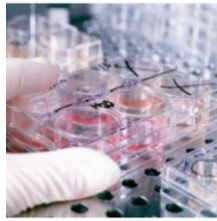




NATIONAL HEALTH  
LABORATORY SERVICE



# LEGISLATED ROLES AND RESPONSIBILITIES OF EMPLOYERS



MICHELLE MORGAN

NHLS SAFETY HEALTH & ENVIRONMENT (SHE) DEPARTMENT

9 June 2020

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## OCCUPATIONAL HEALTH AND SAFETY ACT 85 OF 1993

- The OHS Act 85 of 1993 came into effect in 1 January 1994.
- The OHS Act has 50 Sections and various regulations.





Department of Labour

**REPUBLIC OF SOUTH AFRICA**

No. 85 of 1993: Occupational Health and Safety Act  
as amended by  
Occupational Health and Safety Amendment Act, No. 181 Of 1993

**ACT**

To provide for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work; to establish an advisory council for occupational health and safety; and to provide for matters connected therewith.

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(English Text Signed By the State President)  
(Assented To 23 June, 1993)

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BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:-

**ARRANGEMENT OF SECTIONS**

1. Definitions
2. Functions of Council
3. Constitution of Council

## AIM OF THE OHS ACT 85 OF 1993

The aim of the OHS ACT is to provide for:

- The health and safety of persons at work;
- The health and safety for persons in connection with the use of plant and machinery;
- The protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work;
- To establish an advisory council for occupational health and safety and to provide for matters connected therewith.

## WHAT IS MEANT BY REASONABLY PRACTICABLE?



## REASONABLY PRACTICABLE

"**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;

# SECTIONS OF THE OHS ACT



## SECTION 7 – HEALTH AND SAFETY POLICY

- This is a written policy concerning the protection of the health and safety of employees at work, including a description of the organization and the arrangements for carrying out and reviewing that policy.
- An employer shall prominently display a copy of the policy, signed by the chief executive officer, in the workplace where his employees normally report for service.

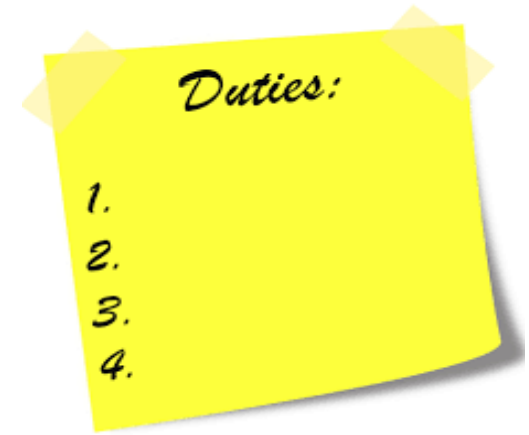




## SECTION 8 – GENERAL DUTIES OF **EMPLOYERS** TO THEIR EMPLOYEES

Every employer shall provide and maintain, as far as reasonably practicable, a working environment that is safe and without risk to the health of his employees





## SECTION 8 – GENERAL DUTIES OF **EMPLOYERS** TO THEIR EMPLOYEES:

- The provision and maintenance of systems of work, plant and machinery that is **safe** and without **risks** to **health**
- **Eliminate** or **mitigate** any **hazard** or potential hazard
- Ensure the **safety** and absence of **risks** to **health**
- Establish what **hazards** are attached to any work which is performed
- Establish what **precautionary measures** should be taken
- Provide information, instructions, training and supervision
- Take all necessary **measures** to ensure that the requirements of this Act are complied with
- Ensure that work is performed and plant or machinery used under supervision

## RISK ASSESSMENT

Is defined as the process of assessing the **risks** associated with the **hazards** identified, so that appropriate **control measures** can be put in place to eliminate or mitigate the risk to protect the **health** and **safety** of workers.



