



Employer Contractor
Health & Safety
Management
Programme
The 'WHAT to Do' Guide



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Table of Contents

INTRODUCTION TO SAFETYWALLET	6
1. VISION AND MISSION	7
2. VALUES	7
2.1 TOGETHER WE ARE FIRM BELIEVERS IN WHY WE DO WHAT WE DO AND WE DO IT WITH EXCITEMENT!	7
2.2 INSPIRE TODAY, INNOVATE FOR TOMORROW, MOTIVATE ALWAYS	8
2.3 WE BUILD RELATIONSHIPS ON A STRONG FOUNDATION OF TRUST WITH HONESTY, CREDIBILITY AND INTEGRITY IN ALL OUR UNDERTAKINGS	9
2.4 WE LOVE SUPPORTING PEOPLE WITH COMPASSION AND ENTHUSIASM	9
2.5 TOGETHER WE ARE COMMITTED TO SUPPORT ONE ANOTHER TO ACHIEVE OUR PURPOSE WITH CONFIDENCE	10
2.6 BY UNDERSTANDING AND RESPECTING EACH OTHER, WE CAN BE FLEXIBLE AND OPEN IN ACHIEVING OUR PURPOSE	11
2.7 WE ARE MINDFUL AND DILIGENT IN EVERYTHING WE DO, TO ENSURE THE BEST POSSIBLE OUTCOME	12
THE EMPLOYER CONTRACTOR'S 'WHAT TO DO' GUIDE OF HEALTH AND SAFETY IN SOUTH AFRICA	14
1. WELCOME AND CONTEXTUALISATION	15
2. INTRODUCTION TO THE EMPLOYER CONTRACTOR HEALTH AND SAFETY MANAGEMENT PROGRAMME	15
3. STRUCTURE OF THIS GUIDE	16
COMPLIANCE REQUIREMENTS FOR EMPLOYER CONTRACTORS	18
1. INTRODUCTION	19
2. UNDERSTANDING WHAT CONSTITUTES SAFETY	20
2.1 TYPES OF SAFETY	22
3. EMPLOYER CONTRACTOR REQUIREMENTS AS AN EMPLOYER	23
3.1 SECTION 8: GENERAL DUTIES OF EMPLOYERS TO THEIR EMPLOYEES	23
3.2 SECTION 9: GENERAL DUTIES OF EMPLOYERS AND SELF-EMPLOYED PERSONS TO PERSONS OTHER THAN THEIR EMPLOYEES	24
3.3 SECTION 12: GENERAL DUTIES OF EMPLOYERS REGARDING LISTED WORK	25
3.4 SECTION 13: DUTY TO INFORM	25
3.5 SECTION 17: HEALTH AND SAFETY REPRESENTATIVES	26
3.6 SECTION 19: HEALTH AND SAFETY COMMITTEES	28
3.7 SECTION 23: CERTAIN DEDUCTIONS PROHIBITED	30
3.8 SECTION 24: REPORT TO INSPECTOR REGARDING CERTAIN INCIDENTS	30
3.9 SECTION 26: VICTIMISATION FORBIDDEN	32

3.10 OTHER IMPORTANT ASPECTS IN TERMS OF THE OHS AMENDMENT ACT, 2019	33
4. EMPLOYER CONTRACTOR REQUIREMENTS AS A CONTRACTOR	33
4.1 SECTION 10: GENERAL DUTIES OF MANUFACTURERS AND OTHERS REGARDING ARTICLES AND SUBSTANCES FOR USE AT WORK	34
4.2 SECTION 22: SALE OF CERTAIN ARTICLES PROHIBITED	35
ACCOUNTABILITY, RESPONSIBILITY AND AUTHORITY	36
1. ACCOUNTABILITY, RESPONSIBILITY AND AUTHORITY	37
1.1 SECTION 14: GENERAL DUTIES OF EMPLOYEES AT WORK	37
1.2 SECTION 16: CHIEF EXECUTIVE OFFICER CHARGED WITH CERTAIN DUTIES	38
1.3 SECTION 18: FUNCTIONS OF HEALTH AND SAFETY REPRESENTATIVES	38
1.4 SECTION 20: FUNCTIONS OF HEALTH AND SAFETY COMMITTEES	41
1.5 SECTION 25: REPORT TO CHIEF INSPECTOR REGARDING OCCUPATIONAL DISEASE	43
1.6 SECTION 29: FUNCTIONS OF INSPECTORS	43
1.7 SECTION 30: SPECIAL POWERS OF INSPECTORS	45
THE IMPORTANCE OF COMPLIANCE	48
1. THE IMPORTANCE OF COMPLYING WITH THE OHS AMENDMENT ACT, 2019	49
1.1 SECTION 40: ADMINISTRATIVE FINES	49
1.1.1 SCHEDULE 2: ADMINISTRATIVE FINES	49
1.2 SECTION 41: CRIMINAL LIABILITY	50
1.3 SECTION 42: HINDERING OF ADMINISTRATION OF JUSTICE	50
1.4 SECTION 45: FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ACT	51
1.5 SECTION 46: PENALTIES	53
1.5.1 SCHEDULE 1: MAXIMUM FINES OR PERIOD OF IMPRISONMENT THAT CAN BE IMPOSED FOR OFFENCES	53
ADDENDUM 1: IMPORTANT DEFINITIONS	54
LIST OF FIGURES	
Figure 1: Programme Structure	16
Figure 2: Attributes of the Employer Contractor	19
Figure 3 : Concepts Relating to the State of Being 'Safe'	21
LIST OF TABLES	
Table 1: Schedule 2 - Administrative Fines	49
Table 2: Schedule 1 - Maximum Fines or Period of Imprisonment that can be Imposed for Offences	53
Table 3: Terms and Definitions	54



Our purpose - We believe in making sure your loved ones return home **healthy** and **safe** after work.



INTRODUCTION TO **SAFETYWALLET**



1. VISION AND MISSION

Vision

We are committed to cultivating a workplace where health and safety behaviour is positively influenced on a continual basis.

Mission

To consistently:

WOW subscribers' Health and Safety expectations through service delivery by using innovative technology and Supporting subscribers by developing, resolving, and

Implementing solutions through our partners, thus enabling maximisation of compliance while consistently being rewarded.

2. VALUES

2.1 TOGETHER WE ARE FIRM BELIEVERS IN WHY WE DO WHAT WE DO AND WE DO IT WITH EXCITEMENT!

You, and your employees are our primary concern. Your health and safety and the knowledge that with the correct application of health and safety concerns, you may return home safe after work, is what gives us purpose.

Having a positive health and safety experience and culture is critical towards keeping people safe from harm, and we are dedicated to cultivating this with you. Health and Safety is about preserving and saving lives and we understand the amount of passion that it takes to live this purpose with our subscribers every day. No employer will accept average services or support in an industry that looks after their most important assets, their employees, and we at SafetyWallet with our partners, are all committed to deliver a WOW experience to every subscriber in this regard.

Every person and stakeholder in the scope of Health and Safety is important and is therefore part of our scope of creating the best possible experience and a WOW for them during the process of fulfilling our purpose.

Every SafetyWallet subscriber deserves to be WOW'ed because every subscriber and their employees are people who deserve to go home safe after work. We strive to achieve this by using innovative technology and supporting subscribers by developing, resolving, and implementing solutions through our partners thus, enabling maximisation of compliance while consistently rewarding the subscriber.

Questions we ask ourselves daily:

1. Have we set goals to WOW our subscribers in achieving our purpose?
2. Are we fully focused on what we are doing to achieve excellence in each task to serve our purpose?
3. Do we seek an opportunity in every interaction with our subscribers to serve our purpose?
4. How did we bring WOW to our subscribers today?

Characteristics that we collectively display through our behaviour, on a daily basis:

PURPOSEFULNESS

The quality of knowing what you intend to do, or behaviour that shows this.

CERTITUDE

The state of being certain or confident.

ZEAL

Great enthusiasm or eagerness.

FAITH

Great trust or confidence in something or someone.

2.2 INSPIRE TODAY, INNOVATE FOR TOMORROW, MOTIVATE ALWAYS

Any health and safety programme requires innovation and the right motivation and we believe in igniting the inspiration for our subscribers to have their health and safety programmes achieve their full potential.

The journey towards building effective health and safety programmes requires achievable and realistic objectives. Together with our partners we will support you in setting these goals and reaching them, ultimately, to ensure that every one of the employees can return home safe after work.

Life is a complex, ever-changing mix of challenges and opportunities and we strive to build the bridges required between you (our subscriber), and our partners to overcome the challenges faced, and create new opportunities for your health and safety programme.

Questions we ask ourselves daily:

1. Have we encouraged our subscribers to keep moving forward with their health and safety programme today?
2. If challenges are prevalent, are we working on creative and innovative ways to bridge these challenges with our subscribers?
3. Are we consistently monitoring the progress of our subscribers in working with them towards their goals?

Characteristics that we collectively display through our behaviour, on a daily basis:

Inspiration

Reaching out to clients and co-workers with compassion.

Innovation

The confidence to take on big, ambitious goals and take risks.

Motivation

The motivation to identify where things can be improved and then act on it.



