimetre and one half meters above the floor level of the room; and
  - such windows are glazed with transparent material.
- Unless an inspector is satisfied that the provisions of sub regulation (1) shall not apply under conditions where natural light will have an adverse effect on the process or material used in a room, or where the process in a room has to be conducted under conditions of light, temperature, humidity or air movement, or where the judgment of texture or colour in a room has to be done under conditions of constant light and intensity, and where the action level for such risk is not less than 1000 lux, compliance with the intended provisions becomes impracticable.
- Where the penetration of direct sunlight into any workplace may pose a threat to the safety of persons in the workplace, the employer of such employees shall ensure that such workplace is screened to avoid such penetration, but retaining, as far as is practicable, outside visual contact.

### 1. VENTILATION

- An employer shall ensure that every workplace in his undertaking is ventilated either by natural or mechanical means in such a way that:
  - the air breathed by employees is of good quality and their safety;
  - the time-weighted average concentration of carbon dioxide therein, taken over an eight-hour period, does not exceed one half per cent by volume of air;
  - the carbon dioxide content thereof does not at anytime exceed three per cent by volume;
  - the prescribed exposure limits for airborne substances there are not exceeded; and
  - the concentration therein of any explosive or flammable gas, vapor or dust does not exceed the lower explosive limit of the gas or dust.
- Where the measures, prescribed by sub regulation (1) are not practicable, or where there is a danger of unsafe air in the breathing zone of an employee, the employer shall provide every such employee with, and ensure that he correctly uses, respiratory protective equipment of a type that reduces the exposure of the employee to a safe level and the employer shall, further, inform him of the correct use of such precautionary measures against excessive exposure.
- The provisions of sub regulation (1) (b) and (d) shall not apply in respect of workplaces where the ambient pressure differs by more than 20 pascals from the atmospheric pressure at sea level.

### 1. HOUSEKEEPING

- A user of machinery shall provide and maintain sufficient clear and unobstructed space at every machine to enable it to be used without danger to persons.
- An employer shall:
  - with the exclusion of workplaces where building work is performed, make at least one square meter of clear floor area available for every employee working in an indoor workplace;
  - make available and maintain unimpeded workways for persons;
  - keep every indoor workplace clear and free of materials, tools and similar things which are not necessary for the work done in such workplace;
  - keep all floors, walkways, stairs, passages and gangways in a good state of repair, free from clutter, debris and other obstructions;
  - keep the roof and walls of every indoor workplace sound and leak-free;
  - board over or fence, or enclose with railings or guards, or take other measures which may be necessary to ensure the safety of persons in the workplace;
  - keep openings in floors, all hatchways and all stairways and any open sides of floors or buildings through or from which persons are liable to fall. Provided that such openings may be closed or removed for the purpose of the time to the extent necessary for the access of persons or the movement of material; and
  - erect a catch platform or other device to prevent persons from falling above a place where persons work or pass, or fence off the danger area if work is being performed above such entrance, passageway, place or danger area and there is a possibility of persons being struck by falling objects.
- No employer shall expose or permit any person to, and no person shall, dispose of any article from a high place except by means of a safe landing arrangements have been made to secure the safety of any person struck by falling objects.

### 1. PRECAUTIONARY MEASURES AGAINST EXCESSIVE EXPOSURE

- In order to expedite the evacuation of a workplace in case of fire, every employer shall ensure that:
  - any emergency escape door from any room or passage or at a staircase shall, as far as is practicable, being used as a means of exit, and every door of a passage or at a staircase serving as a means of exit from such room, shall be kept clear and capable of being easily and rapidly opened from inside so as to ensure quick and easy evacuation;

### 1. PROVISIONS OF PARAGRAPHS (a) AND (b) SHALL ALSO BE COMPLIED WITH IN RESPECT OF THE OUTER ESCAPE EXIT FROM THE WORKPLACE;

- the escape route shall be free from fire to another or to the ground shall be provided with substantial hand rails;
- the escape route shall be free from fire to another or to the ground shall be provided with substantial hand rails;
- staircases intended to be used as fire escape shall:
  - be constructed of non-combustible material;
  - be kept clear of any material or other obstruction; and
  - not terminate in an enclosed area;
- staircases, passages and exits intended for escape purposes shall be of a width and of a gradient which will facilitate the quick and safe egress of the number of persons intended to make use of them; and
- having regard to the size, construction and location of a workplace, the number of persons and the activity therein, such workplace is provided with at least two means of egress situated as far apart as is practicable.

