

**DEPARTMENT OF LABOUR
DEPARTEMENT VAN ARBEID**

No. R. 720

10 August 2001

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT NO. 85 OF 1993)

DRAFT GENERAL ADMINISTRATIVE REGULATIONS

The Minister of Labour intends, in terms of section 43 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), on the recommendation of the Advisory Council for Occupational Health and Safety, to make the regulations in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed regulations to the Director General of Labour, private Bag X117, Pretoria, 0001 (for the attention of the Chief Director: Occupational Health and Safety), within 90 days of the date of publication of this notice.

SCHEDULE

Definition

1. In these regulations "the Act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), and any expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates—

"CCMA" or "Commission for Conciliation, Mediation and Arbitration" means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the Labour Relations Act;

"collective agreement" for the purpose of these regulations, means the collective agreement as defined in the Labour Relations Act, (Act No 66. of 1995) and includes the items in paragraph 5(1)(a) to (e)

"Compensation Commissioner" means the Compensation Commissioner appointed under section 2 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);

"Compensation for Occupational Injuries and Diseases Act" means the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993).

"Labour Court" means the Labour Court established by section 152 of the Labour Relations Act;

"Labour Relations Act" means the Labour Relations Act, 1995 (Act No. 66 of 1995);

"provincial director", in respect of the—

- (a) Province of Eastern Cape means the Provincial Director: Eastern Cape, Department of Labour, Private Bag X9005, East London, 5200;

- (b) Province of Free State means the Provincial Director: Free State, Department of Labour, P O Box 522, Bloemfontein, 9300;
- (c) Province of Gauteng the Magisterial Districts of:
Benoni, Bronkhorstspuit, Cullinan, Krugersdorp, Nigel, Pretoria, Randfontein, Soshanguve 1, Soshanguve 2, Springs and Wonderboom, means the Provincial Director: Gauteng North, Department of Labour, P O Box 393, Pretoria, 0001;
Alberton, Boksburg, Brakpan, Germiston, Heidelberg, Johannesburg, Kemptonpark, Oberholzer, Randburg, Roodepoort, Vanderbijlpark, Vereeniging and Westonaria, means the Provincial Director: Gauteng South, Department of Labour, P O Box 4560, Johannesburg, 2000;
- (d) Province of Kwazulu/Natal means the Provincial Director: Kwazulu/Natal, Department of Labour, P O Box 940, Durban, 4000;
- (e) Province of Mpumalanga means the Provincial Director: Mpumalanga, Department of Labour, Private Bag X7263, Witbank, 1035;
- (f) the Province of Northern Cape means the Provincial Director: Northern Cape, Department of Labour, Private Bag X5102, Kimberley, 8300;
- (g) Northern Province means the Provincial Director: Northern Province, Department of Labour, Division: Occupational Health and Safety, Private Bag X9368, Pietersburg, 0700;
- (h) Province of North-West means the Provincial Director: North-West, Department of Labour, Private Bag X1, Buhrmansdrif, 2867;
- (i) Province of Western Cape means the Provincial Director: Western Cape, Department of Labour, P O Box 872, Cape Town, 8000;

“registered trade union for a workplace” means a trade union registered in terms of the Labour Relations Act and with members in that workplace;

“WCL” means prescribed forms as published in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993); and **“WCL 1”**, **“WCL 2”** and **“WCL 22”** have a corresponding meaning.

Exemption

2 A certificate of exemption issued in terms of section 40 of the Act shall be signed by the chief inspector or by an officer acting in his or her stead.

Copy of the Act

3 Every employer with five or more persons in his or her 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.

Health and safety committee

4 Where a health and safety committee has been established in terms of section 19 of the Act, an employer shall—

- (a) make a suitable meeting place available to a health and safety committee;
- (b) endorse the record as contemplated in section 20(2) of the Act or cause such record to be endorsed by a person designated by him or her; and
- (c) ensure that the records as contemplated in paragraph (b) are kept for a period of at least three years.

Negotiations and consultations before designation of health and safety representatives

5(1) The employer in any workplace where there must be a health and safety representative in terms of section 17(1) of the Act shall meet, within four months after the commencement of these regulations or after commencing business, with the registered trade unions of that workplace, to enter into negotiations to conclude a collective agreement concerning the—

- (a) nomination or election of health and safety representatives;
- (b) terms of office of health and safety representatives and the circumstances and the manner in which they may be removed as health and safety representatives;
- (c) manner in which vacancies are to be filled;
- (d) manner in which health and safety representatives must perform their functions in terms of the Act; and
- (e) facilities, training and assistance that must be provided to a health and safety representative in terms of section 18(3) of the Act.

Provided that where there is no registered trade union, the employer shall enter into negotiations with all employees in that workplace to conclude a collective agreement with regard to paragraph (a) to (e).