2.3 WE BUILD RELATIONSHIPS ON A STRONG FOUNDATION OF TRUST WITH HONESTY, CREDIBILITY AND INTEGRITY IN ALL OUR UNDERTAKINGS

Health and Safety is an industry where lives and livelihoods are at stake. We therefore understand that practicing and applying honesty, credibility and integrity is at the forefront of our subscribers' needs when services and support must be provided.

Trust is earned, and as such we understand that earning the trust of you (our subscriber) is the start of building an enduring relationship which requires us to keep our promises to you.

An effective health and safety programme and/or solution in the workplace requires a dedicated team of persons within your network that you can not only trust, but who are willing to build connections for you, to further your health and safety undertakings.

Questions we ask ourselves daily:

1. Are we delivering on the promises we make to our subscribers?
2. Are we being consistent in building relationships with our subscribers?
3. Are integrity and honesty at the forefront of all our dealings with our team-mates and subscribers?

Characteristics that we collectively display through our behaviour:

Integrity

We always practice the quality of being honest and having strong moral principles.

Sincerity

We constantly give people compliments that reflect our true inner feelings, performing acts of kindness without expecting anything in return and maintaining the same personality when alone or in the presence of others.

Honesty

We practice the quality of being truthful as honesty is telling the truth even after doing something wrong.

2.4 WE LOVE SUPPORTING PEOPLE WITH COMPASSION AND ENTHUSIASM

You require great support and services and we love providing them with compassion and enthusiasm.

Having a shared vision in terms of where your health and safety programme can go, is important both for goal setting, as well as for achieving such goals. We would like to share in your vision, as well as share ours, with you, so we may support each vision enthusiastically and passionately, continually.

Creating and showing value to you (our subscriber) is a must in what we do. Why? Because we value you and your employees.

Questions we ask ourselves daily:

1. Are we doing our best to support our subscribers with compassion and enthusiasm right now?
2. What are we doing to share our vision and purpose with our subscribers to instil the same values with them?
3. Is the value we are giving our subscribers the best value possible? How can we improve on it?

Characteristics that we collectively display through our behaviour, on a daily basis:

Appreciation

We recognise and enjoy the good qualities of people and things.

Gratitude

We express gratitude and readiness to show appreciation for and to return kindness.

Loyalty

We express a strong feeling of support or allegiance.

Passion

We have confidence in our judgments and decisions.

Devotion

We are devoted to the use of time, money and energy with love.

Caring

We always display kindness and concern for others.

2.5 TOGETHER WE ARE COMMITTED TO SUPPORT ONE ANOTHER TO ACHIEVE OUR PURPOSE WITH CONFIDENCE

All the time, any time we are committed to supporting our subscribers and each other.

Developing, resolving and implementing solutions tailored for each unique subscriber need, is a key component towards adding value to our subscribers and we believe in doing this consistently.

Shifting a culture towards health and safety takes perseverance and commitment, be that person! At SafetyWallet we understand the challenges companies face with regards to having their employees understand and live the values needed towards a safe work environment. We are therefore committed to be that agent for change, to assist our subscribers in shifting the culture in the right and safe direction for their organisation. Every stakeholder at SafetyWallet is willing and able to assist with this and we promise to never give up in finding ways to make these vital changes with our subscribers.

Health and Safety does not come without its challenges and having partners that are resilient and willing to weather the storms with you makes a world of difference. We are that partner for you and your employees alike.



Questions we ask ourselves daily:

1. Are we doing the best in our ability to support our subscribers?
2. Are we being consistent in developing, resolving and implementing solutions for our subscribers?
3. Are we acting as agents for change towards a positive health and safety culture with our subscribers?
4. Are we acting in our subscriber's best interest always with regards to overcoming the health and safety challenges they face?

Characteristics that we collectively display through our behaviour, on a daily basis:

Confidence:

We believe that we can have faith in or rely on people.

Resilience

We have the capacity to recover quickly from difficulties.

Determination

We will succeed because of our sheer grit and determination.

2.6 BY UNDERSTANDING AND RESPECTING EACH OTHER, WE CAN BE FLEXIBLE AND OPEN IN ACHIEVING OUR PURPOSE

Respect creates long lasting relationships with any journey with SafetyWallet, inside the office and in the field. As such we understand the value of respect towards our subscribers, partners and in our teams, to build the best possible relationships.

Having partners that understand your needs and challenges is vital to creating the required solutions to move your health and safety forward. We treat our subscribers with honesty, dignity, empathy, understanding and friendliness. The consideration of your needs is of utmost importance always.

Knowing that you (our subscriber) and your health and safety programme, relies on taking hands with partners and people who are flexible in listening to your needs, and adjusting to them accordingly, we strive towards taking hands with you and being flexible to what you want, to achieve the goals you need.

Questions we ask ourselves daily:

1. Are we motivating others (our team members and our partners) to join in and be part of a health and safety culture that brings about a safe workplace for our subscribers?
2. Are we always considerate, honest, empathetic and understanding towards our subscribers' needs?
3. Are we applying a flexible approach in listening to our subscriber's needs and searching for the best possible solution in supporting them to build on our relationship further?

Characteristics that we collectively display through our behaviour, on a daily basis:

Consideration

We always consider people and their feelings or situations before speaking or acting.

Dignity

In all aspects of daily life, including respect, privacy, autonomy and self-worth.

Humanity

We constantly practice the quality of being humane to all people.

Thoughtfulness

We will always have consideration for the needs of other people.

Understanding

We are always sympathetically aware of other people's feelings; tolerant and forgiving.

2.7 WE ARE MINDFUL AND DILIGENT IN EVERYTHING WE DO, TO ENSURE THE BEST POSSIBLE OUTCOME

Being mindful towards your needs, and diligent in delivering on them, is critical to building a successful relationship with you (our subscriber).

To have requests delivered on with care, clarity, purpose and passion makes a major difference in the world of Health and Safety. Understanding that this is what you require, we are committed to continually provide this to you.

Getting fit-for-purpose results, which are thought through and speaks to the heart of the challenge, is one of the most important aspects in improving one's health and safety programmes and culture and together with our subscribers, we strive to deliver such results continuously.

Questions we ask ourselves daily:

1. Are we fully focused on what we are doing to achieve excellence in each task to serve our purpose?
2. Do we seek an opportunity in every interaction with our subscribers to serve our purpose?
3. Do we cultivate a habit of excellence and efficiency in order to meet the best possible standards for our subscribers?

Characteristics that we collectively display through our behaviour, on a daily basis:

Diligence

Self-motivation and perseverance without complaining.

Efficiency

Working the best way we can.

Excellence

Communicate the right thing at the right time.

Composure

Responding decisively.

Professionalism

Behave morally and ethically.



THE EMPLOYER CONTRACTOR'S **'WHAT TO DO'** GUIDE OF **HEALTH & SAFETY IN SOUTH AFRICA**

This guide focuses on addressing the WHAT, the WHO, and the WHY of complying with health & safety legislation in South Africa.

1. WELCOME AND CONTEXTUALISATION

Welcome, and thank you for registering for this electronic publication based on Employer Contractor Health and Safety Management.

The questions that an Employer Contractor should ask him or herself continuously in terms of health and safety issues, are the following:

- WHAT are the requirements for the Employer Contractor? This includes requirements for on-and-off-site work.
- WHO is accountable and responsible for implementing which requirements?
- WHY is it necessary to comply with specific requirements?
- WHERE do I have to comply with the requirements?
- WHEN do I have to comply with the requirements?
- HOW do I, as the Employer Contractor comply with the requirements?



This electronic publication will focus on answering the first three questions – the **WHAT**, the **WHO**, and the **WHY** of complying with health and safety legislation.

In short, the Employer Contractor will be guided in terms of '**WHAT To Do**', while creating an understanding of the need for complying with the relevant health and safety requirements.

The last three questions will be dealt with in detail in a follow-up publication to this publication.

2. INTRODUCTION TO THE EMPLOYER CONTRACTOR HEALTH AND SAFETY MANAGEMENT PROGRAMME

The overall purpose of this programme is to give meaning and structure to the SafetyWallet Purpose, Vision, Mission and Values (refer to page 7 of this document). More specifically, this publication will provide the Employer Contractor with the necessary knowledge relating to:

- The requirements in terms of the Occupational Health and Safety Amendment Act, 2019 and other related legislation for the Employer Contractor.
- The management of his or her operations on a client's premises.
- Accountability and responsibility relating to the implementation of the relevant legislative requirements.
- Understanding the reasons for complying with specific requirements.
- The general structure required for compliance as well as for corrective action in situations where the Employer Contractor may be in breach of health and safety requirements.
- The importance and application of maintaining compliance to the health and safety requirements by implementing a structured and tested safety management system.
- Understanding, making the most of, and benefiting from the safety partnership

that SafetyWallet sets out to create in ensuring the Employer Contractor's understanding, application and development of his or her safety management system.

3. STRUCTURE OF THIS GUIDE

The information in this document is structured as shown in Figure 1 below.



Figure 1: Programme Structure

- **Compliance Requirements for Employer Contractors** deals with the **'WHAT'** to do.
- **Accountability, Responsibility and Authority** deals with the **'WHO'** does what component.
- **The Importance of Compliance** deals with the aspects relating to **'WHY'** compliance is important.



