



# Mine Health and Safety Act No. 29 of 1996 and Regulations



**MHSC**  
**Mine Health and Safety Council**

# **Mine Health and Safety Act 29 of 1996 and Regulations**

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## MINE HEALTH AND SAFETY ACT 29 OF 1996

[ASSENTED TO 30 MAY 1996]

[DATE OF COMMENCEMENT: 15 JANUARY 1997]

(Unless otherwise indicated)

(*English text signed by the President*)

This Act has been updated to Government Gazette 32226 dated 12 May 2009

as amended by

Mine Health and Safety Amendment Act 72 of 1997

Skills Development Amendment Act 31 of 2003

Mineral and Petroleum Resources Development Act 28 of 2002

Mine Health and Safety Amendment Act 74 of 2008

### GENERAL NOTE

In terms of s.47 of Act No. 72 of 1997, the expressions in the principal Act are amended by-

- (a) the substitution for the expression '*Chief Inspector*', of the expression '*Chief Inspector of Mines*';
- (b) the substitution for the expression '*Government Gazette*', of the expression '*Gazette*';
- (c) the substitution for the expressions '*owner*', '*owner or an employer*', '*owner or manager*', '*owner or the employer*', '*owner, manager*', '*management*' and '*an owner or employer*', of the expression '*employer*';
- (d) the substitution for the expressions '*owners*' and '*owners, employers*' and '*managers*', of the expression '*employers*';
- (e) the substitution of the expression '*manager*', except in sections 3 and 4, of the expression '*employer*';
- (f) the substitution for the expression '*a manager*', except in sections 3 and 4, of the expression '*an employer*'; and
- (g) the substitution for the expression '*managers*', except in sections 3 and 4 of the expression '*employers*'.

In terms of s. 34 of the Mine Health and Safety Amendment Act 74 of 2008, the expressions in the principal Act are amended by-

- (a) the substitution for the expression '*permanent committee(s)*', of the expression '*committee(s)*';
- (b) the substitution for the expression '*Minerals Act*', of the expression '*Mineral and Petroleum Resources Development Act, 2002*'.

## ACT

**To provide for protection of the health and safety of employees and other persons at mines and, for that purpose-**

- to promote a culture of health and safety;
- to provide for the enforcement of health and safety measures;
- to provide for appropriate systems of employee, *employer* and State participation in health and safety matters;
- to establish representative tripartite institutions to review legislation, promote health and enhance properly targeted research;
- to provide for effective monitoring systems and inspections, investigations and inquiries to improve health and safety;
- to promote training and human resources development;
- to regulate *employers'* and employees' duties to identify hazards and eliminate, control and minimise the risk to health and safety;
- to entrench the right to refuse to work in dangerous conditions; and
- to give effect to the public international law obligations of the Republic relating to mining health and safety;
- and to provide for matters connected therewith.

(An italicised word or phrase indicates that the word or phrase is defined in section 102 of this Act)

## CHAPTER 1

### OBJECTS OF ACT

#### 1. Objects of Act

The objects of this Act are-

- (a) to protect the *health and safety* of persons at *mines*;
- (b) to require *employers* and *employees* to identify *hazards* and eliminate, control and minimise the *risks* relating to *health and safety* at *mines*;
- (c) to give effect to the public international law obligations of the Republic that concern *health and safety* at *mines*;
- (d) to provide for *employee* participation in matters of *health and safety* through *health and safety representatives* and the *health and safety committees* at *mines*;
- (e) to provide for effective monitoring of *health and safety* conditions at *mines*;
- (f) to provide for enforcement of *health and safety* measures at *mines*;
- (g) to provide for investigations and inquiries to improve *health and safety* at *mines*; and
- (h) to promote-

- (i). a culture of *health and safety* in the mining industry;
- (ii). training in *health and safety* in the mining industry; and
- (iii). co-operation and consultation on *health and safety* between the State, employers, employees and their representatives.

## CHAPTER 2

### HEALTH AND SAFETY AT MINES

#### 2. Employer to ensure safety

- (1) The employer of every *mine* that is being worked must-
  - (a) ensure, as far as *reasonably practicable*, that the *mine* is designed, constructed and equipped-
    - (i). to provide conditions for safe operation and a *healthy* working environment; and
    - (ii). with a communication system and with electrical, mechanical and other equipment as necessary to achieve those conditions;
  - (b) ensure, as far as *reasonably practicable*, that the *mine* is commissioned, operated, maintained and decommissioned in such a way that *employees* can perform their work without endangering the *health and safety* of themselves or of any other person;
  - (c) compile an annual report on *health and safety* at the *mine* including the statistics on *health and safety* that must be kept in terms of *this Act* and the annual medical report referred to in section 16; and
  - (d) if the employer is a body corporate, and employs more than 50 *employees*, publish and distribute the report referred to in paragraph (c), in an appropriate form, to the body corporate's shareholders or members.

[Para. (d) substituted by s. 1 of Act 72 of 1997]

- (2) The employer of a mine that is not being worked, but in respect of which a closure certificate in terms of the Minerals and Petroleum Resources and Development Act has not been issued, must take reasonable steps to continuously prevent injuries, ill-health, loss of life or damage of any kind from occurring at or because of the mine.

[Sub-s. (2) substituted by s. 1 of Act 74 of 2008]

#### 2A. Chief executive officer charged with certain functions

- (1) Every *chief executive officer* must take reasonable steps to ensure that the functions of the employer as contemplated in *this Act*, are properly performed.

- (2) Without derogating from any responsibility or liability of the *chief executive officer* in terms of subsection (1), the *chief executive officer* may entrust any function contemplated in the said subsection to any person under the control of the *chief executive officer*, which person must act subject to the control and directions of the *chief executive officer*.
- (3) If the *employer* is a body corporate, the functions of the *chief executive officer* contemplated in subsections (1) and (2) may be performed by a member of the board of the body corporate designated by the board.
- (4) Subsections (1), (2) and (3) do not relieve an *employer* of any duty imposed on *employers* by *this Act*.
- (5) Every person appointed in terms of section 3 or 4 (1) must perform their functions subject to the control and direction of the *chief executive officer* or the person contemplated in subsection (3).
- (6)
  - (a) The *employer* must inform the *Chief Inspector of Mines*, in writing, within seven days of the appointment of the *chief executive officer*.
  - (b) The information to the *Chief Inspector of Mines* include-
    - (i). the name of the *chief executive officer*;
    - (ii). the nature of such person's function; and
    - (iii). the name of persons who are managers under the supervision of the *chief executive officer*.

[S. 2A inserted by s. 2 of Act 72 of 1997 and Sub-s. (6) added by s. 2 of Act 74 of 2008]

### **3. Employer must appoint manager**

- (1) The *employer* of every *mine* that is being worked must-
  - (a) appoint one or more *managers* with the qualifications as may be prescribed to be responsible for the day to day management and operation of the *mine*, and if more than one *manager* is appointed, ensure that the *managers'* functions do not overlap;

[Para. (a) substituted by s. 3 of Act 72 of 1997]

- (b) supply the *managers* with the means to perform their functions; and
  - (c) take reasonable steps to ensure that the *managers* perform their functions.