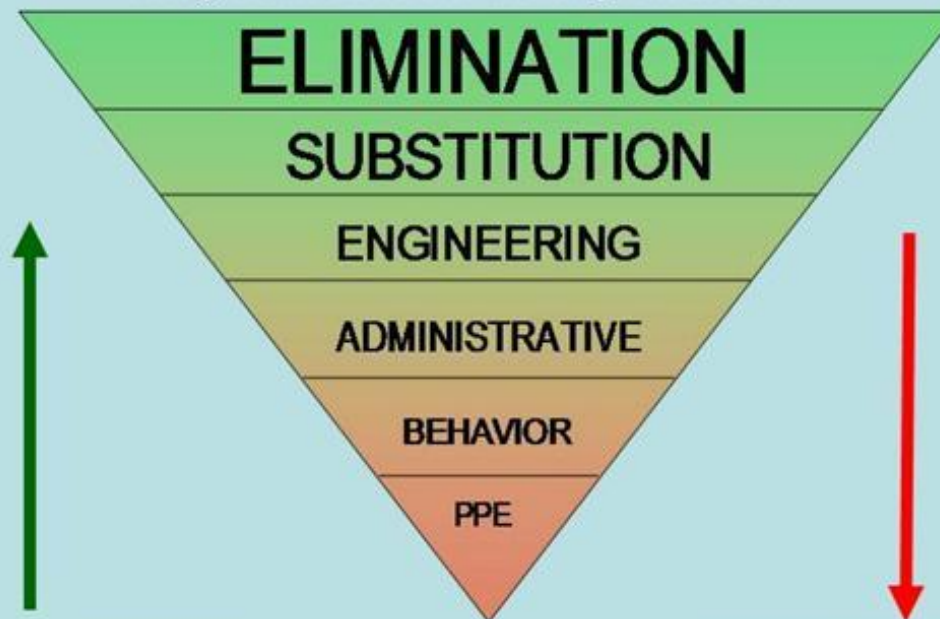
## RISK ASSESSMENT

- Every workplace (laboratories, offices, workshops, etc.) must ensure that there is a risk assessment in place
- For each identified risk, appropriate risk control measures must be selected and implemented to mitigate the residual risk to an acceptable level.
- The approved risk assessment must be recorded and communicated to all staff.
- Staff must read and familiarise themselves with the contents of the risk assessment.



## Hierarchy of Control

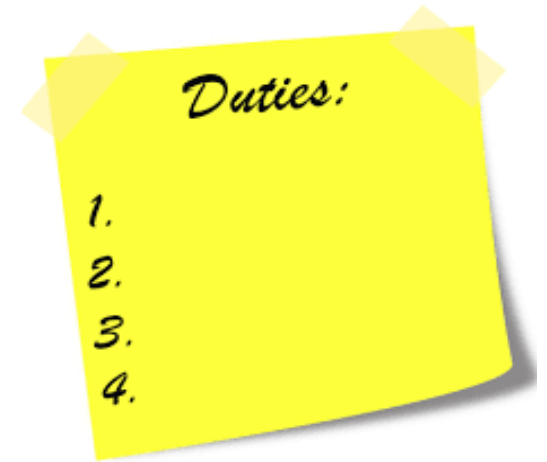
Apply the highest level of control commensurate with the risk level— lower value controls may be used in the interim until long-term controls are implemented.



Increasing  
effectiveness  
and sustainability

Increasing participation  
and supervision  
needed

## SECTION 14 – GENERAL DUTIES OF EMPLOYEES AT WORK



- Take reasonable care for the health and safety of himself and of others who may be affected by his acts or omissions;
- Carry out any lawful order and obey the health and safety rules and procedures laid down by his employer
- Report any situation which is unsafe or unhealthy to the employer or to the health and safety representative
- Report any incident which may affect his health or has caused an injury to himself
- Report such incident to his employer or to his health and safety representative no later than the end of the shift

## SECTION 16: CHIEF EXECUTIVE OFFICER CHARGED WITH CERTAIN DUTIES



- a) Every chief executive officer shall as far as is reasonably practicable ensure that the duties of his employer as contemplated in this Act, are properly discharged.

## SECTION 16: CHIEF EXECUTIVE OFFICER CHARGED WITH CERTAIN DUTIES

b. 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 act subject to the control and directions of the chief executive officer.