As health and safety management system partners, we will, together:

- Cultivate a shared vision in terms of your health and safety system and programmes.
- Build synergistic relationships based on, amongst others, trust, respect and reliability.
- Create a positive health and safety experience and culture that keeps people safe from harm.
- Set SMART health and safety objectives.
- Develop, implement and maintain uniquely customised health and safety solutions.



Please note that information in this guide is based on the Occupational Health and Safety Amendment Bill, 2020 (Government Gazette No. 44572, 14 May 2021). Specific information, sections and references may differ in the final publication and promulgation of the Occupational Health and Safety Amendment Act, 2019.

A hand in a blue suit jacket points towards a digital interface. The interface features several circular icons: a magnifying glass, a refresh symbol, and a central large circle containing the word 'COMPLIANCE'. Other circles contain the words 'REGULATIONS', 'RULES', and 'LAW'. The background is a blurred image of a person in a blue suit. The bottom right corner has a decorative pattern of overlapping yellow and orange triangles.

REGULATIONS

COMPLIANCE

RULES

LAW

COMPLIANCE REQUIREMENTS FOR **EMPLOYER CONTRACTORS**

WHAT? are the compliance requirements for the Employer Contractor?

1. INTRODUCTION

Our first step is to define and consider the term 'Employer Contractor'. As the name suggests, the Employer Contractor is both an employer and a contractor. The fact that the Employer Contractor is both an employer and a contractor, implies the following.

The Contractor Employer:

- Is a registered business entity that operates independently.
- Provides employment to individuals (has its own employees).
- Is contracted to provide a service (or multiple service offerings) or product (or multiple products) to a client, or to several clients.
- Provides the service(s) or product(s) remotely or on a client(s) premises.
- Has to abide by legislation and requirements that are relevant to an Employer.
- Has to abide by client legislative and site requirements.

Figure 2 below shows a summary of the attributes of an Employer Contractor.



Figure 2: Attributes of the Employer Contractor

Taking into account the above aspects, the Employer Contractor therefore has to do the following in terms of Health and Safety:

- Understand the compliance requirements relating to his or her own organisation (internal focus).
- Understand client(s) business model and compliance requirements (external focus).
- Adhere to his or her own business compliance requirements.
- Adhere to client(s) specific site and compliance requirements.
- Develop a comprehensive Health and Safety Management system that satisfies both the internal and external focus Health and Safety compliance requirements.



Right from the outset then, it is **very important** to understand that the employer contractor has a dual-focus role:

- **Internal** (as employer, on his or her own business Health and Safety compliance requirements).
- **External** (as service provider to a client, or multiple clients in terms of site Health and Safety compliance requirements).

As it is very difficult to isolate the internal and external roles of the Employer Contractor completely, there will be some overlap throughout this guide. **Please do not hesitate to contact a SafetyWallet representative for guidance and/or clarification, should it be necessary.**

The information in this Health and Safety compliance requirements guide, is based on the Occupational Health and Safety Amendment Act, 2019 (hereinafter called the OHS Amendment Act, 2019).

2. UNDERSTANDING WHAT CONSTITUTES SAFETY

In terms of the OHS Amendment Act, 2019, there are four concepts linked to the state of being 'safe'. The four concepts are shown in Figure 3 below.



Figure 3 : Concepts Relating to the State of Being 'Safe'

- **Danger:**
Is defined as 'anything that may cause injury, adverse health effects or damage to persons or property'.
- **Hazard:**
Is defined as 'a source of, or exposure to danger'. Hazard and risk go hand-in-hand.
- **Risk:**
Is defined as the 'probability that personal injury, illness or the death of an employee or any other person or damage to property will occur'.
- **Safe:**
In order for a work place to be deemed 'safe', it has to be 'free from any hazard'.



'Safety', is a 'steady state' of an organisation, place or function, while doing **WHAT** it is supposed to be doing.

'**WHAT** an organisation is supposed to do' is defined in terms of:

- Applicable legislation, for example legislation relating to Occupational Health, Safety and Environment, Employment, Mining and Minerals, and Local Government.
- Compulsory codes of practice and Sectoral Determinations.
- Safety standards.



'Safety' is a normative concept for any organisation, place, or function - large or small. It complies with situation-specific definitions of what is expected and acceptable.

It is important to realise that safety is relative. It is not always possible to eliminate all dangers in the work place. A safe situation is one where risks of injury or property damage are low and manageable.

2.1 TYPES OF SAFETY

It is important to distinguish between products that meet standards, that are safe, and those that merely feel safe.

- **Normative Safety**
Accomplished when a design or product meets relevant standards and practices related to design, construction or manufacture, regardless of the product's actual safety history.
- **Substantive (Objective) Safety**
Substantive or objective safety occurs when the operational safety history is good, regardless of whether or not standards are met.
- **Perceived (Subjective) Safety**
Refers to the users' level of comfort and perception of risk, without consideration of standards or safety history. For example, vehicle seat belts have a generally good safety record, yet often make drivers feel uncomfortable.
- **Security (Social or Public Safety)**
Security addresses the risk of harm due to intentional criminal acts such as assault, burglary or vandalism. From a moral point of view, security is of higher importance to many people than substantive safety. For example, a death due to a vehicle accident is considered less serious than a murder, even though in many countries, murders are less prevalent than traffic deaths.



'Safety' is a normative concept for any organisation, place, or function - large or small. It complies with situation-specific definitions of what is expected and acceptable.

AT SAFETYWALLET, WE ARE COMMITTED TO CULTIVATING A WORKPLACE WHERE HEALTH AND SAFETY BEHAVIOUR IS POSITIVELY INFLUENCED ON A CONTINUAL BASIS.

3. EMPLOYER CONTRACTOR REQUIREMENTS AS AN EMPLOYER

In this section, we will consider **WHAT** the Health and Safety requirements are for the Employer Contractor as an employer.

3.1 SECTION 8: GENERAL DUTIES OF EMPLOYERS TO THEIR EMPLOYEES

Section 8 of the OHS Amendment Act, 2019, prescribes the following:

- (1) 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 or her employees.
- (2) Without derogating from the generality of an employer's duties under subsection (1), the matters to which those duties refer include in particular:
 - (a) conducting a workplace specific risk assessment and thereafter developing and implementing a risk management plan in writing, in respect of every risk identified;
 - (b) ensuring that the workplace specific risk assessment is conducted, by a person or persons who are competent to pronounce on all the risks associated with that workplace;
 - (c) ensuring that the workplace specific risk management plan is in place and is available at the workplace when requested by an inspector.
 - (d) Ensuring that no work is undertaken unless the control measures contained in the risk management plan are complied with;
 - (e) providing information, instructions, training and supervision as may be necessary to ensure, as far as is reasonably practicable, the health and safety at work of employees;
 - (f) ensuring that no employee is permitted 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;
 - (g) taking all necessary measures to ensure that the requirements of this Act are complied with by every employee in his or her employment or by any person on premises under his or her control where plant or machinery is used;
 - (h) enforcing such measures as may be necessary in the interest of health and safety;
 - (i) 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; and
 - (j) causing all employees to be informed regarding the scope of their authority; and
 - (k) ensuring communication of the relevant components of the risk management plan to every employee.

An Employer has to create and maintain a work environment that is, within reason, safe and without risk to the health of employees. This includes the following:

- That a competent person has to:
 - Conduct workplace and site-specific risk assessments.
 - Identify all the risks associated with a workplace or site.
 - Develop and implement a written risk management plan that addresses every risk identified.
- Ensuring implementation and availability of the workplace specific risk management plan.
- Not allowing work to be done unless the control measures in the risk management plan are complied with and all necessary precautionary measures have been taken.
- Providing information, instructions, training and supervision to ensure the health and safety of employees at work.
- Ensuring that the prescribed requirements are applied by every employee or person on the premises where plant or machinery is used.
- Enforcing the necessary measures in the interest of health and safety.
- Ensuring trained supervision:
 - For work to be performed.
 - For plant and/or machinery use.
 - That understands the hazards associated with work, plant and machinery.
 - That has the authority to ensure that identified precautionary measures are taken.
- Informing employees of the scope of their authority.
- Communicating the necessary aspects of the risk management plan to every employee.

3.2 SECTION 9: GENERAL DUTIES OF EMPLOYERS AND SELF-EMPLOYED PERSONS TO PERSONS OTHER THAN THEIR EMPLOYEES

Section 9 of the OHS Amendment Act, 2019, prescribes the following:

- (1) Every employer shall conduct an undertaking in such a manner to ensure that the risk posed by identified hazards to persons other than those in the direct employ of the organisation who may be directly affected by the organisation's activities are not thereby exposed to hazards to their health or safety and the risk is managed in line with the risk management plan contemplated in section 8(2)(a);.
- (2) Every self-employed person shall conduct an undertaking in such a manner as to ensure that risks posed by identified hazards to that self-employed person and any other persons who may be directly affected by the activities of the work performed on that premises, are managed in line with the specific risk management plan as contemplated in section 12(1).

An Employer has to ensure the following in terms of people not directly employed by him or her:

- That hazards and risks posed to these individuals by his or her activities and listed work, are identified, included in the risk management plan, and managed accordingly.