- (2) The appointment of a *manager* does not relieve the *employer* of any duty imposed on *employers* by *this Act* or any other law.
- (3) If no *manager* is appointed in terms of subsection (1), the *employer* must perform the functions of a *manager* in terms of *this Act*.

#### **4. Employer may entrust functions to another person**

- (1) An *employer* may appoint any person except a *manager* to perform any function entrusted to the *employer* by sections 2 and 3 of *this Act*.

[Sub-s. (1) substituted by s. 4 of Act 72 of 1997]

- (2) An *employer* who appoints a person under subsection (1) must notify the *Chief Inspector of Mines* of that appointment within seven days, and must include in that notice-
  - (a) the name of the person appointed;
  - (b) the nature of the person's functions; and
  - (c) the names of the *manager* or *managers* over whom that person has control.
- (3) An *employer* who appoints a person under subsection (1) must-
  - (a) supply each person appointed with the means to perform their functions; and
  - (b) take reasonable steps to ensure that they perform their functions.
- (4) The appointment of a person under subsection (1) does not relieve the *employer* of any duty imposed on *employers* by *this Act* or any other law.

#### **5. Employer to maintain healthy and safe mine environment**

- (1) As far as *reasonably practicable*, every *employer* must provide and maintain a working environment that is safe and without *risk* to the *health of employees*.
- (2) As far as *reasonably practicable*, every *employer* must-
  - (a) identify the relevant hazards and assess the related risks to which persons who are not *employees* may be exposed; and
  - (b) ensure that persons who are not *employees*, but who may be directly affected by the activities at the *mine*, are not exposed to any *hazards* to their health and safety.

[S. 5 substituted by s. 5 of Act 72 of 1997]

## **6. Employer to ensure adequate supply of health and safety equipment**

- (1) Every *employer* must-
  - (a) supply all necessary *health and safety equipment* and *health and safety facilities* to each *employee*; and
  - (b) maintain, as far as *reasonably practicable*, that equipment and those facilities in a serviceable and hygienic condition.

[Sub-s. (1) substituted by s. 6 (a) of Act 72 of 1997]

- (2) Every *employer* must ensure that sufficient quantities of all necessary personal protective equipment are available so that every *employee* who is required to use that equipment is able to do so.
- (3) Every *employer* must take reasonable steps to ensure that all *employees* who are required to use personal protective equipment are instructed in the proper use, the limitations and the appropriate maintenance of that equipment.

[Sub-s. (3) substituted by s. 6 (b) of Act 72 of 1997]

## **7. Employer to staff mine with due regard to health and safety**

- (1) As far as *reasonably practicable*, every *employer* must-
  - (a) ensure that every *employee* complies with the requirements of *this Act*;
  - (b) institute the measures necessary to secure, maintain and enhance *health and safety*;
  - (c) provide persons appointed under subsections (2) and (4) with the means to comply with the requirements of *this Act* and with any instruction given by an *inspector*;

[Para. (c) substituted by s. 7 (b) of Act 72 of 1997]

- (d) consider an *employee's* training and capabilities in respect of *health and safety* before assigning a task to that *employee*; and
- (e) ensure that work is performed under the general supervision of a person trained to understand the *hazards* associated with the work and who has the authority to ensure that the precautionary measures laid down by the *employer* are implemented.

[Sub-s. (1) amended by s. 7 (a) of Act 72 of 1997]

- (2) The *employer* may appoint any person with qualifications as may be prescribed to perform any function of the *employer* in terms of *this Act*.

[Sub-s. (2) substituted by s. 7 (c) of Act 72 of 1997]

- (3) The appointment of a person under subsection (2) does not relieve the *employer* of any duty imposed on *employers* by *this Act*.
- (4) A *manager* may appoint any person with qualifications as may be *prescribed* to perform any function of the *manager* in terms of *this Act*.

[Sub-s. (4) added by s. 7 (d) of Act 72 of 1997]

- (5) The appointment of a person under subsection (4) does not relieve the *manager* of any duty imposed on *managers* by *this Act*.

[Sub-s. (5) added by s. 7 (d) of Act 72 of 1997]

## **8. Employer must establish health and safety policy**

- (1) Every *employer* must prepare a document that-
  - (a) describes the organisation of work;
  - (b) establishes a policy concerning the protection of *employees' health* and *safety* at work;
  - (c) establishes a policy concerning the protection of persons who are not *employees* but who may be directly affected by the activities at the *mine*; and
- (d) outlines the arrangements for carrying out and reviewing policies.
- (2) The *employer* must consult with the *health and safety committee* on the preparation or revision of the document and policies referred to in subsection (1).
- (3) The *employer* must-
  - (a) prominently and conspicuously display a copy of the document referred to in subsection (1) for *employees* to read; and
  - (b) give each *health and safety representative* a copy of the document.

## **9. Codes of practice**

- (1) Any *employer* may prepare and implement a code of practice on any matter affecting the *health* or *safety* of *employees* and other persons who may be directly affected by activities at the *mine*.

- (2) An *employer* must prepare and implement a code of practice on any matter affecting the *health or safety* of *employees* and other persons who may be directly affected by activities at the *mine* if the *Chief Inspector of Mines* requires it.
- (3) A code of practice required by the *Chief Inspector of Mines* must comply with guidelines issued by the *Chief Inspector of Mines*.
- (4) The *employer* must consult with the *health and safety committee* on the preparation, implementation or revision of any code of practice.
- (5) The *employer* must deliver a copy of every code of practice prepared in terms of subsection (2) to the *Chief Inspector of Mines*.
- (6) The *Chief Inspector of Mines* must review a code of practice of a *mine* if requested to do so by a *registered trade union* with members at the *mine*, or a *health and safety committee* or a *health and safety representative* at the *mine*.
- (7) At any time, an *inspector* may instruct an *employer* to review any code of practice within a specified period if that code of practice-
  - (a) does not comply with a guideline of the *Chief Inspector of Mines*; or
  - (b) is inadequate to protect the *health or safety* of *employees*.

## **10. Employer to provide health and safety training**

- (1) As far as *reasonably practicable*, every *employer* must-
  - (a) provide *employees* with any information, instruction, training or supervision that is necessary to enable them to perform their work safely and without *risk to health*; and
  - (b) ensure that every *employee* becomes familiar with work-related *hazards* and *risks* and the measures that must be taken to eliminate, control and minimise those *hazards* and *risks*.
- (2) As far as *reasonably practicable*, every *employer* must ensure that every *employee* is properly trained-
  - (a) to deal with every *risk* to the *employee's health or safety* that-
    - (i). is associated with any work that the *employee* has to perform; and
    - (ii). has been recorded in terms of section 11;
  - (b) in the measures necessary to eliminate, control and minimise those *risks to health or safety*;
  - (c) in the procedures to be followed to perform that *employee's work*; and
  - (d) in relevant emergency procedures.