- Having regard to the size, construction and location of the workplace, the amount and type of flammable articles, handled or stored on the premises, an employer shall provide on the premises an adequate supply of suitable fire-fighting equipment at strategic locations or places which may be recommended by the fire chief officer concerned, and such equipment shall be maintained in good working order.

## SUMMARY OF SAFETY REGULATIONS 1988

### 1. SANITATION

- Every employer shall provide sanitary facilities at the workplace in accordance with the provisions of Parts F and G of the National Building Regulations.
- Notwithstanding that sub regulation (1), an employer shall ensure, where less than 11 persons are employed on one premises, make written arrangements for such persons to use closets and washbasins on adjoining premises: Provided that:
  - such facilities are freely and readily accessible;
  - the facilities comply with the provisions of these Regulations as well as with SABS 040/0078 respect to-

- Every employer shall, under the circumstances contemplated in Table 4 of Part P of SABS 0400, provide showers for the use of his employees, and he shall:
  - provide running hot and cold or premixed hot and cold water for the washbasins and showers;
  - ensure that the walls of that part of the room in which there are showers, are smooth and impermeable, and that the floor thereof is slip-free and sloped for effective drainage;
  - ensure that showers are provided in a room with windows. Such windows are glazed in obscure glass or similar material;
  - in respect of each room in which there are closets, urinals, showers or washbasins every employer shall:-

- provide a conspicuous sign outside the entrance to such a room to indicate the sex of the persons who are intended to use such facilities;
- ventilate such rooms in accordance with the provisions of Part O of the National Building Regulations;
- provide the necessary screen walls partitions or doors in order to ensure privacy; and
- ensure that water feeding to showers or washbasins on its premises which is not obtained from the water supply system of local authority, complies with SABS 241.

## 1. FACILITIES FOR SAFEEKEEPING

- An employer, in a factory shall provide every employee in his service, excluding office employees, with a personal kit for use in an emergency in which such duties are prescribed in terms of the employee can be kept safely and in good condition.
- Every employer shall ensure that every employee employed in a workplace in which sub regulation (1) stores his clothing and other personal items in his facility for safekeeping.
- The provisions of this regulation shall not apply in respect of activities for which specific types or number of facilities for safekeeping are prescribed.

## 1. HAZARDOUS SUBSTANCES

- In respect of employees-
  - for whom showers are prescribed, or
  - who need to unders, the employer shall provide separate change-rooms for males and females respectively, in which the exposure to such substances is equal to or above the action level for such high-risk substance in which undressed hides or skins or unwashed wool or mohair are treated, processed or stored;
- An employer contemplated in sub regulation (1) shall:-
  - ensure that a change-room is not connected directly by means of a door or any other opening to a place in which the exposure to such substances is equal to or above the action level for such high-risk substance in which undressed hides or skins or unwashed wool or mohair are treated, processed or stored;
  - provide adequate seating in the form of chairs or benches in every change-room for the maximum number of employees that will be using such change-room at any one time;
  - not store any materials, tools or other goods not related to the use of a change-room in such change-room or allows items to be stored therein;
  - install a change-room has windows, glaze such windows in obscure glass or similar material;
  - screen the entrance to every change-room in order to afford privacy, provide a conspicuous sign at the entrance to a change-room to indicate the sex of the persons for whom the change-room is intended;
  - provide a conspicuous sign at the entrance to a change-room to indicate the sex of the persons for whom the change-room is intended;
  - provide facilities for the drying of wet clothes, if clothes of the employees for whom the change-room has been provided, may become wet in the course of their work;
  - ensure that every change-room in a workplace that is in accordance with the provisions of Part of the National Building Regulations; and
  - ensure that no employee referred to in sub regulation (1) changes his clothing at any other place than a workplace that is in accordance with the provisions of Part of the National Building Regulations; and
- Subject to the provisions of regulation 5 an employer may allow a change-room to be used for the parking of means provided that:-
  - the change-room is situated at least two meters high is installed between showers and eating places; and
  - there is no direct communication between the change-room and toilet facilities.