(2) A collective agreement referred to in subregulation (1) may include two or more employers as parties to the agreement.

(3) The provisions applicable to collective agreements in terms of the Labour Relations Act, read with the changes required by the context, shall apply to agreements concluded in terms of subregulation (1).

(4) A dispute shall exist if no collective agreement in terms of subregulation (1) is concluded on the arrangement and procedures for the nomination or the election of health and safety representatives at a workplace.

(5) When a dispute exists in terms of subregulation (4), any party to the dispute may refer it to the CCMA.

(6) When a dispute is referred to the CCMA under subregulation (5), the CCMA shall attempt to resolve it through conciliation

(7) If a dispute remains unresolved, any party to the dispute may request that it be resolved through arbitration, in which case the CCMA, taking into account the objectives of the Act and the proposals of the parties, shall determine the arrangement and procedures for the nomination or the election of the health and safety representatives.

Designation of health and safety representatives

6(1) The employer shall designate in writing for a specified period, health and safety representatives for such workplace or for different sections thereof in accordance with the collective agreement; so that no health and safety representative in the case of—

- (a) shops and offices is responsible for more than 100 employees; and
- (b) workplaces other than shops and offices is responsible for more than 50 employees.

(2) The employer shall ensure that employees designated as health and safety representatives meet the following requirements:

- (a) employed in a full-time capacity in the specific workplace or section thereof;
- (b) acquainted with conditions and activities at that workplace or section thereof, and

(3) Taking into account the nature of hazards associated with the activities of the workplace or section thereof, the employer shall provide as far as is reasonable practicable health and safety training to the health and safety representatives on how to identify health and safety risks and how to conduct inspections of the workplace or section 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.

Reporting of incidents and occupational diseases

7 (1) Any employer or user, as the case may be, shall—

- (a) within seven days of any incident referred to in section 24(1)(a) of the Act, give notice thereof to the provincial director in the form of WCL1 or WCL2; and
- (b) where a person in consequence of such an incident 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 or she is likely either to die or to suffer a permanent physical defect, such incident including any other incident as contemplated in section 24(1)(b) and (c) of the Act, shall forthwith also be reported to the provincial director by telephone, facsimile or similar means of communication.

(2) When an injured person dies as a result of his injuries after notice of the incident in which he was injured has been given in terms of subregulation (1), the employer or user as the case may be, shall forthwith notify the provincial director of his or her death.

(3) Whenever an incident arising out of or in connection with the activities of persons at work, occur to persons other than persons at work, the user or employer or self employed person as the case may be, shall forthwith notify the provincial director by facsimile or similar means of communication to the—

- (a) name of the injured person;
- (b) address of the injured person;
- (c) name of the user/employer;
- (d) address of the user/employer;
- (e) telephone number of the user/employer;
- (f) name of contact person;
- (g) details of incident:
 - what happened;
 - where it happened (place);
 - when it happened (date and time);
 - how it happened;
 - why it happened; and
- (h) names of witnesses.

(4) Any registered medical practitioner shall within 14 days of the examination or treatment of a person for a disease as contemplated in section 25 of the Act, give notice thereof to the Chief Inspector and the employer in the form of WCL 22.

(5) A registered nurse or any other person may in writing give notice of any disease as contemplated in subregulation (4), to the employer and Chief Inspector.

Recording and investigation of incidents

8(1) Every employer or user shall keep at a workplace or section of a workplace, as the case may be, a record in the form of annexure 2 for a period of at least three years, which shall be open for inspection by an inspector, of all incidents which he or she is required to report in terms of section 24 of the Act and also of any other incident which resulted in the person concerned having had to receive medical treatment other than first aid.

(2) An employer or user shall cause every incident which must be recorded in terms of subregulation (1) to be investigated by the employer self or a person designated by him or her or by a health and safety representative or a member of a health and safety committee within three days or within the contracted period in the case of contracted workers, and the employer or user shall cause the findings of such a person to be entered in such record.

(3) An employer shall cause such record to be examined by the health and safety committee for that workplace or section of the workplace at its next meeting and shall ensure that the chairperson of the health and safety committee endorses the record to the effect that it has been seen and that the necessary actions have been implemented and followed up: Provided that the employer shall also endorse the said record to such effects.

Witness at an inquiry

9(1) When an inspector is directed to hold a formal inquiry into an incident in terms of section 32(1) of the Act, he or she shall notify the employer or user concerned, as the case may be, of the date, time and place of such inquiry.

(2) The employer or user shall forthwith advise in writing those persons who witnessed the incident and any other person specified by the inspector, of such date, time and place, and that their presence shall be required at the inquiry.