3.3 SECTION 12: GENERAL DUTIES OF EMPLOYERS REGARDING LISTED WORK

Section 12 of the OHS Amendment Act, 2019, prescribes the following:

- (1)
 - (a) An employer shall conduct a risk assessment in relation to such listed work and develop and implement a risk management plan in respect of the risks identified for that work.
 - (b) A risk assessment conducted for that workplace, shall be conducted by a person or persons who are competent to pronounce on all the risks associated with that work and where the risk is complex in nature, a risk assessment shall be conducted by specialists who are competent to pronounce on all the risks associated with that particular work.
 - (c) The employer shall ensure that a workplace specific risk management plan is in place and is available at the workplace when requested by an inspector.
 - (d) An employer may not permit any listed work to be undertaken unless the control measures contained in the risk management plan are complied with.
- (2) Every employer contemplated in subsection (1) shall keep the health and safety representatives designated for their workplaces or sections of the workplaces, informed of the actions taken under subsection (1) in their respective workplaces or sections thereof and of the results of such actions: Provided that individual results of biological monitoring and medical surveillance relating to the work of the employee, shall only with the written consent of such employee be made available to any person other than an inspector, the employer or the employee concerned.

An Employer has to do the following in terms of Listed Work:

- That a competent person has to conduct a risk assessment and implement a risk management plan in respect of the risks identified for that work.
- For work that is complex in nature, ensure that the risk assessment is conducted by competent specialists.
- Ensure that the risk management plan is in place and is available at the workplace when requested by an inspector.
- Ensure compliance with the control measures contained in the risk management plan.
- Ensure that Health and Safety Representatives are informed of the actions taken in terms of listed work.
- Ensure that availability of biological monitoring and medical surveillance is aligned to the relevant privacy laws.

3.4 SECTION 13: DUTY TO INFORM

Section 13 of the OHS Amendment Act, 2019, prescribes the following:

- (1) Without derogating from any specific duty imposed on an employer by this Act, every employer shall:
- (a) ensure that every employee is conversant with the risks to his or her health and safety attached to
 - i. any work which that employee has to perform;
 - ii. any article or substance which he or she has to produce, process, use, handle, store or transport; and
 - iii. any plant or machinery which he or she is required or permitted to use, as well as with the precautionary measures which should be taken and observed with respect to those hazards;
 - (b) inform the health and safety representatives concerned beforehand of inspections, investigations or formal inquiries of which the employer has been notified by an inspector, and of any application for exemption made by him or her in terms of section 40.
 - (c) 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.

- Employees have to be aware of the health and safety risks and precautionary measures in terms of:
 - Work to be performed.
 - Articles or substances that have to be produced, processed, used, handled, stored or transported.
 - Plant or machinery that he or she is required or permitted to use, along with the precautionary measures which should be taken and observed with respect to those hazards.
- Health and safety representatives have to be informed:
 - Beforehand of inspections, investigations or formal inquiries by an Inspector.
 - Of incidents that occurred in his or her workplace or section of responsibility.

3.5 SECTION 17: HEALTH AND SAFETY REPRESENTATIVES

Section 17 of the OHS Amendment Act, 2019, prescribes the following:

- (1) Subject to the provisions of subsection (2), every employer who has more than 20 employees in his or her 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 and safety representatives for such workplace, or for different sections thereof.
- (2) An employer and the representatives of his or her employees recognised 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 the Commission for Conciliation, Mediation and Arbitration.
- (3) Only those employees employed in a full-time capacity at a specific workplace and who are acquainted with conditions and activities at that workplace or section thereof, as the case may be, shall be eligible for designation as health and safety representatives for that workplace or section.
- (4) 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 an employee 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.
- (5) 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, the inspector 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).
- (6) 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.

Employers have to:

- Appoint, in writing, health and safety representatives if they employ more than 20 employees.

- Consult in good faith with representatives or employees in terms of the arrangements and procedures for the nomination or election, period of office and subsequent designation of health and safety representatives.
- Ensure that only full-time employees, acquainted with conditions and activities at that workplace or section, are eligible for designation as health and safety representatives.
- Ensure that the number of health and safety representatives are as follows:
 - For shops and offices, at least one health and safety representative for every 100 employees or part thereof.
 - For all other work places, at least one health and safety representative for every 50 employees or part thereof.
- Ensure that all activities in connection with the designation, functions and training of health and safety representatives are performed during ordinary working hours.

3.6 SECTION 19: HEALTH AND SAFETY COMMITTEES

Section 19 of the OHS Amendment Act, 2019, prescribes the following:

- (1) A workplace with one or more health and safety representatives designated shall establish one or more health and safety committee;
- (2) A health and safety committee shall consist of the number of members in accordance with a collective agreement, where one exists or as may be determined by the employer and employees or the employee representatives, for the efficient and effective operation of the health and safety management system; Provided that:
 - (a) 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;
 - (b) 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
 - (c) the number of persons nominated by an employer on any health and safety committee established in terms of this section shall 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 that employer, while the health and safety representatives shall be members of the committee for the period of their designation in accordance with their collective agreement, only where one exists or as shall be determined between employer and employees;
- (4) A health and safety committee shall hold meetings as often as may be necessary, but at least once every two 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 or her: 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 direct that such a meeting be held.
- (5) 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 her, or their particular knowledge of health or safety matters as an advisory member or as advisory members 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 particular workplace is inadequate, he or she may in writing direct the employer to establish for such workplace such number of health and safety committees as the inspector may determine.

- A workplace with one or more designated health and safety representatives has to establish one or more health and safety committees.
- A health and safety committee:

- Has to comprise of membership in line with the requirements of the OHS Amendment Act, 2019.
- Has to hold meetings as often as necessary, but at least once every two months, at a time and place determined by the committee.
- Determines the procedure at meetings.
- May co-opt one or more persons by reason of his or her, or their particular knowledge of health or safety matters as an advisory member or as advisory members of the committee.

3.7 SECTION 23: CERTAIN DEDUCTIONS PROHIBITED

Section 23 of the OHS Amendment Act, 2019, prescribes the following:

(3) No employer shall in respect of anything which the employer is in terms of this Act required to provide or to do in the interest of the health or safety of an employee, make a deduction from an employee's remuneration or require or permit an employee to make a payment to another person.

An Employer may not make any deductions from an employee or require or allow an employee to make a payment to another person based on requirements contained in the OHS Amendment Act, 2019.

3.8 SECTION 24: REPORT TO INSPECTOR REGARDING CERTAIN INCIDENTS

Section 24 of the OHS Amendment Act, 2019, prescribes the following:

- (1) 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:
 - (a) 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 the person is likely either to die or to suffer a permanent physical defect or likely to be unable for a period of at least 14 days either to work or to continue with the activity for which the person was employed or is usually employed;
 - (b) in the course of an employee's employment, an incident occurred which resulted in personal injury, illness or death of the employee; or
 - (c) the health or safety of any person was endangered and where:
 - i. a hazardous substance or biological agent was spilled or released;
 - ii. the uncontrolled release of any substance under pressure took place;
 - iii. machinery or any part thereof fractured or failed resulting in flying, falling or uncontrolled moving objects; or
 - iv. 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.
- (2) 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.
- (3) The provisions of subsections (1) and (2) shall not apply in respect of:
 - (a) a traffic incident 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 39 of the Civil Aviation Act 2009 (Act No. 13 of 2009).
- (4) A member of the South African Police Service to whom an incident was reported in terms of this Act, shall forthwith notify an inspector thereof.
 - (a) The employer or user or self-employed person shall provide the Department with a copy of incident statistics annually, on the first day of March of each year.
 - (b) The incident statistics referred to in paragraph (a) shall be provided in the prescribed format.
 - (c) The incident statistics shall include statistics for Contractors that occurred while working on the employer premises: Provided that, the contractors are required to provide incident statistics to the Department as well.

- An Employer has to report the following types of incidents within the prescribed period and in the prescribed manner:

- Death, unconsciousness, loss of a limb or part of a limb, injury or illness that may lead to death, permanent physical defect, inability to work for at least 14 days, or continue work activity for which a person was employed for.
- Personal injury, illness or death of the employee.
- Endangerment of the health or safety of any person and where:
 - i. A hazardous substance or biological agent was spilled or released.
 - ii. The uncontrolled release of any substance under pressure took place.
 - iii. Machinery or any part thereof fractured or failed resulting in flying, falling or uncontrolled moving objects.
 - iv. Machinery ran out of control.
- An Employer has to ensure:
 - That the site where an incident took place where a person died, or was injured to such an extent that he or she is likely to die, or suffered the loss of a limb or part of a limb, is not disturbed without the consent of an inspector.
 - That no article or substance involved in the incident is removed.
 - That only necessary action is taken in situations to prevent a further incident, to remove the injured or dead, or to rescue persons from danger.
- The above is not relevant in the following instances:
 - Traffic incidents on public roads.
 - Incidents that take place in private households (the house holder has to report the incident to the South African Police).
 - Accidents investigated under section 39 of the Civil Aviation Act 2009 (Act No. 13 of 2009).
- The South African Police Service has to notify an inspector:
 - The Employer, user or self-employed person has to provide annual incident statistics in the correct format.
 - Incident statistics has to include statistics for Contractors that occurred while working on the employer premises (Contractors are required to provide incident statistics to the Department as well).