**Whilst a CEO can delegate duties, the CEO will remain responsible and be held accountable.**





## SECTION 17 – HEALTH AND SAFETY REPRESENTATIVES (HSR)



### WHO SHOULD HAVE HSR ?

- Employers who have **more than 20 employees** in his employment at any workplace must appoint a HSR.

### HOW MUST THIS APPOINTMENT BE MADE?

- This appointment must be **made in writing** for a specified period.

### WHO IS ELIGIBLE TO BE A HSR?

- Only employees employed in a **full time** capacity at a specific workplace are eligible to be appointed
- Only employees who are **acquainted** with conditions and activities at that workplace are eligible to be appointed.

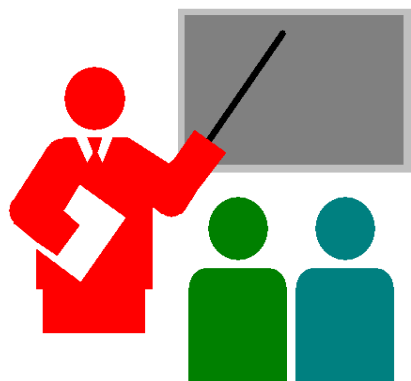
## SECTION 17 – HEALTH AND SAFETY REPRESENTATIVES (HSR)

### HOW MANY HSR SHOULD THERE BE?

- Shops and offices – 1 HSR for every 100 employees
- All other workplaces – 1 HSR for every 50 employees

### WHEN ARE ACTIVITIES CONDUCTED?

- Activities in connection with the designation, functions and training of HSR shall be performed during ordinary working hours.



## SECTION 18 – FUNCTIONS OF HEALTH AND SAFETY REPRESENTATIVES (HSR)

- Review the effectiveness of health and safety measures
- Identify potential hazards and potential major incidents
- Examine the causes of incidents at the workplace
- Investigate complaints by any employee
- Inspect the workplace
- Participate in consultations with inspectors
- Receive information from inspectors
- Attend meetings of the health and safety committee



## SECTION 19 – HEALTH AND SAFETY COMMITTEES (HSC)

### WHEN IS A HSC ESTABLISHED?

- If there are **2 or more HSRs** designated for a particular workplace, then a HSC must be established

### WHO ARE THE MEMBERS OF THE HSC?

- **All the HSRs** of that workplace are members of this HSC
- The person **nominated by an employer** on a HSC
- At least one **representative from management** with the authority to act on behalf of the employer
- An **advisory member/s** by reason of their particular knowledge of health and safety matters

### HOW OFTEN MUST HSC MEET?

- A minimum of **once every 3 months**

## SECTION 20 - FUNCTIONS OF HEALTH AND SAFETY COMMITTEES (HSC)

- Make recommendations to the employer regarding any matter affecting the health or safety of persons at work
- Discuss any incident at the workplace where a person was injured, became ill or died
- Keep a record of each recommendation made to an employer
- A health and safety committee or a member thereof shall not incur any civil liability



## SECTION 24: REPORT TO INSPECTOR REGARDING CERTAIN INCIDENTS

- Incidents occurring at work whereby a person dies, becomes unconscious, suffers a loss of a limb or part of a limb, suffer a permanent physical defect
- Any major incident occurs
- If the health or safety of any person was endangered where a dangerous substance was spilled, uncontrolled release of substance under pressure took place, failed machinery resulted in flying, falling or uncontrolled movement of objects



## GENERAL SAFETY REGULATIONS - 30 MAY 1986

- PERSONAL SAFETY EQUIPMENT AND FACILITIES - Provide, maintain, clean, training
- INTOXICATION - Do not permit entry
- ADMITTANCE OF PERSONS - Unauthorised access prohibited
- FIRST AID, EMERGENCY EQUIPMENT AND PROCEDURES - First aid kits, fire fighting equipment, eye wash stations, safety showers



## GENERAL ADMINISTRATIVE REGULATIONS - 25 JUNE 2003

- COPY OF THE ACT –available and accessible to employees
- REPORTING OF INCIDENTS AND OCCUPATIONAL DISEASES –  
WCL 2 Employers report of an Accident  
WCL 1 Employers report of an Occupational Disease
- RECORDING AND INVESTIGATION OF INCIDENTS – Protocol in place,  
written records, all incidents investigated.