- (3) In respect of every *employee*, the provisions of subsection (2) must be complied with-
  - (a) before that *employee* first starts work;
  - (b) at intervals determined by the *employer* after consulting the *health and safety committee*;
  - (c) before significant changes are introduced to procedures, mining and ventilation layouts, mining methods, plant or equipment and material; and
  - (d) before significant changes are made to the nature of that *employee's* occupation or work.
- (4) The *employer* must keep a record of all formal training provided in respect of each *employee* in terms of subsection (2).

[Sub-s. (4) added by s. 3 of Act 74 of 2008]

- (5) All *mines* must submit a workplace skills plan and the annual training reports to the Mining Qualifications Authority.

[Sub-s. (5) added by s. 3 of Act 74 of 2008]

## **11. Employer to assess and respond to risk**

- (1) Every *employer* must-
  - (a) identify the *hazards* to *health* or *safety* to which *employees* may be exposed while they are at work;
  - (b) assess the *risks* to *health* or *safety* to which *employees* may be exposed while they are at work;
  - (c) record the significant *hazards* identified and *risks* assessed; and
  - (d) make those *records* available for inspection by *employees*.
- (2) Every *employer*, after consulting the *health and safety committee* at the *mine*, must determine all measures, including changing the organisation of work and the design of safe systems of work, necessary to-
  - (a) eliminate any recorded *risk*;
  - (b) control the *risk* at source;
  - (c) minimise the *risk*; and
  - (d) in so far as the *risk* remains-
    - (i). provide for personal protective equipment; and
    - (ii). institute a programme to monitor the *risk* to which *employees* may be exposed.

- (3) Every *employer* must, as far as *reasonably practicable*, implement the measures determined necessary in terms of subsection (2) in the order in which the measures are listed in the paragraphs of that subsection.

- (4) Every *employer* must-
- (a) periodically review the *hazards* identified and *risks* assessed, including the results of *occupational hygiene* measurements and *medical surveillance*, to determine whether further elimination, control and minimisation of *risk* is possible; and
  - (b) consult with the *health and safety committee* on the review.
- (5) Every *employer* must-
- (a) conduct an investigation into every-
    - (i). accident that must be reported in terms of *this Act*;
    - (ii). *serious illness*; and
    - (iii). *health-threatening occurrence*;
  - (aA) commence an investigation referred to in paragraph (a) within 10 days from the date of such accident, *serious illness* or *health threatening occurrence*;

[Para. (aA) inserted by s. 4 (a) of Act 74 of 2008]

- (b) consult the *health and safety committee* on investigations in terms of this section;
- (c) conduct an investigation in co-operation with the *health and safety representative* responsible for the *working place* in which the investigation takes place;
- (d) on completion of each investigation, prepare a report that-
  - (i). identifies the causes and the underlying causes of the accident, *serious illness* or *health-threatening occurrence*;

[Sub-para. (i) substituted by s. 4 (b) of Act 74 of 2008]

- (ii). identifies any unsafe conditions, acts, or procedures that contributed in any manner to the accident, *serious illness* or *health-threatening occurrence*; and
- (iii). makes recommendations to prevent a similar accident, *serious illness* or *health-threatening occurrence*; and
- (e) deliver a copy of the report referred to in paragraph (d) within 30 days from the date of the accident, *serious illness* or *health-threatening occurrence* being investigated to the *Principal Inspector of Mines* and the *health and safety committee*. If there is no *health and safety committee* the *employer* must deliver a copy of the report to the *health and safety representative* responsible for the *working place*.

[Para. (e) substituted by s. 4 (c) of Act 74 of 2008]

(5A) An investigation in terms of subsection (5) must be completed within 30 days after the accident, *serious illness* or *health-threatening occurrence* being investigated or such longer period as the *Principal Inspector of Mines* may permit.

[Sub-s. (5A) inserted by s. 4 (d) of Act 74 of 2008]

(5B) The *employer* must notify the *Principal Inspector of Mines* of any accident or occurrence at a mine that results in-

- (a) the serious injury;
- (b) illness; or
- (c) death, of any person, in order to allow the *Principal Inspector of Mines* to instruct an *Inspector* to conduct an investigation simultaneously with the *employer* as required in section 11 (5) (a).

[Sub-s. (5B) inserted by s. 4 (d) of Act 74 of 2008]

- (6) An investigation referred to in subsection (5) may be held jointly with an investigation conducted by an *inspector* in terms of section 60.
- (7) If there is no *health and safety committee* at a *mine*, the consultations required in this section must be held with-
  - (a) the *health and safety representatives*; or
  - (b) if there is no *health and safety representative* at the *mine*, with the *employees*.
- (8) In the event of an incident in which 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, no person may without the consent of the *Principal Inspector of Mines* disturb the site at which the incident occurred or remove any article or substance involved in the incident: Provided that an article or substance may only be removed if it is necessary to-
  - (a) prevent any further incident;
  - (b) remove the injured or dead; or
  - (c) rescue any person from danger.

[Sub-s. (8) added by s. 4 (e) of Act 74 of 2008]

## **12. Employer to conduct occupational hygiene measurements**

- (1) The *employer* must engage the part-time or full-time services of a person qualified in *occupational hygiene* techniques to measure levels of exposure to hazards at the mine-
  - (a) if required to do so by regulation or a notice in the *Gazette*; or
  - (b) if, after assessing risks in terms of section 11 (1), it is necessary to do so.
- (2) Every system of *occupational hygiene* measurements must-
  - (a) be appropriate, considering the *hazards* to which the *employees* are or may be exposed; and
  - (b) be designed so that it provides information that the *employer* can use in determining measures to eliminate, control and minimise the *health risks* and *hazards* to which *employees* are or may be exposed.
- (3) The *employer* must keep a *record* of all *occupational hygiene* measurements in terms of subsection (1) in a manner that can be linked as far as practicable to each *employee's record of medical surveillance*.

## **13. Employer to establish system of medical surveillance**

- (1) The *employer* must establish and maintain a system of *medical surveillance* of *employees* exposed to *health hazards*-
  - (a) if required to do so by *regulation* or a notice in the *Gazette*; or
  - (b) if, after assessing *risks* in terms of section 11 (1), it is necessary to do so.
- (2) Every system of *medical surveillance* must-
  - (a) be appropriate, considering the *health hazards* to which the *employees* are or may be exposed;
  - (b) be designed so that it provides information that the *employer* can use in determining measures to-
    - (i). eliminate, control and minimise the *health risk* and *hazards* to which *employees* are or may be exposed; or
    - (ii). prevent, detect and treat *occupational diseases*; and
  - (c) consist of an initial medical examination and other medical examinations at appropriate intervals.
- (3) Every *employer* who establishes or maintains a system of *medical surveillance* must-
  - (a) engage the part-time or full-time services of-
    - (i). an *occupational medical practitioner*; and
    - (ii). .....