3.9 SECTION 26: VICTIMISATION FORBIDDEN

Section 26 of the OHS Amendment Act, 2019, prescribes the following:

- (1) An employer may not discriminate against an employee for exercising a right conferred in terms of this Act.
- (2) No person shall do, or threaten to do, anything that:
 - (a) requires an employee not to exercise a right conferred in terms of this Act;
 - (b) prevents an employee from exercising a right conferred in terms of this Act; or
 - (c) prejudices an employee because of a past or present:
 - i. failure or refusal to do anything that an employer may not lawfully permit or require an employee to do;
 - ii. disclosure of information that the employee is lawfully entitled or required to give to another person; or
 - iii. exercise of a right conferred in terms of this Act.
- (3) No employer shall favour, or promise to favour, an employee in exchange for the employee not to exercise a right conferred in terms of this Act.

- Employers may not discriminate against an employee for exercising a right in terms of the OHS Amendment Act, 2019 - more specifically do, or threaten to do, anything that:
 - Requires an employee not to exercise a right.
 - Prevents an employee from exercising a right.
 - Prejudices an employee because of a past or present.
 - Favours, or promises to favour, an employee in exchange for the employee not to exercise a right.

3.10 OTHER IMPORTANT ASPECTS IN TERMS OF THE OHS AMENDMENT ACT, 2019

Employers have to note the following important aspects in terms of the OHS Amendment Act, 2019:

- **Section 7:** An employer or group of employers may be directed by the Chief Inspector to develop and implement a health and safety management system.
- **Section 11:** Any work may be declared as listed work by The Minister.
- **Section 15:** No person may intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health or safety.
- **Section 18:** An employer has to provide facilities, assistance and training in order to empower health and safety representatives to carry out his or her functions.
- **Section 20:** An employer has to ensure that a health and safety committee complies with the relevant provisions and performs the duties assigned to it.
- **Section 34:** No one is allowed to obstruct or fail to render assistance in terms of investigations or inquiries.
- **Section 35:** A decision taken by an Inspector can be appealed to the Chief Inspector within 14 days.
- **Section 36:** A decision taken by the Chief Inspector can be appealed to the High Court within 60 days.
- **Section 37:** An appeal does not suspend the decision of the Chief Inspector.
- **Section 38:** Disclosure of information has to take place aligned to the Promotion of Access to Information Act, 2000 (Act No 2 of 2000).
- **Section 39:** Acts or omissions by employees or mandatories may not be concealed.
- **Section 43:** It is an offence to knowingly provide false records, information, applications or other documents or statements.
- It is an offence to fail to attend a meeting, inspection, investigation, or inquiry when directed to do so, or when summoned.

4. EMPLOYER CONTRACTOR REQUIREMENTS AS A CONTRACTOR

An Employer Contractor's business operations often differ from that of its client(s). It is crucial that the Employer Contractor:

- Understands the client(s) Health and Safety compliance requirements.
- Understands the client(s) business requirements.

- Has a Health and Safety system in place that covers its own internal operations, as well as operations on client premises.

4.1 SECTION 10: GENERAL DUTIES OF MANUFACTURERS AND OTHERS REGARDING ARTICLES AND SUBSTANCES FOR USE AT WORK

Section 10 of the OHS Amendment Act, 2019, prescribes the following:

- (1) Any person who designs, manufactures, imports, sells, leases or supplies any article for use at work shall ensure, that:
 - (a) the article is safe and without risks to occupational health and safety when properly used;
 - (b) the article is accompanied by the instructions which include precautionary measures to be adhered to; and
 - (c) it complies with all the prescribed requirements.
- (2) Any person who erects or installs any article for use at work on 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.
- (3) Any person who imports, sells or supplies any substance for use at work shall:
 - (a) ensure, as far as is reasonably practicable, that the substance is safe and without risks to health when properly used; and
 - (b) 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.
- (4) A person who manufactures, imports, sells or supplies a substance for use at work shall ensure that the substance is classified, labelled and packaged in the prescribed manner.

- A person that designs, manufactures, imports, sells, leases or supplies any article for use at work, has to ensure that the article:
 - Is safe and without risks to occupational health and safety when properly used.
 - Is accompanied by the instructions that include precautionary measures to be adhered to.
 - Complies with all the prescribed requirements.
- Erected or installed articles have to be erected or installed in such a manner that it is safe and does not create a risk to health and safety when used correctly.
- Imported, sold or supplied substances for use at work:
 - Have to be safe and without risks to health when properly used.
 - Must have information available in terms of the:
 - i. Use of the substance at work.
 - ii. Risks to health and safety associated with the substance.

- iii. Conditions necessary to ensure that the substance will be safe and without risks to health when properly used.
 - iv. Procedures to be followed in the case of an accident involving such substance.
- Manufactured, imported, sold or supplied substances for use at work have to be classified, labelled and packaged in the prescribed manner.

4.2 SECTION 22: SALE OF CERTAIN ARTICLES PROHIBITED

Section 22 of the OHS Amendment Act, 2019, prescribes the following:

- (1) Subject to the provisions of section 10 (4), if any requirement (including any health and safety standard) in respect of any article, substance, plant, machinery or health and safety equipment or for the use or application thereof has been prescribed, no person shall sell or market in any manner whatsoever such article, substance, plant, machinery or health and safety equipment unless it complies with that requirement.

Articles, substances, plant, machinery or health and safety equipment may not be sold or marketed, unless it complies with Section 10 of the OHS Amendment Act, 2019.

A hand is shown placing a puzzle piece into a larger puzzle. The puzzle piece being placed is red and has the word "Accountability" written on it in white. The surrounding puzzle pieces are white. The background is a light gray color. There are also some orange and yellow geometric shapes in the top right corner.

Accountability

ACCOUNTABILITY, RESPONSIBILITY & AUTHORITY

WHO? is accountable
and responsible for
implementing which
requirements?



1. ACCOUNTABILITY, RESPONSIBILITY AND AUTHORITY

Accountability and responsibility of the following role players and stakeholders will be considered in this section:

- Employees
- The Chief Executive Officer
- Health and Safety Representatives
- Health and Safety Committees
- Medical Practitioners
- Inspectors

1.1 SECTION 14: GENERAL DUTIES OF EMPLOYEES AT WORK

Section 14 of the OHS Amendment Act, 2019, prescribes the following:

- (1) Every employee shall at work:
 - (a) take reasonable care for the employee's own health and safety and of other persons who may be affected by his or her acts or omissions;
 - (b) as regards any duty or requirement imposed on his or her employer or any other person by this Act, co-operate with the employer or other person to enable that duty or requirement to be performed or complied with;
 - (c) execute a lawful order given to him or her, and obey the health and safety rules and procedures laid down by his or her employer or by a person authorised thereto by his or her employer, in the interest of health or safety;
 - (d) When he or she becomes aware of an unsafe or unhealthy situation, as soon as practicable report such situation to his or her employer or to the health and safety representative for his or her workplace or section thereof, as the case may be, who shall report it to the employer; and
 - (e) Where he or she is involved in any incident which may affect his or her health or which has caused an injury to himself or herself, report such incident to his or her employer or to anyone authorised thereto by the employer, or to his or her 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 or she shall report the incident as soon as it is reasonably practicable thereafter.

Employees are expected to:

- Take care of their own health and that of others.
- Co-operate to enable that a duty or requirement is performed or complied with.
- Execute lawful orders, obey Employer health and safety rules and procedures.
- Report unsafe or unhealthy situations as soon as possible.
- Report involvement in any incident as soon as possible, but not later than the end of the particular shift during which the incident occurred.

1.2 SECTION 16: CHIEF EXECUTIVE OFFICER CHARGED WITH CERTAIN DUTIES

Section 16 of the OHS Amendment Act, 2019, prescribes the following:


- (1) A chief executive officer shall ensure that the duties of his or her employer as contemplated in this Act, are properly discharged.
- (1A) The chief executive officer shall develop, implement and continuously review the health and safety management system as the employer may be directed in terms of section 7(1);
- (2) Without derogating from his or her responsibility or liability in terms of subsection (1) and (1A), a chief executive officer may in writing, delegate any duty contemplated in the said subsections, to any person under his or her control, which person shall act subject to the control and directions of the chief executive officer in the interest of occupational health and safety.
- (3) A person so delegated in terms of subsection (2) may not further delegate the duty to any other person; and
- (4) The provisions of subsection (1) shall not relieve an employer of any responsibility or liability under this Act.
- (5) 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.

The Chief Executive Officer:

- Has to ensure that the duties of his or her employer are properly executed.
- Has to develop, implement and continuously review the health and safety management system.
- Remains accountable, but may, in writing, delegate Health and Safety duties to any person under his or her control, who may not further delegate the duty to any other person.