(3) The employer or user concerned, as the case may be, shall ascertain which of the persons he or she has advised in terms of subregulation (1) are likely to refuse to attend the inquiry, and shall forthwith advise the inspector of the names and addresses of such persons in order that the inspector can subpoena such persons.

(4) The subpoena issued in terms of section 32(2) of the Act shall be in the form of Annexure 1: Provided that when a subpoena is served personally on a person, the service of such notice may be effected by any person authorised thereto by the inspector who has signed it.

Returns

10 An employer or a user, as the case may be, shall on demand furnish the inspector with such returns as may be required for the purpose of the administration of the Act.

Offences and penalties

11 Any person who-

- (a) contravenes or fails to comply with any provision of regulation 3, 4, 5(1), 6(1), 6(2), 6(3), 7(1), 7(2), 7(3), 8(1), 8(2), 8(3), 9(2), 9(3),
- (b) fails to furnish a return required in terms of regulation 10,

Shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months and, in the case of a continuous offence, to an additional fine of R200 for each day on which the offence continues or to additional imprisonment of one day for each day on which the offence continues. Provided that the period of such additional imprisonment shall in no case exceed 90 days.

Repeal of regulations

12 The General Administrative Regulations, published under Government Notice No R1449 of 6 September 1996, are hereby repealed.

Short title

13 These regulations shall be called the General Administrative Regulations, 2001.

ANNEXURE 1

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993

(ACT NO 85 OF 1993)

REGULATION 9 OF THE GENERAL ADMINISTRATIVE REGULATIONS:

ANNEXURE 1

SUBPOENA TO ATTEND INQUIRY

To
.....(Name and address of witness)
.....

In terms of section 32(2) of the Occupational Health and Safety Act, 1993, you are hereby subpoenaed to appear before me in person at

..... (address)

on (Date) at the hour of (time) to

give evidence regarding

.....

and to bring with you and there and then produce to me those books, writing and/or things specified hereunder:

1.....
.....

2.....
.....

3.....
.....

.....

Office Stamp

Signature of inspector

Warning: Failure to obey this subpoena renders you liable to prosecution.

FOR OFFICIAL PURPOSES ONLY

I, the undersigned, certify that I have served this subpoena upon the within named person by-

(a) delivering a true copy to him/her PERSONALLY
(b) delivering as he/she could not be found, a true copy to..... a person apparently over the age of 16 years and apparently residing or employed at the witness's place of RESIDENCE/EMPLOYMENT/BUSINESS;

atTime

..... Day..... Month

200.....

Place Signature of empowered officer.....

Signature of recipient.....Full name.....

Full

name.....Capacity.....

Capacity/relationship to the witness.....

ANNEXURE 2

**OCCUPATIONAL HEALTH AND SAFETY ACT, 1993
(ACT NO 85 OF 1993)**

REGULATION 8 OF THE GENERAL ADMINISTRATIVE REGULATIONS

RECORDING AND INVESTIGATION OF INCIDENTS

A. RECORDING OF INCIDENT

1. Name of employer
.....
.....

2. Name of affected person.....
.....

3. Identity number of affected person.....
.....

4. Date of incident 4. Time of incident

5. Part of body affected	Head or Neck	Eye	Trunk	Finger	Hand
	Arm	Foot	Leg	Internal	Multiple

6. Effect on person	Sprains or strains	Contusion or wounds	Fractures	Burns	Amputation
	Electric shock	Asphyxiation	Unconsciousness	Poisoning	Occupat. Disease

7. Expected period of disablement	0-13 days	2-4 weeks	>4-16 weeks	>16-52 weeks	>52 weeks or permanent disablement	Killed

8. Description of Occupational disease.....
.....

9. Machine/process involved/type of work performed/exposure**

.....
.....
.....

10. Was the incident reported to the Compensation Commissioner or Provincial Director?

Yes No

11. Was the incident reported to the police?*

Yes No

12. SAPS office and reference number

.....

* to be completed in case of a fatal incident.

** in case of a hazardous chemical substance, indicate substance exposed to

B. INVESTIGATION OF THE ABOVE INCIDENT BY A PERSON DESIGNATED THERETO

1. Name of investigator 2.
Date of investigation

3. Designation of investigator

.....
.....

4. Short description of incident

.....
.....

5. Suspected cause of incident

.....
.....
.....

6. Recommended steps to prevent a recurrence

.....
.....
.....

Signature of investigatorDate

.....

C. ACTION TAKEN BY EMPLOYER TO PREVENT THE RECURRENCE OF A SIMILAR INCIDENT

.....
.....
.....

Signature of employer

.....Date

D. REMARKS BY HEALTH AND SAFETY COMMITTEE

Remarks

.....
.....
.....
.....

Signature of chairman of health and safety
committee.....

.....

Changed 27/06/2001