Department of Labour

**REPUBLIC OF SOUTH AFRICA**

No. 130 of 1993: Compensation for Occupational Injuries and Diseases Act  
as amended by  
Compensation for Occupational Injuries and Diseases Amendment Act, No 61 of 1997

**ACT**

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 therewith.

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*(Afrikaans text signed by the Acting State President.)  
(Assented to 24 September 1993)*

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BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:-

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**CHAPTER I  
Interpretation of Act**

1. Definitions

**CHAPTER II  
Administration of act**

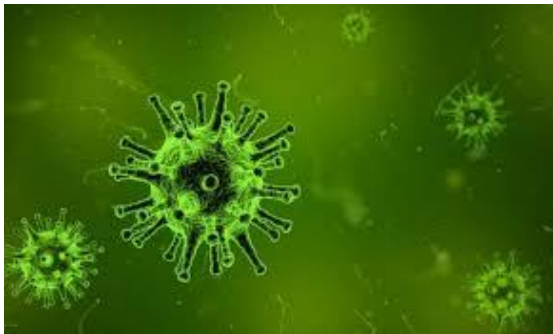
## FACILITIES REGULATION - 3 AUGUST 2004

- SANITATION – provide adequate facilities
- FACILITIES FOR SAFE KEEPING – lockers, etc.
- CHANGING ROOMS – separate for males and females
- DINING ROOMS – separate eating facilities
- PROHIBITION – eating, drinking etc. in hazardous workplaces
- DRINKING WATER – adequate supply of clean drinking water
- SEATS – Ergonomically sound seats with backrests
- CONDITION OF ROOMS AND FACILITIES -  
Maintain all rooms and facilities in a clean,  
hygienic, safe, whole and leak-free condition



## REGULATIONS FOR HAZARDOUS BIOLOGICAL AGENTS – 27 DECEMBER 2001

- HBA - Micro-organisms, including those that have been genetically modified, pathogens, cells, cell cultures and human endoparasites that have the potential to provoke an infection
- INFORMATION AND TRAINING – potential risks, safe working procedures, necessary precautions and procedure in case of exposure
- DUTIES OF PERSON WHO MIGHT BE EXPOSED TO HBA – wearing of PPE, reporting for medical examinations, reporting exposures, etc.
- RISK ASSESSMENT – Identify hazards and evaluate risks, review every two (2) years
- MEDICAL SURVEILLANCE – Provide to employees if results of risk assessment deem it necessary
- RECORDS – Keep for a minimum of 40 years



# NIOH WEBSITE

<http://www.nioh.ac.za/>

The screenshot shows a web browser window displaying the NIOH website. The browser's address bar shows the URL <http://www.nioh.ac.za/>. The website header is green and contains the text "Have any Questions? +27 11 712 6400 | info@nioh.ac.za" on the left and "Ask a Question? FAQs Staff Emails Dashboard Contact Us" on the right. The main content area features the NIOH logo, which includes a stylized map of South Africa and the text "NATIONAL INSTITUTE FOR OCCUPATIONAL HEALTH" and "Division of the National Health Laboratory Service". A search bar is located to the right of the logo. Below the logo is a navigation menu with the following items: Home, About Us, Specialised Services, Research, Teaching & Training, Publications, Newsroom, and Events. The main banner image shows a close-up of a coronavirus particle with the text "National Institute for Occupational Health (NIOH) COVID-19 Occupational Health and Safety Queries HOTLINE NUMBER : 0800 212175". At the bottom of the page, there is a section titled "EVENTS & NOTICES:" followed by the text "mation, situational reports and guidance for prevention. To access this information click here." and a link for "COVID-19 Fact Sheets for Workplace".

## ACKNOWLEDGMENTS

- NHLS Safety Health and Environment (SHE) Department
- NIOH Outbreak Response Team

*Thank  
you*





# NATIONAL INSTITUTE FOR OCCUPATIONAL HEALTH

Division of the National Health Laboratory Service



*Healthy, Safe, Happy & Sustainable Workplaces*

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