1.3 SECTION 18: FUNCTIONS OF HEALTH AND SAFETY REPRESENTATIVES

Section 18 of the OHS Amendment Act, 2019, prescribes the following:

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- (1) A health and safety representative may perform the following functions in respect of the workplace for which he or she has been designated, namely:
 - (a) review the effectiveness of health and safety measures;
 - (b) identify potential hazards and potential major incidents at the workplace;
 - (c) in collaboration with the employer, examine the causes of incidents at the workplace;
 - (d) investigate complaints by an employee relating to that employee's health or safety at work;
 - (e) 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;
 - (f) make representations to the employer on general matters affecting the health or safety of an employee at the workplace;
 - (g) 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 any intention to carry out such an inspection to the employer, who may be present during the inspection;
 - (h) participate in consultations with inspectors at the workplace and accompany inspectors on inspections of the workplace;
 - (i) receive information from inspectors as contemplated in section 36 and where such information is not made available within 14 days of the inspection the information will be requested from the chief inspector;
 - (j) attend meetings of the health and safety committee as a member, in connection with any of the above functions; and
 - (k) report on instances of non-compliance with this Act to the employer or health and safety committee.
 - (2) A health and safety representative shall, in respect of the workplace or section of the workplace for which he or she has been designated be entitled to:
 - (a) visit the site of an incident or where an employee was directed to leave the workplace at all reasonable times and attend an inspection in loco;
 - (b) attend regular meetings with the employees at the workplace to:
 - i. address health and safety in the workplace;
 - ii. provide feedback information to the employees they represent;
 - iii. discuss reports by the health and safety representatives on the performance of their functions; and
 - iv. receive mandates from employees to be presented when attending the health and safety committee meetings;
 - (c) attend an investigation or formal inquiry held in terms of this Act;
 - (d) attend a special meeting with employees they represent after an incident in order to:

- i. provide information on the incident;
 - ii. inform employees regarding arrangements for undertaking the investigation of the incident;
 - iii. gather information from employees relevant to the incident.
 - (e) in so far as it is reasonably necessary for performing the functions of a health and safety representative, inspect any document which the employer is required to keep in terms of this Act;
 - (f) accompany an inspector on any inspection;
 - (g) with the approval of the employer, be accompanied by a technical adviser, on any inspection;
 - (h) participate in any internal health or safety audit;
 - (i) request and have access to inspect any document which the employer is required to keep in terms of this Act and where the document is not made available within 14 days of the inspection the information may be requested from the chief inspector subject to section 36;
 - (j) report on instances of non-compliance with this Act to the employer or health and safety committee; and
- (3) 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 or her functions.
- (4) A health and safety representative shall not incur any civil liability by reason of the fact only that he or she failed to do anything which he or she may do or is required to do in terms of this Act.

- A health and safety representative may perform the following functions:
 - Review the effectiveness of health and safety measures.
 - Identify potential hazards and potential major incidents at the workplace.
 - Along with the employer, examine the causes of incidents at the workplace.
 - Investigate complaints by an employee relating to health or safety at work.
 - Make representations to the:
 - i. Employer or a health and safety committee, or where such representations are unsuccessful, to an inspector.
 - ii. Employer on general matters affecting the health or safety of an employee at the workplace.
 - Inspect the workplace, provided that he or she gives reasonable notice of any intention to carry out such an inspection to the employer.
 - Participate in consultations with inspectors at the workplace and accompany inspectors on inspections of the workplace.
 - Receive information from inspectors.
 - Attend meetings of the health and safety committee as a member.
 - Report on instances of non-compliance with this Act to the employer or health and safety committee.
- A health and safety representative is allowed to, for the workplace or section of the workplace for which he or she has been designated:
 - Visit the site of an incident or where an employee was directed to leave the workplace at all reasonable times and attend an inspection in loco.

- Attend regular meetings with the employees at the workplace to:
 - i. Address health and safety in the workplace.
 - ii. Provide feedback information to the employees represented.
 - iii. Discuss reports by the health and safety representatives on the performance of their functions.
 - iv. Receive mandates from employees to be presented when attending the health and safety committee meetings.
- Attend an investigation or formal inquiry.
- Attend a special meeting with employees they represent after an incident in order to:
 - i. Provide information on the incident.
 - ii. Inform employees regarding arrangements for undertaking the investigation of the incident.
 - iii. Gather information from employees relevant to the incident.
- Inspect any document which the employer is required to keep in line with his or her functions.
- Accompany an inspector on any inspection.
- With the approval of the employer, be accompanied by a technical adviser, on any inspection.
- Participate in any internal health or safety audit.
- Request and have access to inspect any document which the employer is required to keep in terms of the OHS Amendment Act, 2019.
- Report on instances of non-compliance with the OHS Amendment Act, 2019 to the employer or health and safety committee.



A health and safety representative does not incur any civil liability by reason of the fact only that he or she failed to do anything which he or she may do or is required to do in terms of the OHS Amendment Act, 2019

1.4 SECTION 20: FUNCTIONS OF HEALTH AND SAFETY COMMITTEES

Section 20 of the OHS Amendment Act, 2019, prescribes the following:

- (1) A health and safety committee:
 - (a) may 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, or to the representative trade union, in which event:
 - i. the inspector shall attend to the matter in terms of section 29; or
 - ii. the representative trade union may declare a dispute in accordance with the collective agreement where one exists;
 - (b) 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;
 - (c) shall identify all occupational health and safety regulations that are relevant to the workplace activities or substances;
 - (d) shall ensure that the relevant information, training, assessment, monitoring and recording provisions are in place;
 - (e) shall make recommendation for inclusion in a workplace the health and safety management system and safe work procedures;
 - (f) shall review the training and information provided to employees regarding any hazardous substance or condition as spelt out in the regulations; and
 - (g) shall perform such other functions as may be prescribed or agreed to in a collective agreement, where such agreement exists.
- (2) A health and safety committee shall keep 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 or she failed to do anything which it or he or she 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).

- Health and safety committees:
 - May make recommendations to the employer, an inspector (when recommendations to the employer fails) or to the representative trade union.
 - Must discuss workplace incidents in which any person was injured, became ill or died, and may in writing report on the incident to an inspector.
 - Must identify all occupational health and safety regulations that are relevant to the workplace activities or substances.
 - Must ensure that the relevant information, training, assessment, monitoring and recording provisions are in place.
 - Must make recommendation for inclusion in a workplace the health and safety management system and safe work procedures.
 - Must review the training and information provided to employees regarding any hazardous substance or condition as spelt out in the regulations.

- Must perform functions as may be prescribed or agreed to in a collective agreement, where such agreement exists.
- Must keep record of all recommendations made to an employer.



A health and safety committee or a member thereof does not incur any civil liability by reason of the fact only that it or he or she failed to do anything which it or he or she may or is required to do in terms of the OHS Amendment Act, 2019.

1.5 SECTION 25: REPORT TO CHIEF INSPECTOR REGARDING OCCUPATIONAL DISEASE

Section 25 of the OHS Amendment Act, 2019, prescribes the following:

- (1) A medical practitioner who examines or treats a person for a disease described in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), or any other disease which the medical practitioner believes arose out of that person's employment, shall within the prescribed period and in the prescribed manner report the case to the person's employer and to the chief inspector, and inform that person accordingly.

A medical examiner has to report, within 14 days, any disease that is described in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993) or other disease that he or she believes to be caused by a person's employment.

1.6 SECTION 29: FUNCTIONS OF INSPECTORS

Section 29 of the OHS Amendment Act, 2019, prescribes the following:

- (1) An inspector may, for the purposes of this Act:
 - (a) without previous notice, at all reasonable times, enter the premises which is occupied or used by an employer or on or in which an employee performs any work or any plant or machinery is used, or which the inspector suspects to be such premises;
 - (b) question any person who is or was on or in such premises, either alone or in the presence of any other person, on any matter to which this Act relates;
 - (c) require from any person who has control over or custody of a book, record or other document on or in those premises, to produce to the inspector forthwith, or at such time and place as may be determined by the inspector, such book, record or other document;
 - (d) examine any such book, record or other document or make a copy thereof or an extract there from;
 - (e) require from such a person an explanation of any entry in such book, record or other document;
 - (f) inspect any article, substance, plant or machinery which is or was on or in those premises, or any work performed on or in those premises or any condition prevalent on or in those premises or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;
 - (g) seize any such book, record or other document or any such article, substance, plant or machinery or a part or sample thereof which in the opinion of the inspector may serve as evidence at the trial of any person charged with an offence under this Act or the common law: Provided that the employer or user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (h) direct any employer, employee or user, including any former employer, employee or user, to appear before the inspector at such time and place as may be determined by the inspector and question such employer, employee or user either alone or in the presence of any other person on any matter to which this Act relates;
 - (i) issue an administrative fine in terms of section 37(A) as indicated by schedule 2; and
 - (j) when so required, take photographs or make audio-visual recordings of any workplace, anything or any person within the workplace which may be relevant to an investigation or an investigation being conducted by the inspector.
- (2) (a) An interpreter, a member of the South African Police Services or any other assistant may, when required by an inspector, accompany the inspector to perform his or her functions under this Act, where the assistance is reasonably required.

- (3) When an inspector enters any premises under subsection (1) the employer occupying or using those premises and each employee performing any work thereon or therein and any user of plant or machinery thereon or therein, shall at all times provide such facilities as are reasonably required to enable the inspector and the inspector's assistant, to perform effectively and in a safe and healthy manner their functions under this Act.
- (4) When an inspector removes or seizes any article, substance, plant, machinery, book, record or other document as contemplated in subsection (1) (f) or (g), the inspector shall issue a receipt to the owner or person in control thereof: Provided that the inspector shall as soon as reasonably possible or at the conclusion of any proceedings in terms of this Act, return whatever he or she has seized.
- (5) Subject to section 40, when an inspector has undertaken an inspection, the inspector shall provide a copy of the inspection report or copies of any notice and correspondence that was issued during the inspection to:
 - (a) the employer, the health and safety representatives and the representative trade union for that workplace; and
 - (b) in the case of construction site, the construction client, principal contractor; any other contractor on site, if applicable and all persons in paragraph (a).

