

BRANCH: INSPECTION AND ENFORCEMENT SERVICES
CHIEF DIRECTORATE: OCCUPATIONAL HEALTH & SAFETY
DIRECTORATE: OCCUPATIONAL HEALTH & HYGIENE

Regulatory Framework regarding Ergonomics in SA

2020.10.15



employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA



Working from Home

- Working from home is a working arrangement in which employees fulfil their job responsibilities while remaining at home
 - Temporary arrangement or
 - Permanent arrangement
- It requires a shared responsibility between employers and employees to ensure business continuity and employment

Occupational Health and Safety Act

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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.

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

Occupational Health and Safety Act

- Sectors excluded

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

- (a) 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;
- (b) 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, (Date of commencement of para. (b) to be proclaimed.) or in respect of any person present on or in any such mine, mining area, works, ship, boat or crane.

OHS Act Definitions

"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.

"reasonably practicable" means practicable having regard to-

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

DUTIES OF EMPLOYERS (SEC. 8)

- Every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risks (Section 8(1))
- Section 8(2) – specific provisions
 - Section 8(2)(d) – 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;

DUTIES OF EMPLOYERS (SEC. 8)

- Section 8(2)(e) –
 - 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;
- Section 8(2)(f) –
 - 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;

DUTIES OF EMPLOYEES AT WORK (SEC. 14)

- Take reasonable care of their own health and safety and of others who may be affected by their acts or omissions;
- Co-operate with the employer to enable him to comply with the Act;
- Carry out any lawful order, and obey the H&S rules;
- Report any unsafe situation to the employer or to the health and safety rep;

Ergonomics Regulations

4 No. 42894

GOVERNMENT GAZETTE, 6 DECEMBER 2019

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF LABOUR

NO. R. 1589

06 DECEMBER 2019

DEPARTMENT OF EMPLOYMENT AND LABOUR

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993

ERGONOMICS REGULATIONS, 2019

The Minister of Employment and Labour has, under section 43 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), after consultation with the Advisory Council for Occupational Health and Safety, made the regulations in the Schedule.

Ergonomics Regulations (2)

- Regulations includes the following;
 - Definitions
 - Scope of application
 - Information, instruction and training
 - Duties of persons who may be at risk of exposure to ergonomic risks
 - Duties of designers, manufacturers, importers and suppliers
 - Ergonomics risk assessment
 - Risk control
 - Medical surveillance
 - Maintenance of controls
 - Records
 - Technical committee
 - Offences and penalties

Scope of Application

These Regulations will apply to—

- (a) any employer or self-employed person who carries out work at a workplace, which may expose any person to ergonomic risks in that workplace; and
- (b) a designer, manufacturer, importer or supplier of machinery, plant or work systems for use at a workplace.

Ergonomics Risk Assessment

- Ergonomics Regulation 6 requires that an ergonomic risk assessment must be conducted
- May be difficult for an employer to conduct a risk assessment at an employee's home
- There are some risk control measures which the employer may be able to implement;

Hierarchy of Control

Elimination

?

Substitution

?

Engineering

?

Well designed and layout of work station

Administrative

?

Information, Instruction & Training; Risk Assessment; Limiting hours of Exposure

Personal Protective Equipment

?

- Employers should implement a combination of controls to reduce risk

Risk Control from Employer

- Work performed is safely performed from home
- Adjustments to task, ensure they are done safely
- Correct equipment and tools are available to employee
- Accountability for employer equipment and tool provided to employees
- Information, instruction and training and supervision is provided
- Reasonable accommodation for employees with disabilities
- Arrangements for employee's physical and mental welfare

Instruction, Information and Training...

(1) An employer must, after consultation with the health and safety committee, establish for all persons who may be affected or potentially exposed to ergonomic risks, a training programme that incorporates the following:

- (a) the content and scope of these Regulations;
- (b) the potential sources of exposure to ergonomic risks;
- (c) the nature of ergonomic risks;
- (d) the potential risk to health associated with ergonomic risks;
- (e) the control measures that are in place to prevent exposure to ergonomic risks;
- (f) the procedure for reporting ergonomic risks to the health and safety representative or employer;
- (g) the precautions to be taken by an employee to protect himself or herself against ergonomic risks; and
- (h) the assessment of exposure, the necessity for medical surveillance and the long-term benefits of undergoing such surveillance.

Duties of those at risk

Any person who is exposed or may be exposed to ergonomic risks must obey any lawful instruction given to him or her by the employer or self-employed person or by anyone authorised by the employer or self-employed person, regarding–

- (a) the use of measures adopted to control ergonomic risks;
- (b) cooperation with the employer in determining the employee's exposure to ergonomic risks;
- (c) the reporting of potential ergonomic risks to the health and safety representative or the employer;
- (d) reporting for medical surveillance as required by regulation 8; and
- (e) information, instruction and training received as contemplated in regulation 3.

Risk Control from Employee

- Comply with employers policy or guidelines and existing occupational health and safety legislation
- Take care of one's own safety, physical and mental well-being, including the reporting of any injuries sustained
- Restricting working hours to legislated working hours
- Fulfilling all normal duties or alternative duties which are assigned
- Balance between work/life
- Available during working hours
- Arrangements for children/dependants care
- Taking care of equipment and tools the employer provides

Maintenance of Controls

Every employer or self-employed person must, as far as is reasonably practicable, ensure that any control provided for the benefit of employees—

- (a) complies with these Regulations;
- (b) is fully and appropriately implemented; and
- (c) is maintained in good working order.

Conclusion

- Working from home is not a new concept, it is just more prominent now
- Employers to draft new or update existing policies for working from home, but keep in mind the requirements of legislation
 - Updating of existing documents to current situation – temporary or permanent
 - Not one approach for all employees or work
- Even more collaboration between the employer and employee

Take home message



*“Good Ergonomics
is
Good Economics”*

References

- Occupational Health and Safety Act, Act 85 of 1993, as amended
- Ergonomics Regulations, 2019
- International Labour Organization: An Employer Guide on Working from Home in response to the outbreak of COVID-19
- International Labour Organization: Work from Home: Human Factors/ergonomics considerations for teleworking



Thank You...