



NATIONAL HEALTH
LABORATORY SERVICE



LEGISLATED ROLES AND RESPONSIBILITIES OF EMPLOYERS

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DEPARTMENT

NIOH Webinar 15 April 2021

OCCUPATIONAL HEALTH AND SAFETY ACT 85 OF 1993

- The OHS Act 85 of 1993 came into effect on 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.

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

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.

APPLICATION OF THE OCCUPATIONAL HEALTH AND SAFETY ACT (ACT 85 OF 1993)

The Occupational Health and Safety Act applies to all employers and workers but not to :

- mines, mining areas or any mining works (as defined in the Minerals Act);
- load line ships, fishing boats, sealing boats, whaling boats (as defined in the Merchant Shipping Act)
- floating cranes; whether in or out of the water
- people in or on these areas or vessels.

WHAT IS MEANT BY REASONABLY PRACTICABLE?

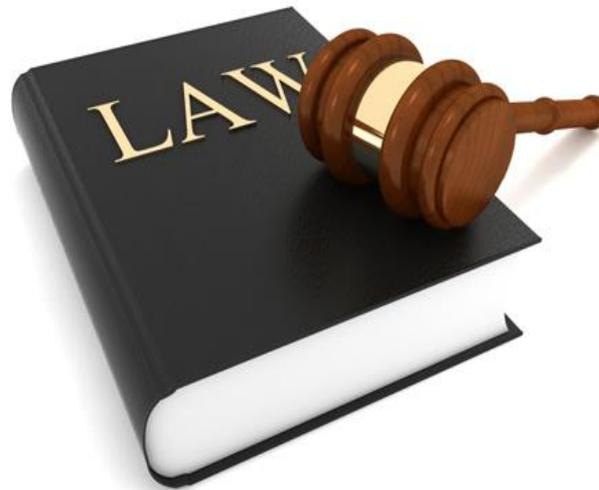


REASONABLY PRACTICABLE

"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 derived therefrom;

SECTIONS OF THE OHS ACT



IMPORTANT SECTIONS OF THE OHS ACT

Sections of the OHS Act most commonly applicable:

- 7 - H&S policy
- 8 - General duties of employers to their employees
- 14 - General duties of employees at work
- 16 - Chief executive officer charged with certain duties
- 17 - Health and Safety Representatives (HSR)
- 18 - Functions of HSR
- 19 - Health and Safety Committees (HSC)
- 20 - Functions of HSC
- 24 - Report to inspector regarding certain incidents

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 every 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





EMPLOYER



Duties:

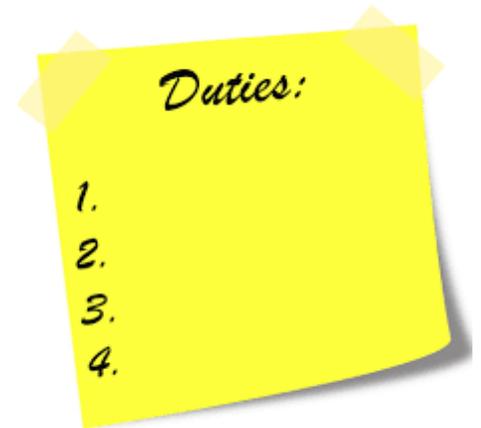


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SECTION 8 – GENERAL DUTIES OF EMPLOYERS TO THEIR EMPLOYEES

DUTIES INCLUDE:

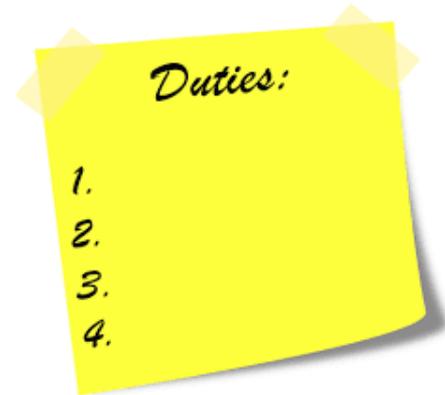
- a. The provision and maintenance of systems of work, plant and machinery that, as far as is reasonably practicable, are **safe** and without **risks** to **health**;
- b. Taking such steps as may be **reasonably practicable** to eliminate or mitigate any **hazard** or potential hazard to the **safety** or **health** of employees, before resorting to personal protective equipment;
- c. Making arrangements for ensuring, as far as is reasonably practicable, the **safety** and absence of **risks** to **health** in connection with the production, processing, use, handling, storage or transport of articles or substances;



SECTION 8 – GENERAL DUTIES OF EMPLOYERS TO THEIR EMPLOYEES

DUTIES CONTINUED.....