## 1. DINING ROOMS

- Notwithstanding the provisions of regulation (3), every employer of employees who at a workplace:
  - are exposed to a high risk substance in a quantity equal to or above the action level for such high-risk substance in which undressed hides or skins or unwashed wool or mohair are treated, processed or stored;
  - come into physical contact with any known poisonous substance which may cause illness if taken orally;
  - are exposed to dirt, dust or similar stuff: Provided that when the question arises as to what constitutes dirt, dust, or similar stuff, the decision of an inspector shall be conclusive; or
  - handle or process undressed hides or skins, or unwashed wool or mohair, shall provide a separate dining-room or eating place on the premises which in respect of the maximum number of employees who will be using it at any one time, shall be:-
- The employer referred to in sub regulation (1) shall:-
  - provide tables and chairs in every dining-room for the maximum number of employees who will be using it at any one time;
  - ensure that a dining-room or eating place is not connected directly by means of a door or any other opening with any room in which the exposure to a high-risk substance is equal to or above the action level for such high-risk substance in which undressed hides or skins or unwashed wool or mohair are treated, processed or stored;
  - not store any materials tools or other goods not related to the use of a dining-room in such dining-room or allow such items to be stored therein; and
  - ensure that every dining-room in a workplace that is in accordance with the provisions of Part O of the National Building Regulations;

## 1. PROHIBITION

- Every employer shall:-
  - prohibit the smoking and the consumption of food or drink at all work places contemplated in regulation 5(1) and shall ensure that no person smokes, eats or drinks in any such place; and
  - prohibit the display of notices at such workplaces prohibiting smoking, eating or drinking.

## 1. DRINKING WATER

- Every employer shall:-
  - provide an adequate supply of drinking water to his employees at all work places; and
  - clearly and conspicuously mark us such, taps and pipes containing water which is not fit for human consumption.

## 1. SEATS

- When reasonably practicable, provide a seat for every employee whose work can be performed while seated.
- Where reasonably practicable, permit an employee whose work is ordinarily performed standing to take advantage of any opportunity for sitting which may be available to him, and to provide such seating facilities as may be necessary.
- Provide seats with back rests where the nature of the work performed by employees is such that such seats can be used.

## 1. CONTROLS AND FACILITIES

- Every employer shall maintain all rooms and facilities which are prescribed or provided for in the provisions of these regulations, in a clean, hygienic, safe, whole and leak-free condition, in a good state of repair.
- Provided that a provision may, by notice in writing, direct an employer to take such steps as the inspector deems necessary for the employer to comply with this regulation and the decision of an inspector in this regard shall be conclusive.

## SUMMARY OF NOISE-INDUCED HEARING LOSS REGULATIONS, 2003

### 2. SCOPE OF APPLICATION

- These regulations shall apply to an employer or self-employed person who, at any workplace under his or her control, carries out work which may expose any person to workplace noise at or above the noise-rating limit.

### 1. EXPOSURE LIMITS

- Subject to regulations 9 and 10, an employer or self-employed person shall require or permit any person to enter any workplace under his or her control where such person will be exposed to noise at or above the 85 dBA noise rating limit.