[Sub-para. (ii) deleted by s. 5 (a) of Act 74 of 2008]

- (b) supply the practitioners with the means to perform their functions; and
- (c) keep a record of *medical surveillance* for each *employee* exposed to a *health hazard*.

(4) .....

[Sub-s. (4) deleted by s. 5 (b) of Act 74 of 2008]

(4A) The *employer* must inform the *Principal Inspector of Mines*, in writing, within seven days of the appointment of the *occupational medical practitioner*.

[Sub-s. (4A) inserted by s. 5 (c) of Act 74 of 2008]

(4B) The information submitted in terms of subsection (4A) must include-

- (a) the name of a *occupational medical practitioner*;
- (b) his or her practice number; and
- (c) whether the *occupational medical practitioner* is engaged full time or part time.

[Sub-s. (4B) inserted by s. 5 (c) of Act 74 of 2008]

(5) An *occupational medical practitioner* must take every measure that is *reasonably practicable* to-

- (a) promote the *health and safety* of *employees* at the *mine*; and
- (b) assist *employees* in matters related to *occupational medicine*.

(6) If any *employee* is declared unfit to perform work as a result of an *occupational disease*, the *employer* must conduct an investigation in terms of section 11 (5).

(7) If an *employee* is temporarily unfit to perform work as a result of any *occupational disease*, but there is a reasonable expectation that the *employee's health* will improve so that the *employee* can return to work, the *occupational medical practitioner* must record that fact and notify both the *employer* and *employee* of it.

(8) The *employer* must-

- (a) retain the records referred to in sections 12 (3), 13 (3) (c) and 14 (1) until the *mine* closes; and
- (b) when the *mine* closes, deliver those *records* to the *Medical Inspector*.

#### **14. Record of hazardous work**

- (1) The *employer* at every *mine* must keep a service *record*, in the *prescribed* form, of *employees* at the *mine* who perform work in respect of which *medical surveillance* is conducted in terms of section 13.
- (2) The *employer* must deliver to the *Medical Inspector* a copy of the relevant part of the record kept in terms of subsection (1)-
  - (a) when an *employee* whose name appears in that *record* ceases to be employed at that *mine*; or
  - (b) when required to do so by the *Chief Inspector of Mines*.

#### **15. Record of medical surveillance**

- (1) An *employee's* record of *medical surveillance* kept in terms of section 13 (3)
  - (c) must be kept confidential and may be made available only-
    - (a) in accordance with the ethics of medical practice;
    - (b) if required by law or court order; or
    - (c) if the *employee* has consented, in writing, to the release of that information.
- (2) Any person required to maintain an *employee's* record of *medical surveillance* must-
  - (a) store it safely; and
  - (b) not destroy it or dispose of it, or allow it to be destroyed or disposed of, for 40 years from the last date of the *medical surveillance* of that *employee*.

#### **16. Annual medical reports**

- (1) Every *occupational medical practitioner* at a *mine* must compile an annual report covering *employees* at that *mine*, giving an analysis of the *employees' health* based on the *employees' records of medical surveillance*, without disclosing the names of the *employees*.
- (2) The annual report compiled in terms of subsection (1) must be given to the *employer*, who must deliver one copy of the report to each of-
  - (a) .....

[Para. (a) deleted by s. 9 of Act 72 of 1997]

- (b) the *health and safety committees*, or if there is no *health and safety committee*, the *health and safety representatives*; and
- (c) the *Medical Inspector*.

## **17. Exit certificates**

- (1) If an *employee* was subject to, or was required to be subject to, *medical surveillance* in terms of *this Act* and such *employee*'s employment at a *mine* is terminated for any reason, the *employer* must arrange an exit medical examination of the *employee*.

[Sub-s. (1) substituted by s. 10 of Act 72 of 1997]

- (2) The examination referred to in subsection (1) must be held before, or within 30 days after, termination of employment.

[Sub-s. (2) substituted by s. 6 of Act 74 of 2008]

- (3) The *employee* must attend the examination.
- (4) The *occupational medical practitioner* conducting the examination must-
  - (a) produce an exit certificate with respect to that *employee* indicating the results of all *medical surveillance* and the presence or absence of any *occupational disease*; and
  - (b) enter a copy of the exit certificate into the *employee's record of medical surveillance*.

## **18. Costs of examination**

The *employer* must pay the costs of all clinical examinations and medical tests performed in terms of *this Act* unless *this Act* expressly provides otherwise.

## **19. Employees' right to information**

- (1) An *employee* may request, and the *employer* must then provide, a copy of the record or of any part of it that-
  - (a) is being kept in terms of sections 12 (3) and 13 (3) (c); and
  - (b) relates to that *employee*.
- (2) The *occupational medical practitioner* conducting an examination in terms of section 17 must provide the *employee* with a copy of the exit certificate prepared as a result of that examination.

## **20. Employee may dispute finding of unfitness to perform work**

- (1) An *employee* may appeal to the *Medical Inspector* against-
  - (a) a decision that the *employee* is unfit to perform any particular category of work; or
  - (b) any finding of an *occupational medical practitioner* contained in an exit certificate prepared in terms of section 17.

- (2) An appeal under subsection (1) must-
  - (a) be lodged with the *Medical Inspector* within 30 days of the relevant decision or finding, or such further period as may be *prescribed*; and
  - (b) state the grounds of the appeal.
- (3) When the *Medical Inspector* receives an appeal under subsection (1), the *Medical Inspector* must choose a *medical practitioner* who is not employed by the *employer* of the *employee*, and arrange for that *employee* to be re-examined by that *medical practitioner*, at the cost of the *Chief Inspector of Mines*.
- (4) The *medical practitioner* referred to in subsection (3) must report to the *Medical Inspector*, who must then consider the appeal and-
  - (a) confirm, set aside or vary the decision or finding of the *occupational medical practitioner*; or
  - (b) substitute any other decision or finding for that decision or finding.
- (5) Nothing in this section precludes an *employee* from-
  - (a) obtaining and paying for a medical opinion from any other *medical practitioner*; or
  - (b) pursuing any other legal remedy.
- (6) For the purposes of this section, 'employee' includes any applicant for employment who has previously been employed at a *mine*.
- (7) An *employee* lodging an appeal under subsection (1) may not be dismissed on any grounds relating to unfitness to perform work, pending the outcome of the appeal.