- A health and safety inspector may:
 - Without notice, at reasonable times, enter the work premises.
 - Question any person who is or was on or in such premises.
 - Require, examine and clarify a book, record or other document on or in those premises.
 - Inspect articles, substances, plant or machinery that was, or is on the premises.
 - Remove and seize for examination or analysis any article, substance, plant or machinery or a part or sample thereof.
 - Direct any employer, employee or user, including any former employer, employee or user, to appear before the inspector at such time and place as may be determined by the inspector and question the employer, employee or user either alone or in the presence of any other person.
 - Issue administrative fines.
 - Take photographs or make audio-visual recordings of any workplace, anything or any person within the workplace that may be relevant to an investigation or an investigation being conducted by the inspector.
- An inspector may be accompanied by an interpreter, a member of the South African Police Services or any other assistant.

1.7 SECTION 30: SPECIAL POWERS OF INSPECTORS

Section 30 of the OHS Amendment Act, 2019, prescribes the following:

- (1)
 - (a) Whenever an employer performs an act or requires or permits an act to be performed, or proposes to perform an act or to require or permit an act to be performed, which in the opinion of an inspector threatens or is likely to threaten the health or safety of any person, the inspector may in writing prohibit that employer from continuing or commencing with the performance of that act or from requiring or permitting that act to be continued or commenced with, as the case may be.
 - (b) Whenever a user of plant or machinery uses or proposes to use any plant or machinery, in a manner or in circumstances which in the opinion of an inspector threatens or is likely to threaten the health or safety of any person who works with such plant or machinery or who is or may come within the vicinity thereof, the inspector may in writing prohibit that user from continuing or commencing with the use of such plant or machinery or in that manner or those circumstances, as the case may be.
 - (c) An inspector may in writing prohibit an employer from requiring or permitting an employee or any employee belonging to a category of employees specified in the prohibition to be exposed in the course of employment for a longer period than a period specified in the prohibition, to any article, substance, organism or condition which in the opinion of an inspector threatens or is likely to threaten the health or safety of that employee or the employee belonging to that category of employees, as the case may be.
 - (d) A prohibition imposed under paragraph (a), (b) or (c) may at any time be revoked by an inspector in writing if arrangements to the satisfaction of the inspector have been made to dispose of the threat which gave rise to the imposition of the prohibition.
- (2) In order to enforce a prohibition imposed under subsection (1) (a) or (b), an inspector may block, bar, barricade or fence off that part of the workplace, plant or machinery to which the prohibition applies, and no person shall interfere with or remove such blocking, bar, barricade or fence.
- (3) Whenever an inspector is of the opinion that the health or safety of any person at a workplace or in the course of that person's employment or in connection with the use of plant or machinery is threatened on account of the refusal or failure of an employer or a user, as the case may be, to take reasonable steps in the interest of such person's health or safety, the inspector may in writing direct that employer or user to take such steps as are specified in the direction within a specified period.
- (4) Whenever an inspector is of the opinion that an employer or a user has failed to comply with a regulation applicable to him or her, the inspector may in writing direct that employer or user to take within a period specified in the direction such steps as in the inspector's opinion are necessary to comply with the said regulation, and are specified in the direction.

- (5) A period contemplated in subsection (3) or (4) may at any time be extended for a specified period by an inspector by notice in writing to the person concerned.
- (6) An employer or user shall forthwith bring the contents of a prohibition, direction or notice under this section to the attention of the health and safety representatives and employees or any other affected person concerned.

Inspectors may:

- Prohibit an employer from continuing or commencing with the performance of acts that are deemed unsafe or unhealthy.
- Prohibit a user of plant and machinery to use the plant or machinery if the inspector believes that it threatens the health and safety of the user.
- Prohibit the employer to require that an employee or any employee belonging to a category of employees be exposed to any article, substance, organism or condition that the inspector believes threatens the health and safety of the person(s).
- Block, bar, barricade or fence off that part of the workplace, plant or machinery to which a prohibition applies.
- Require that steps to remedy health and safety threats are taken within a specified period.
- May issue compliance orders.



THE IMPORTANCE OF **COMPLIANCE**

WHY? is it necessary
to comply with specific
requirements?



1. THE IMPORTANCE OF COMPLYING WITH THE OHS AMENDMENT ACT, 2019

This section deals with the aspects relating to:

- Administrative Fines
- Criminal Liability
- Hindering of Administration of Justice
- Failure to Comply with the Provisions of this Act
- Penalties

1.1 SECTION 40: ADMINISTRATIVE FINES

Section 40 of the OHS Amendment Act, 2019, prescribes the following:

- (1) If a person commits a breach of this Act, the inspector may by written notice to that person impose an administrative fine in accordance with Schedule 2;
- (2) An administrative fine may, instead of a criminal prosecution, be imposed on a person who becomes liable to prosecution for any breach of this Act;
- (3) An inspector shall serve a copy of the written notice contemplated on subsection (2) on the employer, self-employed person or person who conducts a business or undertaking concerned;
- (4) The amount of the fine stipulated in the notice referred to in subsection (2) may not exceed the amount:
 - (a) prescribed for the offence; and
 - (b) which a court would presumably have imposed in the circumstances.
- (5) An administrative fine imposed in terms of subsection (1) shall be paid to the Director-General of the Department of Labour on or before a date stated in the notice referred to in that subsection.
- (6) Sections 56, 57 and 57A of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) apply, subject to such modifications as the context may require, to the written notice referred to in this section.

1.1.1 SCHEDULE 2: ADMINISTRATIVE FINES

Administrative fines related to the OHS Amendment Act, 2019 are shown in Table 1 on page 45.

Table 1: Schedule 2 - Administrative Fines

SECTION CONTRAVENED	MAXIMUM FINE
7	R50 000
19(1)	R50 000
20(4)	R50 000
21	R50 000

24(1);(2)	R25 000
25	R50 000
29(3)	R25 000
30(6)	R50 000

1.2 SECTION 41: CRIMINAL LIABILITY

Section 41 of the OHS Amendment Act, 2019, prescribes the following:

- (1) An employer, chief executive officer, manager, agent or employee commits an offence by contravening or failing to comply with a provision of this Act, thereby causing a person's:
 - (a) death;
 - (b) permanent disablement; or
 - (c) illness.
- (2) The chief executive officer, manager, agent or employer of the employee commits an offence by performing or omitting to perform an act, if the act or omission falls within the scope of the authority or employment of the employer or employee concerned.

- It is deemed to be an offence if an employer, chief executive, manager, agent or employee:
 - Contravenes or fails to comply with a provision of the OHS Amendment Act, 2019 that causes a person's:
 - i. Death.
 - ii. Permanent disablement.
 - iii. Illness.
 - Performs, omits to perform an act, if the act or omission falls within the scope of the authority or employment of the employer or employee concerned.

1.3 SECTION 42: HINDERING OF ADMINISTRATION OF JUSTICE

Section 42 of the OHS Amendment Act, 2019, prescribes the following:

- (1) A person who:
 - (a) hinders or obstructs an inspector in the performance of the inspector's functions;
 - (b) refuses or fails to comply with any requirement or request made by an inspector in the performance of the inspector's functions;
 - (c) persuades an inspector to accept a bribe; or
 - (d) assaults or swears or victimises an inspector in the performance of the inspector's functionscommits an offence.
- (2) No person may prevent an inspector from entering the premises where work is being performed, during normal working hours.

- It is an offence to:
 - Hinder or obstruct an inspector in the performance of his or her functions.
 - Refuse or fail to comply with any requirement or request made by an inspector in the performance of his or her functions.
 - Persuades an inspector to accept a bribe.
 - Assault, swear at or victimise an inspector in the performance of his or her functions.
- An inspector may not be prevented from entering work premises during normal working hours.

1.4 SECTION 45: FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ACT

Section 45 of the OHS Amendment Act, 2019, prescribes the following:

- (1) A person, commits an offence, if that person, contravenes or fails to comply with any:
 - (a) provision of this Act;
 - (b) condition of an exemption in terms of section 40(1);
 - (c) requirement to produce a book, item, document or thing under the person's control; and
 - (d) request to answer to the best of the persons knowledge and ability any question which an inspector may put to the person.
- (2) A person commits an offence when the person:
 - (a) wilfully furnishes to an inspector information which is false or misleading;
 - (b) presents himself or herself as an inspector;
 - (c) tampers with or discourages, threatens, deceives or in any way unduly influences any person with regard to evidence to be given;
 - (d) fails to produce a book, item, document or thing before an inspector or presiding inspector in terms, of section (31), (32), (33) or (34);
 - (e) prejudices or influences the proceedings or findings, of an investigation or inquiry in terms of sections (31) or (32);
 - (f) tampers with or misuses any health and safety equipment installed or provided to any person by an employer or user;
 - (g) fails to use any safety equipment at a workplace or in the course of employment or in connection with the use of plant or machinery, which was provided by an employer or such a user; and
 - (h) wilfully or recklessly does anything at a workplace or in connection with the use of plant or machinery which threatens the health or safety of any person.