### 1. PROVISIONS OF PARAGRAPHS (a) AND (b) SHALL ALSO BE COMPLIED WITH IN RESPECT OF THE OUTER ESCAPE EXIT FROM THE WORKPLACE;

- the escape route shall be free from fire to another or to the ground shall be provided with substantial hand rails;
- the escape route shall be free from fire to another or to the ground shall be provided with substantial hand rails;
- staircases intended to be used as fire escapes shall:
  - be constructed of non-combustible material;
  - be kept clear of any material or other obstruction; and
  - not terminate in an enclosed area;
- staircases, passages and exits intended for escape purposes shall be of a width and of a gradient which will facilitate the quick and safe egress of the number of persons intended to make use of them; and
- having regard to the size, construction and location of a workplace, the number of persons and the activity therein, such workplace is provided with at least two means of egress situated as far apart as is practicable.

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- Every employer shall provide sanitary facilities at the workplace in accordance with the provisions of Parts F and G of the National Building Regulations.
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  - the facilities comply with the provisions of these Regulations as well as with SABS 040/0078 respect to-

- Every employer shall, under the circumstances contemplated in Table 4 of Part P of SABS 0400, provide showers for the use of his employees, and he shall:
  - provide running hot and cold or premixed hot and cold water for the washbasins and showers;
  - ensure that the walls of that part of the room in which there are showers, are smooth and impermeable, and that the floor thereof is slip-free and sloped for effective drainage;
  - ensure that showers are provided in a room with windows. Such windows are glazed in obscure glass or similar material;
  - in respect of each room in which there are closets, urinals, showers or washbasins every employer shall:-

- provide a conspicuous sign outside the entrance to such a room to indicate the sex of the persons who are intended to use such facilities;
- ventilate such rooms in accordance with the provisions of Part O of the National Building Regulations;
- provide the necessary screen walls partitions or doors in order to ensure privacy; and
- ensure that water feeding to showers or washbasins on its premises which is not obtained from the water supply system of local authority, complies with SABS 241.

## 1. FACILITIES FOR SAFEEKEEPING

- An employer, in a factory shall provide every employee in his service, excluding office employees, with a personal kit for use in an emergency in which such duties are prescribed in terms of the employee can be kept safely and in good condition.
- Every employer shall ensure that every employee employed in a workplace in which sub regulation (1) stores his clothing and other personal items in his facility for safekeeping.
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- An employer contemplated in sub regulation (1) shall:-
  - ensure that a change-room is not connected directly by means of a door or any other opening to a place in which the exposure to such substances is equal to or above the action level for such high-risk substance in which undressed hides or skins or unwashed wool or mohair are treated, processed or stored;
  - provide adequate seating in the form of chairs or benches in every change-room for the maximum number of employees that will be using such change-room at any one time;
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  - ensure that every change-room in a workplace that is in accordance with the provisions of Part of the National Building Regulations; and
  - ensure that no employee referred to in sub regulation (1) changes his clothing at any other place than a workplace that is in accordance with the provisions of Part of the National Building Regulations; and
- Subject to the provisions of regulation 5 an employer may allow a change-room to be used for the parking of means provided that:-
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  - come into physical contact with any known poisonous substance which may cause illness if taken orally;
  - are exposed to dirt, dust or similar stuff: Provided that when the question arises as to what constitutes dirt, dust, or similar stuff, the decision of an inspector shall be conclusive; or
  - handle or process undressed hides or skins, or unwashed wool or mohair, shall provide a separate dining-room or eating place on the premises which in respect of the maximum number of employees who will be using it at any one time, shall be:-
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- Every employer shall:-
  - prohibit the smoking and the consumption of food or drink at all work places contemplated in regulation 5(1) and shall ensure that no person smokes, eats or drinks in any such place; and
  - prohibit the display of notices at such workplaces prohibiting smoking, eating or drinking.