[Sub-s. (7) added by s. 7 of Act 74 of 2008]

## **21. Manufacturer's and supplier's duty for health and safety**

- (1) Any person who-
  - (a) designs, manufactures, repairs, imports or supplies any article for use at a *mine* must ensure, as far as *reasonably practicable*-
    - (i). that the article is safe and without *risk* to *health* and *safety* when used properly; and
    - (ii). that it complies with all the requirements in terms of *this Act*;

- (b) erects or installs any article for use at a *mine* must ensure, as far as *reasonably practicable*, that nothing about the manner in which it is erected or installed makes it unsafe or creates a *risk to health and safety* when used properly; or
  - (c) designs, manufactures, erects or installs any article for use at a *mine* must ensure, as far as *reasonably practicable*, that ergonomic principles are considered and implemented during design, manufacture, erection or installation.
- (2) Any person who bears a duty in terms of subsection (1) is relieved of that duty to the extent that is reasonable in the circumstances, if-
- (a) that person designs, manufactures, repairs, imports or supplies an article for or to another person; and
  - (b) that other person provides a written undertaking to take specified steps sufficient to ensure, as far as *reasonably practicable*, that the article will be safe and without *risk to health and safety* when used properly and that it complies with all prescribed requirements.
- (3) Any person who designs or constructs a building or structure, including a temporary structure, for use at a *mine* must ensure, as far as *reasonably practicable*, that the design or construction is safe and without *risk to health and safety* when used properly.
- (4) Every person who manufactures, imports or supplies any hazardous substance for use at a *mine* must-
- (a) ensure, as far as *reasonably practicable*, that the *substance* is safe and without *risk to health and safety* when used, handled, processed, stored or transported at a *mine* in accordance with the information provided in terms of paragraph (b);
  - (b) provide adequate information about-
    - (i). the use of the *substance*;
    - (ii). the *risks to health and safety* associated with the *substance*;
    - (iii). any restriction or control on the use, transport and storage of the *substance*, including but not limited to exposure limits;
    - (iv). the *safety precautions* to ensure that the *substance* is without *risk to health or safety*;
    - (v). the procedure to be followed in the case of an accident involving excessive exposure to the *substance*, or any other emergency involving the *substance*; and
    - (vi). the disposal of used containers in which the *substance* has been stored and any waste involving the *substance*; and

- (c) ensure that the information provided in terms of paragraph (b) complies with the provisions of the Hazardous Substances Act, 1973 (Act 15 of 1973).

## **22. Employees' duties for health and safety**

Every *employee* at a mine, while at that *mine*, must-

- (a) take reasonable care to protect their own *health and safety*;
- (b) take reasonable care to protect the *health and safety* of other persons who may be affected by any act or omission of that *employee*;
- (c) use and take proper care of protective clothing, and other *health and safety* facilities and *equipment* provided for the protection, *health or safety* of that *employee* and other *employees*;
- (d) report promptly to their immediate supervisor any situation which the *employee* believes presents a *risk* to the *health or safety* of that *employee* or any other person, and with which the *employee* cannot properly deal;
- (e) co-operate with any person to permit compliance with the duties and responsibilities placed on that person in terms of *this Act*; and
- (f) comply with prescribed *health and safety* measures.

## **23. Employees' right to leave dangerous working place**

- (1) The *employee* has the right to leave any *working place* whenever-
  - (a) circumstances arise at that *working place* which, with reasonable justification, appear to that *employee* to pose a serious danger to the *health or safety* of that *employee*; or
  - (b) the *health and safety representative* responsible for that *working place* directs that *employee* to leave that *working place*.
- (2) Every *employer*, after consulting the *health and safety committee* at the *mine*, must determine effective procedures for the general exercise of the rights granted by subsection (1), and those procedures must provide for-
  - (a) notification of supervisors and *health and safety representatives* of dangers which have been perceived and responded to in terms of subsection (1);
  - (b) participation by representatives of *employer* and representatives of the *employees* in endeavouring to resolve any issue that may arise from the exercise of the right referred to in subsection (1);
  - (c) participation, where necessary, by an *inspector* or technical adviser to assist in resolving any issue that may arise from the exercise of the right referred to in subsection (1);

- (d) where appropriate, the assignment to suitable alternative work of any *employee* who left, or refuses to work in, a *working place* contemplated in subsection (1); and

[Para. (d) substituted by s. 12 of Act 72 of 1997]

- (e) notification to any employee who has to perform work or is requested to perform work in a *working place* contemplated in subsection (1) of the fact that another *employee* has refused to work there and of the reason for that refusal.
- (3) If there is no *health and safety committee* at a *mine*, the consultation required in subsection (2) must be held with-
- the *health and safety representatives*; or
  - if there is no *health and safety representative* at the *mine*, with the *employees*.
- (4) The *Minister*, by notice in the *Gazette*, must determine minimum requirements for the procedures contemplated in subsection (2).

[Sub-s. (4) added by s. 8 of Act 74 of 2008]

## **24. Employees not to pay for safety measures**

No person may make any deduction from an *employee's* wages, or permit an *employee* to make any payment to any person, in respect of anything which the *employer* is obliged to provide or to do in terms of *this Act* in the interest of the *health and safety* of an *employee*.

# **CHAPTER 3**

## **HEALTH AND SAFETY REPRESENTATIVES AND COMMITTEES**

### **25. Health and safety representatives and committees**

- Every *mine* with 20 or more *employees* must have a *health and safety representative* for each shift at each designated *working place* at the *mine*.
- Every *mine* with 100 or more *employees* must have one or more *health and safety committees*.
- A *health and safety representative* or a member of a *health and safety committee* does not incur any civil liability only because of doing or failing to do something which a *health and safety representative* or a member of a *health and safety committee* may do or is required to do in terms of *this Act*.

## 26. Negotiations and consultations before appointment of representatives

- (1) The *employer* of any *mine* where there must be a *health and safety representative* in terms of section 25 must meet, within the *prescribed* period, with the *representative trade union* of the *mine* to enter into negotiations to conclude a collective agreement concerning-
- (a) the designation of *working places*;
  - (b) the number of full-time *health and safety representatives*;
  - (c) the election or appointment of *health and safety representatives*;
  - (d) the terms of office of *health and safety representatives* and the circumstances and the manner in which they may be removed from office;
  - (e) the manner in which vacancies are to be filled;
  - (f) the manner in which *health and safety representatives* must perform their functions in terms of *this Act*;
  - (g) the procedures for the effective exercise of the right to withdraw from serious danger in terms of section 23;
  - (h) circumstances and the manner in which meetings referred to in sections 30 (1) (i) and 31 (2) must be held;
  - (i) the facilities and assistance that must be provided to a *health and safety representatives* in terms of section 31 (3);
  - (j) the training of *health and safety representatives*;
  - (k) a procedure that provides for the conciliation and arbitration of disputes arising from the application or the interpretation of the collective agreement or any provision of this Chapter;

[Para. (k) substituted by s. 13 (a) of Act 72 of 1997]

- (l) any *prescribed* matter; and
  - (m) any other matter which the parties believe will promote *health and safety* at the *mine* or *mines* concerned.
- (2) Before concluding a collective agreement referred to in subsection (1) with the *representative trade union*, the *employer* must consult on the matters referred to in that subsection with all other *registered trade unions* with members at that *mine*.
- (3) A collective agreement referred to in subsection (1) may include two or more *employers* as parties to the agreement.