- 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;
- e. 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;



SECTION 8 – GENERAL DUTIES OF EMPLOYERS TO THEIR EMPLOYEES

DUTIES CONTINUED.....

- f. 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;
- g. 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:

- 1.
- 2.
- 3.
- 4.

SECTION 8 – GENERAL DUTIES OF EMPLOYERS TO THEIR EMPLOYEES

DUTIES CONTINUED.....

- h. 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
- i. Enforcing such **measures** as may be necessary in the interest of **health** and **safety**;
- j. 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

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.

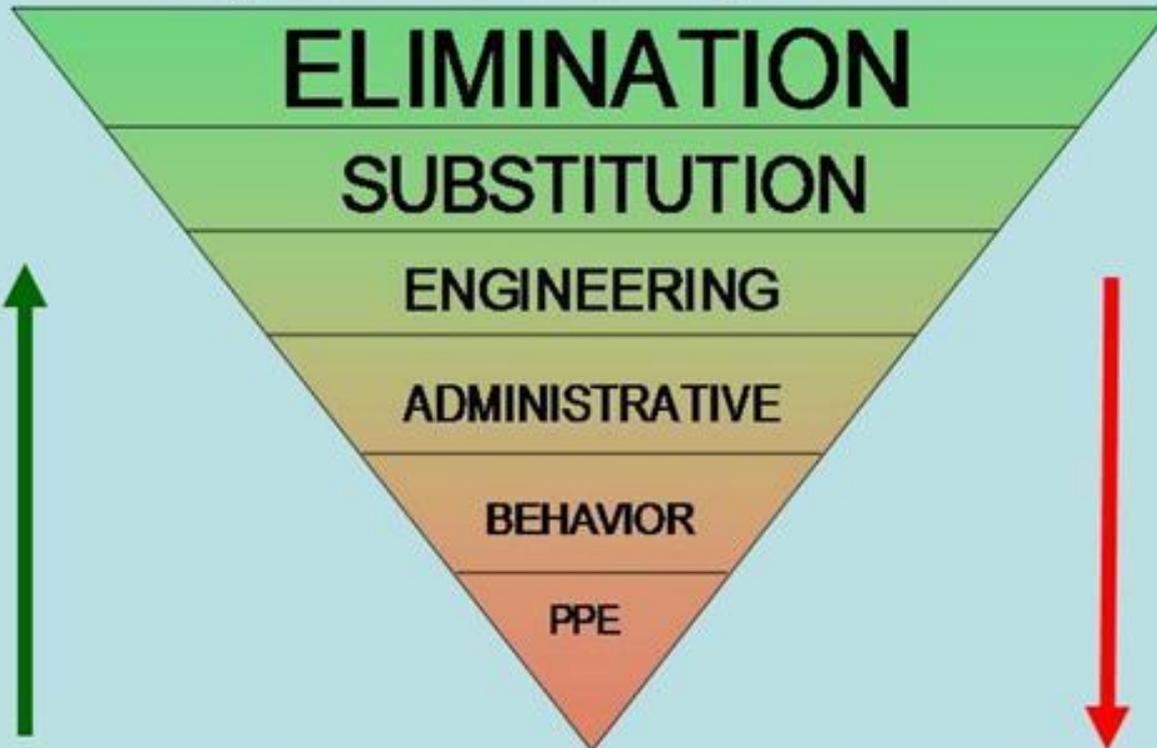


RISK ASSESSMENT

- Every workplace (hospitals, 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

EMPLOYEE

Duties:

- 1.
- 2.
- 3.
- 4.

SECTION 14 – GENERAL DUTIES OF EMPLOYEES AT WORK

- a. Take reasonable **care** for the **health** and **safety** of himself and of other persons who may be affected by his **acts or omissions**;

- b. 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;



EMPLOYEE

Duties:

- 1.
- 2.
- 3.
- 4.

SECTION 14 – GENERAL DUTIES OF EMPLOYEES AT WORK

c. 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 and safety;

d. 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 and safety representative**

EMPLOYEE



SECTION 14 – GENERAL DUTIES OF EMPLOYEES AT WORK

e. 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.

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

HOW OFTEN MUST HSC MEET?