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- Every employer shall:-
  - provide an adequate supply of drinking water to his employees at all work places; and
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## 1. SEATS

- When reasonably practicable, provide a seat for every employee whose work can be performed while seated.
- Where reasonably practicable, permit an employee whose work is ordinarily performed standing to take advantage of any opportunity for sitting which may be available to him, and to provide such seating facilities as may be necessary.
- Provide seats with back rests where the nature of the work performed by employees is such that such seats can be used.

## 1. CONTROLS AND FACILITIES

- Every employer shall maintain all rooms and facilities which are prescribed or provided for in the provisions of these regulations, in a clean, hygienic, safe, whole and leak-free condition, in a good state of repair.
- Provided that a provision may, by notice in writing, direct an employer to take such steps as the inspector deems necessary for the employer to comply with this regulation and the decision of an inspector in this regard shall be conclusive.

## SUMMARY OF NOISE-INDUCED HEARING LOSS REGULATIONS, 2003

### 2. SCOPE OF APPLICATION

- These regulations shall apply to an employer or self-employed person who, at any workplace under his or her control, carries out work which may expose any person to workplace noise at or above the noise-rating limit.

### 1. EXPOSURE LIMITS

- Subject to regulations 9 and 10, an employer or self-employed person shall require or permit any person to enter any workplace under his or her control where such person will be exposed to noise at or above the 85 dBA noise rating limit.

### 1. PROVISIONS OF PARAGRAPHS (a) AND (b) SHALL ALSO BE COMPLIED WITH IN RESPECT OF THE OUTER ESCAPE EXIT FROM THE WORKPLACE;

- the escape route shall be free from fire to another or to the ground shall be provided with substantial hand rails;
- the escape route shall be free from fire to another or to the ground shall be provided with substantial hand rails;
- staircases intended to be used as fire escapes shall:
  - be constructed of non-combustible material;
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  - not terminate in an enclosed area;
- staircases, passages and exits intended for escape purposes shall be of a width and of a gradient which will facilitate the quick and safe egress of the number of persons intended to make use of them; and
- having regard to the size, construction and location of a workplace, the number of persons and the activity therein, such workplace is provided with at least two means of egress situated as far apart as is practicable.

## SUMMARY OF GENERAL ADMINISTRATIVE REGULATIONS 2003

### 1. ACCESS TO PREMISES

- No person shall refuse an inspector access to premises to perform his or her functions unless the person is authorized to do so by any other law.
- An inspector or his or her assistant may require an employer or user to make a person or persons who have his or her possession or partial possession of the premises of the workplace to accompany him rendering the entire visit of the workplace.

### 1. EXEMPTION

- A certificate of exemption issued in terms of section 40 of the Act shall be signed by the chief inspector.

### 1. COPIES OF THE ACT

- Every employer with five or more persons in his employ shall have a copy of the Act and the relevant regulations readily available at the work place. Provided that, where the total number of employees is less than five, the employer shall, on request of an employee, make a copy of the Act available to that employee.

### 1. HEALTH AND SAFETY COMMITTEE

- Where a health and safety committee has been established in terms of section 190b(2) of the Act, an employer shall:-

- make available a suitable meeting place to such committee; and
- ensure that the records, as contemplated in section 20(2) of the Act, are kept for a period of at least three years.

### 1. NEGOTIATIONS AND CONSULTATIONS BEFORE DESIGNATION OF HEALTH AND SAFETY REPRESENTATIVES

- The employer shall, in any workplace where there must be health and safety representatives in terms of section 17(1) of the Act, or where the employer has elected the commencement of these regulations or after commencing business, meet with the registered trade unions of that workplace in order to consult or bargain in good faith and conclude an agreement concerning the provisions of the Act.

### 1. NOMINATION OR ELECTION OF HEALTH AND SAFETY REPRESENTATIVES

- In terms of section 17(1) of the Act, an employer or user, as the case may be, shall not permit a person to enter a workplace where the health or safety of such person is at risk or may be endangered by the use of such workplace unless the person is authorized to do so by any other law.

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