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- (4) To the extent that an agreement concluded in terms of subsection (1) deals with any matter regulated by this Chapter or by any *regulation* regarding any matter regulated by this Chapter, the provisions of this Chapter or such *regulation* do not apply.

[Sub-s. (4) substituted by s. 13 (b) of Act 72 of 1997]

- (5) The provisions applicable to collective agreements in terms of the *Labour Relations Act*, read with the changes required by the context, apply to agreements concluded in terms of subsection (1).
- (6) If there is no *representative trade union* at the *mine*, the *employer* must within the *prescribed period*-
- consult with the *registered trade unions* with members at the *mine* on the matters referred to in subsection (1); and
  - endeavour to reach agreement on the number of full-time *health and safety representatives* at the *mine*.
- (7) If there is no *registered trade union* with members at the *mine*, the *employer* must, within the *prescribed period*-
- consult with the *employees* or any elected representative of the *employees* on the matters referred to in subsection (1); and
  - endeavour to reach agreement on the number of full-time *health and safety representatives* at the *mine*.
- (8) A dispute exists if either-
- no collective agreement in terms of subsection (1) is concluded on the number of full-time *health and safety representatives* at a *mine*; or
  - no agreement is reached in terms of either subsection (6) (b) or (7) (b).
- (9) When a dispute exists in terms of subsection (8), any party to the dispute may refer it to the *Commission*.
- (10) When a dispute is referred to the *Commission* under subsection (9), the *Commission* must attempt to resolve it through conciliation.
- (11) If a dispute remains unresolved, any party to the dispute may request that it be resolved through arbitration, in which case the *Commission*, taking into account the guidelines in Schedule 1, must determine the number of full-time *health and safety representatives*.

- (12) Nothing in this section precludes the *employer* from consulting with any *employee* who is not a member of a *registered trade union* or any representative of those *employees* concerning the matters referred to in subsection (1).

## **27. Designation of working places**

- (1) If a collective agreement is concluded after the negotiations and consultations referred to in section 26, the *employer* must designate *working places* at the *mine* in accordance with that agreement.
- (2) If no collective agreement is concluded after the negotiations and consultations referred to in section 26, the *employer* must designate *working places* at the *mine* so that-
- every *working place* at the *mine* is designated;
  - no *health and safety representative* is responsible for more than 100 *employees*; and
  - no *health and safety representative* is responsible for more than 50 *employees* if the designated *working place* includes separate *working places*.

## **28. Qualifications of representatives**

- (1) To qualify to serve as a *health and safety representative* referred to in section 25 (1) an *employee* must-
- be employed in a full-time capacity in the designated *working place*; and
  - be acquainted with conditions and activities at the designated *working place*.
- (2) To qualify to serve as a full-time *health and safety representative* an *employee* must-
- be employed in full-time capacity at the *mine*;
  - comply with any other qualifications which may be-
    - agreed by a *health and safety committee*; or
    - prescribed.

## **29. Election and appointment of representatives**

- (1) At a *mine* referred to in section 25 (1), the *employees* in a designated *working place* may elect from among themselves *health and safety representatives*.

- (2) The *employees* at the *mine* may elect from among themselves any full-time *health and safety representatives* that may be agreed or determined in terms of section 26.
- (3) The elections referred to in subsections (1) and (2) must be conducted in the *prescribed* manner.
- (4) The *employee* selected as representatives in terms of this section must be appointed by the *employer* in the *prescribed* manner.

### **30. Rights and powers of representatives**

- (1) A *health and safety representative* may-
  - (a) represent *employees* on all aspects of *health and safety*;
  - (b) direct any *employee* to leave any *working place* whenever circumstances arise at that *working place* which, with reasonable justification, appears to the *health and safety representative* to pose a serious danger to the *health or safety* of that *employee*;

[Para. (b) substituted by s. 14 of Act 72 of 1997]

- (c) assist any *employee* who has left a *working place* in terms of section 23;
  - (d) identify potential *hazards* and *risks to health or safety*;
  - (e) make representations or recommendations to the *employer* or to a *health and safety committee* on any matter affecting the *health or safety* of *employees*;
  - (f) inspect any relevant document which must be kept in terms of *this Act*;
  - (g) request relevant information and reports from an *inspector*;
  - (h) with the approval of the *employer*, be assisted by or consult an adviser or technical expert who may be either another *employee* or any other person;
  - (i) attend any meeting of a *health and safety committee*-
    - (i). of which that representative is a member; or
    - (ii). which will consider a representation or recommendation made by that representative;
  - (j) request-
    - (i). an *inspector* to conduct an investigation in terms of section 60; or
    - (ii). the *Chief Inspector of Mines* to conduct an inquiry in terms of section 65;
  - (k) participate in consultations on *health and safety* with-
    - (i). the *employer* or person acting on behalf of the *employer*; or
    - (ii). an *inspector*;
  - (l) participate in any *health and safety* inspection by-

- (i). the *employer* or person acting on behalf of an *employer*; or  
(ii). an *inspector*;
  - (m) inspect *working places* with regard to the *health and safety* of *employees* at intervals agreed with the *employer*;
  - (n) participate in any internal *health or safety* audit;
  - (o) investigate complaints by any *employee* relating to *health and safety* at work;
  - (p) examine the causes of accidents and other dangerous occurrences in collaboration with the *employer* or person acting on behalf of the *employer*;
  - (q) visit the site of an accident or dangerous occurrence at any reasonable time;
  - (r) attend a post-accident inspection;
  - (s) co-operate with the *employer* in the conducting of investigations in terms of section 11 (5);
  - (t) participate in an inquiry held in terms of section 65; and
  - (u) perform the functions-
    - (i). agreed by the *health and safety committee*; or
    - (ii). *prescribed*.
- (2) The rights and powers referred to in subsection (1) apply to *health and safety representatives* referred to in section 25 (1) only in respect of the working places for which they are responsible.
- (3) If a *health and safety representative* requests information or reports under subsection (1) (g), the inspector must supply the representative with the information or reports in their possession.
- (4) An *employer* may not unreasonably withhold the approval required in terms of subsection (1) (h).
- (5) A *health and safety representative* intending to exercise the right to inspect *working places* under subsection (1) (m) must-
  - (a) give the *employer* reasonable notice of the inspection; and
  - (b) permit the *employer* to participate in the inspection.
- (6) *Health and safety representatives* are entitled to perform their functions and to receive training during ordinary working hours.

- (7) Any time reasonably spent by a *health and safety representative* for a purpose referred to in subsection (6) must be considered for all purposes to be time spent carrying out the employment duties of that representative.