- It is an offence not to comply with any:
 - Provision of the OHS Amendment Act, 2019.
 - Condition of an exemption in terms of the OHS Amendment Act.
 - Requirement to produce a book, item, document or thing under the person's control.
 - Request to answer to the best of the persons knowledge and ability any question which an inspector may put to the person.
- A person commits an offence when the person:
 - Wilfully furnishes false or misleading information to an inspector.
 - Fraudulently presents himself or herself as an inspector.
 - Tampers with or discourages, threatens, deceives or in any way unduly influences any person with regard to evidence to be given.
 - Fails to produce a book, item, document or thing before an inspector or presiding inspector.
 - Prejudices or influences the proceedings or findings, of an investigation or inquiry.

- Tamper with, or misuses any health and safety equipment installed or provided to any person by an employer or user.
- Fails to use any safety equipment at a workplace or in the course of employment or in connection with the use of plant or machinery, that was provided by an employer or such a user.
- Wilfully or recklessly does anything at a workplace or in connection with the use of plant or machinery that threatens the health or safety of any person.

1.5 SECTION 46: PENALTIES

Section 46 of the OHS Amendment Act, 2019, prescribes the following:

- (1) A person convicted of an offence in terms of a section indicated in Schedule 1, may be sentenced to a fine or to imprisonment for a period not exceeding the period mentioned in the Schedule 1.
- (2) A person convicted of an offence in terms of this Act for which no penalty is otherwise or expressly determined, may be sentenced to a fine of R100 000 or to imprisonment for a period not exceeding one year, or to both.

1.5.1 SCHEDULE 1: MAXIMUM FINES OR PERIOD OF IMPRISONMENT THAT CAN BE IMPOSED FOR OFFENCES

Table 2 below contains Schedule 1, that sets out the maximum fine that may be imposed in terms of this Act for the contravention of certain provisions of the OHS Amendment Act, 2019.

Table 2: Schedule 1 - Maximum Fines or Period of Imprisonment that can be Imposed for Offences

SECTION UNDER WHICH CONVICTED	MAXIMUM FINE & PERIOD OF IMPRISONMENT
2B	R 1 000 000 or 3 years imprisonment
8	R 5 000 000 or 5 years imprisonment
9	R 5 000 000 or 5 years imprisonment
10	R 1 000 000 or 3 years imprisonment
12	R 1 000 000 or 3 years imprisonment
13	R 200 000 or 2 years imprisonment
14	R 1 000 000 or 3 years imprisonment
15	R 1 000 000 or 3 years imprisonment
16	R 1 000 000 or 3 years imprisonment
17(1); 17(4)	R 1 000 000 or 3 years imprisonment

18(3)	R 1 000 000 or 3 years imprisonment
22	R 500 000 or 3 years imprisonment
30(2)	R 500 000 or 3 years imprisonment
31(1B)	R 1 000 000 or 3 years imprisonment
34	R 5 000 000 or 5 years imprisonment
36	R 500 000 or 3 years imprisonment
37	R 5 000 000 or 5 years imprisonment
38	R 5 000 000 or 5 years imprisonment
40	R 1 000 000 or 3 years imprisonment
41	R 1 000 000 or 3 years imprisonment
42	R 1 000 000 or 3 years imprisonment

ADDENDUM 1: IMPORTANT DEFINITIONS

Table 3 below contains definitions that are relevant to this guide.

Table 3: Terms and Definitions

TERM	DEFINITION
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 accredited organisation approved by the chief inspector as an inspection authority with respect to any particular service in terms of this Act.
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: a) any structure attached to the soil; b) any building or such structure or part thereof which is in the process of being erected; or c) 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 of the OHS Amendment Act, 2019.
DANGER	Means anything which may cause injury, adverse health effects or damage to persons or property.
DEPARTMENT	Means the Department of Employment and Labour.
EMPLOYEE	Means any person who is employed by or works for an employer and who receives or is entitled to receive any remuneration and who works under the direction or supervision of an employer.
EMPLOYER	Means any person, institution or organisation, including government who employs and provides work to an employee and supervises, remunerates or tacitly or expressly undertakes to remunerate such employee for services rendered by such employee.
EMPLOYERS' ORGANISATION	Means an employers' organisation as defined in section 213 of the Labour Relations Act, 1995 (Act No. 66 of 1995).
EMPLOYMENT/EMPLOYED	Means employment or employed as an employee.
EXPLOSIVES	Means any substance or article as listed in Class 1: 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.
HAZARDOUS SUBSTANCE	Means a toxic, harmful, erosive, corrosive irritant or an asphyxiate substance or a mixture of such substances which creates a hazard to health.
HEALTH AND SAFETY COMMITTEE	Means a committee established under section 19 of the OHS Amendment Act, 2019.
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) of the OHS Amendment Act, 2019.

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 the OHS Amendment Act, 2019.
HEALTHY	Means free from illness or injury attributable to occupational causes.
INCIDENT	Means an incident as contemplated in section 24 (1) of the OHS Amendment Act, 2019.
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: <ul style="list-style-type: none"> (a) the health of any person; (b) the safety or risk to health of any work, article, substance, plant or machinery, or of any condition prevalent on or in any premises; or (c) 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 of the OHS Amendment Act, 2019.
LISTED WORK	Means any work which poses a risk to health and safety which requires specific precautionary measures to be implemented.
LOCAL AUTHORITY	Means a local municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).
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 INCIDENT	Means an occurrence of catastrophic proportions, resulting from the use of plant or machinery, or from activities at a workplace.
MANDATARY	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 or 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 Cabinet member responsible for labour.
OCCUPATIONAL DISEASE	Means occupational disease as defined in section 1 of the Compensation for Occupational Injuries and Diseases Act 1993 (Act No. 130 of 1993).
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 HEALTH STANDARD	Means a standard, which, if applied for the purposes of this Act, will promote the occupational health of employees or the health of any other person in terms of the OHS Amendment Act, 2019.
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 HYGIENIST	Means a person who is registered with a body recognised by the chief inspector and who has the knowledge, training, skills, experience and the required qualification in the field of occupational hygiene techniques, to assess and evaluate levels of health and safety hazards that an employee is or may be exposed to at work.
OCCUPATIONAL MEDICINE	Means the prevention, diagnosis and treatment of illness, injury 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.
OFFICER	Means an officer or employee as defined in section 1 (1) of the Public Service Act, 1994 (PROCLAMATION No. 103 of 1994).
ORGANISM	Means any biological entity which is capable of causing illness to persons.
PERMANENT DISABLEMENT	Means the permanent disablement as defined in section 1 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993).
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.
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.
REGULATION	Means a regulation made under section 43 of the OHS Amendment Act, 2019.
REMUNERATION	Means any payment in money or in kind or both in money and in kind, made or owing to any person in pursuance of such persons employment.
RISK	Means the probability that personal injury, illness or the death of the employee or any other person or damage to property will occur.
RISK ASSESSMENT	Means the process of evaluating the risks to an employee's health and safety from workplace hazards and is a systematic assessment of all aspects of work that, considers: (a) a complete hazard identification; (b) identification of all who may be affected by the hazard; (c) how the person is affected; (d) the analysis and evaluation of the risks; and (e) prioritisation of risks.
RISK MANAGEMENT	Means the identification and mitigation of risks by the application of appropriate control measures.
SAFE	Means free from any hazard.
SAFETY MANAGEMENT SYSTEM	Or health and safety management system means, a co-ordinated, comprehensive set of interrelated or interacting elements to establish occupational health and safety policy and objectives in order to optimally manage health and safety.
SAFETY STANDARD	Means any standard, which if applied for the purposes of this act, will promote the safety of employees or any other person in terms of the OHS Amendment Act, 2019.
SANAS	Means the South African National Accreditation System.

SELF-EMPLOYED	Means an individual who earns income through conducting profitable operations from a trade or business, which that individual operates directly.
SELL	Includes: (a) offer or display for sale or import into the Republic for sale; or (b) exchange, donate, lease or offer or display for leasing.
SHOP	Means a shop as defined in section I (1) of the Basic Conditions of Employment Act, 1983 (Act No. 3 of 1983).
STANDARD	Means any provision occurring: (a) in a specification, compulsory specification, code of practice or standard method as defined in section 1 of the Standards Act, 2008 (Act No. 8 of 2008); or (b) 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: Provided that, anything that is required to conform to this Act shall first be subjected to the required tests by SANAS accredited to do such tests to ensure conformance to a particular standard;
SUBSTANCE	Includes any solid, liquid, vapour, gas or aerosol, or combination thereof;
TRADE UNION	Means a trade union as defined in section 213 of the Labour Relations Act, 1995 (Act No. 66 of 1995).
USER	Means the person who uses the premises, articles, substances, plant or machinery for his or her own benefit or has the exclusive right of control over the use of the premises, articles, substances, plant or machinery, but does not include a lessor of, or any person employed in connection with, that premises, articles, substances, plant or machinery.
VOLUNTEER	Means a person, who willingly provides a service to an institution or organisation, including a government body or organisation, or a non-governmental organisation without being remunerated for services rendered.
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 or she is in the course of his or her employment, and a self-employed person is deemed to be at work during such time as he or she devotes to work as a self-employed person.
WORKPLACE	Means any premises or place where a person performs work in the course of employment.



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