- The committee shall hold meetings at least **once every 3 months**



SECTION 19 – HEALTH AND SAFETY COMMITTEES (HSC)

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
- Representative from a registered **trade union**
- An **advisory member/s** by reason of their particular knowledge of health and safety matters



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
- Where these recommendations fail to resolve the matter, make recommendations to an inspector
- 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



SECTION 24: REPORT TO INSPECTOR REGARDING CERTAIN INCIDENTS

- Incidents - 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 ADMINISTRATIVE REGULATIONS

25 June 2003

- COPY OF THE ACT – available and accessible to employees
- NEGOTIATIONS AND CONSULTATIONS BEFORE DESIGNATION OF HEALTH AND SAFETY REPRESENTATIVES – employer to meet with registered trade unions to consult or bargain
- 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.

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

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

TABLE OF CONTENTS

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 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



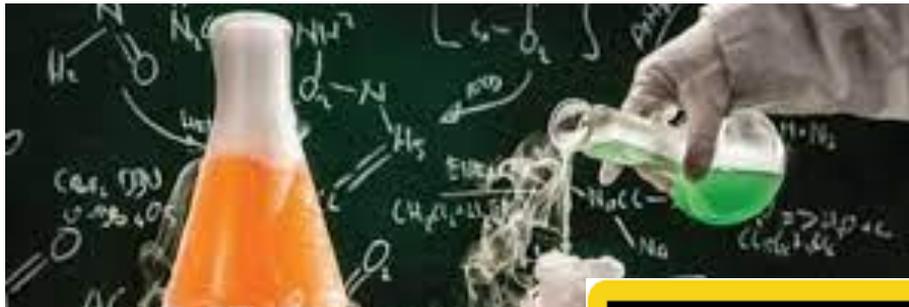
REGULATIONS FOR HAZARDOUS BIOLOGICAL AGENTS, 27 December 2001

- **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 2 years
- **MONITORING EXPOSURE AT THE WORKPLACE** – based on risk assessment
- **MEDICAL SURVEILLANCE** – If the results of risk assessment deem it necessary
- **RECORDS** – Keep for a minimum of 40 years
- **CONTROL OF EXPOSURE TO HBA**
- **PERSONAL PROTECTIVE EQUIPMENT AND FACILITIES**
- **LABELING, PACKAGING, TRANSPORT AND STORAGE**
- **DISPOSAL OF HBA**

HAZARDOUS CHEMICAL SUBSTANCES REGULATIONS

25 August 1995

HCS – Toxic, harmful, corrosive, irritant or asphyxiant substance or mixture of such substances for which an OEL is prescribed or an OEL is not prescribed but which creates a hazard to health



CAUTION
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HAZARDOUS CHEMICAL SUBSTANCES REGULATION, 25 August

1995

- INFORMATION AND TRAINING – potential risks, safe working procedures, necessary precautions and procedure in case of exposure
- DUTIES OF PERSON WHO MIGHT BE EXPOSED TO A HCS – wearing of PPE, reporting for medical examinations, reporting exposures, etc.
- ASSESSMENT OF POTENTIAL EXPOSURE– Assessment of exposure at intervals not exceeding 2 years
- AIR MONITORING – Measurement program of airborne concentrations is carried out by an approved inspection authority
- MEDICAL SURVEILLANCE – If the employee may be exposed to a substance
- RECORDS – Keep for a minimum of 30 years
- CONTROL OF EXPOSURE TO HCS
- PERSONAL PROTECTIVE EQUIPMENT AND FACILITIES
- LABELING, PACKAGING, TRANSPORT AND STORAGE
- DISPOSAL OF HCS

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National Institute for Occupational Health (NIOH)
COVID-19 Occupational Health and Safety Queries
HOTLINE NUMBER : 0800 212175

EVENTS & NOTICES: Information, situational reports and guidance for prevention. To access this information click here.

[COVID-19 Fact Sheets for Workplace](#)

ACKNOWLEDGMENTS

- NHLS Safety Health and Environment (SHE) Department

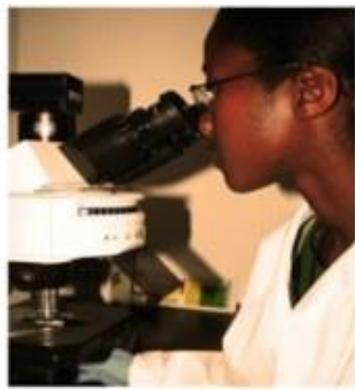
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you*





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