### **31. Duty to compensate and assist representatives**

- (1) The *employer* must pay every full-time *health and safety representative* appropriate remuneration at least equal to the remuneration the representative earned immediately before being appointed as a full-time *health and safety representative*.
- (2) The *employer* must provide reasonable time and facilities for *employees* to meet monthly with their *health and safety representatives* in order to consider-(a) *health and safety* in their *working places*; and(b) reports by the representatives on the performance of their functions.
- (3) The *employer* must provide *health and safety representatives* with-(a) the facilities and assistance reasonably necessary to perform their functions;  
(b) training that is reasonably required to enable them to perform their functions; and  
(c) time off from work, without loss of remuneration, to attend any training course that is agreed or prescribed.
- (4) Unless otherwise agreed, the assistance referred to in subsection (3) (a) does not include any costs associated with advisers or independent experts contemplated in either section 30 (1) (h) or section 36 (1) (g).
- (5) On the completion of a term of office as a full-time *health and safety representative*, the *health and safety representative* is entitled to-(a) employment in the same position held immediately before being appointed as a full-time *health and safety representative*; or  
(b) employment in a position that is at least as favourable as the position held immediately before being appointed a full-time *health and safety representative*.

### **32. Duty to inform representatives**

Every *employer* must notify the *health and safety representatives* concerned and, if there is a *health and safety committee*, the *employee co-chairperson* of that committee-

- (a) in good time, of inspections, investigations or inquiries of which an inspector has notified the *employer*; and

- (b) as soon as practicable, of any accident, *serious illness or health-threatening occurrence*, or other dangerous event.

### **33. Negotiation and consultation on establishment of committees**

- (1) The *employer* of any mine in respect of which a *health and safety committee* must be established in terms of section 25 (2), must meet, within the prescribed period, with the *representative trade union* at the *mine* to enter into negotiations to conclude a collective agreement concerning-
  - (a) the number of *health and safety committees* to be established at the *mine* and the *working places* for which they will be responsible;
  - (b) the number of *employer* and *employee* representatives on the committees;
  - (c) the election and appointment of members of *health and safety committees*;
  - (d) the terms of office of members of the *health and safety committee* and the circumstances and the manner in which the members may be removed from office;
  - (e) the manner in which vacancies are to be filled;
  - (f) the circumstances and the manner in which meetings may be held;
  - (g) the facilities and assistance which must be provided to *health and safety committees* in terms of section 37 (a); and
  - (h) a procedure that provides for the conciliation and arbitration of disputes arising from the application or interpretation of the collective agreement or any provision of this Chapter.

[Para. (h) substituted by s. 15 (a) of Act 72 of 1997]

- (2) Before concluding a collective agreement referred to in subsection (1) with the *representative trade union*, the *employer* must consult on the matters referred to in that subsection with all other *registered trade unions* with members at that *mine*.
- (3) A collective agreement referred to in subsection (1) may include two or more *employers* as parties to the agreement.
- (4) To the extent that an agreement concluded in terms of subsection (1) deals with any matter regulated by this Chapter or by any *regulation* regarding any matter regulated by this Chapter, the provisions of this Chapter or such *regulation* do not apply.

[Sub-s. (4) substituted by s. 15 (b) of Act 72 of 1997]

- (5) The provisions applicable to collective agreements in terms of the *Labour Relations Act*, read with the changes required by the context, apply to agreements concluded in terms of subsection (1).
- (6) If there is no *representative trade union* at the *mine*, the *employer* must consult, within the *prescribed* period, with the *registered trade unions* with members at the mine on the matters referred to in subsection (1).
- (7) If there is no *registered trade union* with members at the *mine*, the *employer* must, within the *prescribed* period, consult with the *employees* or any elected representatives of the employees on the matters referred to in subsection (1).
- (8) The negotiations and consultations referred to in this section may be held at the same time as those referred to in section 26.

#### **34. Establishment of health and safety committees**

- (1) If a collective agreement is concluded in terms of section 33 (1), *health and safety committees* must be established in terms of that agreement.
- (2) If no collective agreement is concluded in terms of section 33 (1), the *employer* must establish *health and safety committees* after the consultation referred to in section 33 (6) or (7) and in accordance with this section and the *regulations*.
- (3) A *health and safety committee* must consist of-
  - (a) at least four *employee* representatives; and
  - (b) a number of *employer* representatives equal to or less than the number of *employee* representatives.
- (4) The *health and safety representatives* must appoint the *employee* representatives on the *health and safety committee*. The *employee* representatives must be-
  - (a) broadly representative of the *working places* at the *mine*; and
  - (b) *employees* at that *mine*.
- (5) No more than two of the *employee* representatives may be appointed from full-time *employees* who are not *health and safety representatives*, unless all of the *health and safety representatives* have been appointed to the committee and there are still *employee* committee positions to be filled.
- (6) The *employer* must appoint the *employer representatives* on the *health and safety committee*. The persons appointed must include persons who have authority to develop and implement *health and safety* policies at the *mine*.

### **35. Committee procedures**

- (1) The *employee* and *employer* representatives on a *health and safety committee* must each elect a chairperson from their number. Unless otherwise agreed by the committee, the two chairpersons must alternate as the presiding chairperson of the committee.
- (2) Unless otherwise agreed by a *health and safety committee*, the committee must meet at least once a month.
- (3) A *health and safety committee* may determine its own rules and procedures.
- (4) Persons other than *employee* or *employer* representatives may be invited to attend meetings of the *health and safety committee* and to participate in its proceedings.

### **36. Rights and powers of health and safety committee**

- (1) A *health and safety committee* may-
  - (a) represent *employees* on all aspects of *health and safety*;
  - (b) participate in consultations on any *health and safety* matter listed in the Schedule referred to in section 97 (2);
  - (c) request the *Chief Inspector of Mines* to review any code of practice;
  - (d) request relevant information from any person who is required, in terms of *this Act*, to provide that information to the committee;
  - (e) agree on additional qualifications or functions of *health and safety representatives*;
  - (f) request-
    - (i). an *inspector* to conduct an investigation in terms of section 60; or
    - (ii). the *Chief Inspector of Mines* to conduct an inquiry in terms of section 65;
  - (g) with the approval of the *employer*, be assisted by or consult an adviser or a technical expert who may be either another *employee* or any other person;
  - (h) take reasonable time to prepare for each meeting of the committee; and
  - (i) take reasonable time to report on meetings of the committee to the *health and safety representatives* at the *mine*.
- (2) No *employer* may unreasonably withhold the approval required in terms of subsection (1) (g).
- (3) Members of *health and safety committees* are entitled to perform their functions and to receive training during ordinary working hours.

- (4) Any time reasonably spent by a member of a *health and safety committee* for a purpose referred to in subsection (3) must be considered for all purposes to be time spent carrying out the employment duties of that member.

