

## **New level 4 lockdown regulations for employers**

The Minister of Employment and Labour will shortly publish directives that set out the procedures and mitigation measures that employers have to follow in order to ensure the health and safety of employees at the workplace during the Covid-19 pandemic. Herewith the critical points. This directive provides, for the first time during the pandemic, the detailed mitigation measures and procedures that employers have to follow. It is legally-binding and supersedes all guidelines or best practice documents used to date. It applies to all companies operating as essential services currently and those that will do so once we move to level 4 on Friday.

### **Directive on Health and Safety in the Workplace**

#### *Application*

- The measures apply to employers as well as self-employed persons;
- Employers must ensure that these requirements are adhered to not only by its own employees, but any workers of contractors or sub-contractors on its premises.
- The directive applies to any workplace permitted to operate for as long as the Regulations under the Disaster Management Act are in force (not only under level 4 or 5 but for the duration of the state of disaster);

#### *Compulsory risk assessment*

- Every employer must conduct a risk assessment for his workplace;
- If the employer employs  $\geq 500$  persons, a record of the risk assessment as well as a written policy concerning the protection of the health and safety from COVID 19 must be sent to;
  - The health and safety committee; and
  - The Department of Employment and Labour;
- A manager must be designated to address employees or workplace representatives on hazards and mitigation measures;

#### *Social distancing*

- Employers must, as far as practicable, minimise the number of workers at the workplace in any given time by;
  - Rotation;
  - Staggered work shifts;
  - Remote working arrangements;
- Social distancing of a minimum of 1,5 m between workers must be maintained;
- Where this is not possible due to the nature of the work, then;
  - Physical barriers must be erected separating workers; or
  - Supply appropriate personal protective equipment (PPE), based on the risk assessment, free of charge;
- These social-distancing measures must be monitored and enforced via supervision at work places, common areas inside or outside, and through queue control at canteens and lavatories;
- This may include staggering break-times.

#### *Symptom screening*

Every employer must take measures to:

- Screen workers for symptoms in the prescribed manner (to be prescribed by the Minister of Health) when they report to work;

- Require workers to report symptoms;
- Prohibit an employee displaying symptoms from entering the workplace; and

#### *Infections*

- If a worker is diagnosed with Covid-19, the employer must;
  - Immediately isolate the worker and provide him/her with a FFP1 surgical mask;
  - Transport the worker to be self-isolated or to medical treatment in a manner that does not place other workers at risk;
  - Disinfect the worker's workstation;
  - report it to the department; and
  - Investigate the cause and any potential control failures;
- The employee may not come to work and must take paid sick leave in terms of section 22 of the BCEA (TERS may be claimed);
- A claim for compensation under COIDA can be lodged if there is evidence that the infection resulted from work;

#### *Return to work*

- An employee who was infected but recovered may only return to work in accordance with Department of Health guidelines (to be published); subject to
  - Undergoing a medical evaluation and testing negative;
- The employer must ensure personal hygiene, wearing of masks, social distancing etc. is adhered to by the worker.

#### *Sanitisers, disinfectants and other measures*

- Sanitisers must have an alcohol content of at least 70%; and
- The employers must supply sufficient quantity of these depending on the workplace and it must be supplied at the entrance;
- Employees who work away from the workplace, other than at home, must be given an adequate supply;
- There must be sanitiser at the workstation if a worker interacts with the public (for the worker and the public);
- Workstations must be disinfected before work begins, after work and at intervals (not specified) in between;
- All common areas, toilets, door handles, shared electronics must be regularly disinfected;
- Biometric systems must be disabled or made Covid-19-proof;

#### *Sanitation*

- Employers must see to:
  - Adequate facilities for washing hands with soap and clean water;
  - Only paper towels are allowed to dry hands – no fabric towels are permitted;
  - Employees must wash hands regularly at work, before or after interacting with the public; and
  - All surfaces that members of the public come into contact with must be cleaned regularly.

#### *Cloth masks*

- All employees must be provided with a minimum of 2 cloth masks free of charge; and

- Employees must wear these in the workplace;
- Employees must be trained on the correct use of masks;
- An employer must make appropriate arrangements for washing, drying and ironing of cloth masks;

#### *Other PPE*

- Additional PPE requirements may be added by the Department of Health, National Institute of Communicable Diseases and the National Institute for Occupational Health.

#### *Ventilation*

- Workplaces must be kept well ventilated and where possible;
- Particulate air HEPA filters should be used.

#### *Areas accessible to the public*

- Social distancing or physical barriers equally apply to members of the public;
- Suppliers etc. must also wear masks and may be required to be screened for symptoms before entering the workplace.

#### *Small businesses*

- Businesses with less than 10 workers are required to adhere to the same requirements in terms of social distancing, screening, ventilation, PPEs, cloth masks disinfectants etc. as well as other measures indicated by a risk assessment.

#### *Compliance and monitoring*

- Labour inspectors can enforce the regulations and issue directives under s64 of the BCEA.

#### *Sector-specific guidelines*

- The Chief Inspector under s27 of the OHS Act must facilitate the development of sector-specific guidelines at NEDLAC to complement these Regulations;
- A sector-specific template for risk assessments will also be developed that employers in that sector must follow.

Herewith the link to the directive:

[Final OHS Covid-19 directive – 28 April 2020](#)