### **37. Duty to support committee**

The *employer* must-

- (a) provide the *health and safety committee* with the facilities and assistance reasonably necessary to perform its functions;
- (b) supply the *health and safety committee* with the annual report referred to in section 2 (1) (c) and any information necessary to perform its functions.

### **38. Disclosure of information**

- (1) Whenever an *employer*, *inspector* or a person who conducts an inquiry in terms of section 65, is required by the provisions of this Chapter to supply information or reports to a *health and safety representative* or to the *health and safety committee*, that *employer*, *inspector* or person-
  - (a) must not disclose any information that is private personal information relating to an *employee*, unless the *employee* consents in writing to the disclosure of that information; and
  - (b) is not required to supply any information-
    - (i). that is legally privileged;
    - (ii). that the *employer*, *inspector* or person could not disclose without contravening a prohibition imposed upon the *employer* by any law or court order; or
    - (iii). that is confidential and, if disclosed, may cause substantial harm to an *employee* or the *employer*.
- (2) No *employee* may unreasonably withhold the consent required in terms of subsection (1) (a).

### **39. Disputes concerning disclosure of information**

- (1) If there is a dispute about what information is required to be disclosed in terms of the provisions of this Chapter, any party to the dispute may refer the dispute in writing to the *Commission*.
- (2) The party who refers a dispute to the *Commission* must satisfy it that a copy of the referral has been served on all the other parties to the dispute.
- (3) The *Commission* must attempt to resolve the dispute through conciliation.

- (4) If the dispute remains unresolved, any party to the dispute may request that the dispute be resolved through arbitration.
- (5) A commissioner appointed to arbitrate a dispute must first decide whether or not the information is required to be supplied in terms of the provisions of this Chapter.
- (6) If the commissioner decides that the information is required and if it is information contemplated in section 38 (1) (a) or (b) (iii), the commissioner must balance the harm that disclosure is likely to cause to an *employee* or *employer* or any other person who employs *employees*, against the harm that the failure to disclose the information is likely to cause to the ability of *health* and *safety representatives* or members of the *health and safety committee* to perform their functions effectively.

[Sub-s. (6) substituted by s. 16 of Act 72 of 1997]

- (7) If the commissioner decides that the balance of harm favours the disclosure of the information, the commissioner may order the disclosure of the information on terms designed to limit the harm likely to be caused to the *employee* or the *employer*.
- (8) When making an order under subsection (7), the commissioner must take into account any previous breach of confidentiality in respect of information disclosed in terms of the provisions of this Chapter, and may refuse to order the disclosure of the information or any other confidential information which might otherwise be disclosed for a period specified in the arbitration award.
- (9) In any dispute about an alleged breach of confidentiality, the commissioner may order that the right to disclosure of information in terms of the provisions of this Chapter be withdrawn for a period specified in the arbitration award.

#### **40. Disputes concerning this Chapter**

- (1) Any party to a dispute about the interpretation or application of any provision of this Chapter, other than a dispute contemplated in section 26 (8) or 39, may refer the dispute in writing to the *Commission*.
- (2) The party who refers a dispute to the *Commission* must satisfy it that a copy of the referral has been served on all the other parties to the dispute.

- (3) The *Commission* must attempt to resolve the dispute through conciliation.
- (4) If the dispute remains unresolved, any party to the dispute may request that the dispute be resolved through arbitration as soon as possible.
- (5) The provisions relating to arbitration in the *Labour Relations Act*, read with changes required by the context, apply to an arbitration referred to in sections 26 (11) and 39 and subsection (4).

## CHAPTER 4

### TRIPARTITE INSTITUTIONS

#### 41. Establishment of tripartite institutions

- (1) A Mine Health and Safety Council is hereby established to advise the Minister on *health and safety at mines*.
- (2) A *committee, ad hoc committee or subcommittee* may when necessary be established, which *committee* may include-
  - (a) the Mining Regulation Advisory Committee;
  - (b) the Mining Occupational Health Advisory Committee; and
  - (c) the Safety in Mines Research Advisory Committee.

[Sub-s. (2) amended by s. 9 of Act 74 of 2008]

- (3) A Mining Qualifications Authority is hereby established to advise the *Minister* on-
  - (a) qualifications and learning achievements in the mining industry to improve *health and safety standards* through proper training and education;

[Para. (a) substituted by s. 17 (a) of Act 72 of 1997]

- (b) standards and competency setting, assessment, examinations, quality assurance and accreditation in the mining industry; and
- (c) proposals for the registration of education and training standards and qualifications in the mining industry on the National Qualifications Framework referred to in the South African Qualifications Authority Act, 1995 (Act 58 of 1995).

[Para. (c) substituted by s. 17 (b) of Act 72 of 1997]

## 42. Mine Health and Safety Council

- (1) The *Council* consists of-
  - (a) five members representing *employers* in the mining industry;
  - (b) five members representing *employees* in the mining industry;
  - (c) four members representing departments of the State; and
  - (d) the *Chief Inspector of Mines*, who must chair the *Council*.
- (2) The *Minister* must appoint the members of the *Council* in accordance with the *regulations*.

[Sub-s. (2) substituted by s. 10 (a) of Act 74 of 2008]

- (2A) The *Council* may appoint members to *committees, ad hoc, subcommittees and other committees*, for any period of time and on any conditions.

[Sub-s. (2A) inserted by s. 18 (a) of Act 72 of 1997 and substituted by s. 10 (b) of Act 74 of 2008]

- (2B) The structure and functions of any *committee* contemplated in subsection (2A) must be provided for in the constitution contemplated in section 97 (3).

[Sub-s. (2B) inserted by s. 10 (c) of Act 74 of 2008]

- (3) The *Council* and its committees must govern themselves in accordance with the constitution contemplated in section 97 (3).

[Sub-s. (3) substituted by s. 18 (b) of Act 72 of 1997]

- (4) The *Council* may delegate any of its powers and assign any of its duties by or under *this Act* in accordance with the constitution contemplated in section 97 (3).

[Sub-s. (4) substituted by s. 18 (b) of Act 72 of 1997]

- (5) A delegation or an assignment under subsection (4)-
  - (a) must be in writing;
  - (b) may be subject to such conditions and restrictions as the *Council* may determine; and
  - (c) does not prevent the exercise of that power or the performance of that duty by the *Council*.

- (6) Members of the *Council*, or of a committee of the *Council*, are each entitled to have their views reflected in any report of the *Council* or committee, as the case may be.
- (7) Each year, the *Minister*, with the agreement of the Minister of Finance, must provide sufficient funds for the administration of the *Council*, and committees of the *Council*, from public funds.

### **43. Council's duties**

The *Council* must-

- (a) advise the *Minister* on *health and safety at mines* including, but not limited to, any legislation on *mine rehabilitation* in so far as it concerns *health and safety*;
- (b) co-ordinate the activities of its committees, receive reports from the committees and liaise with the Mining Qualifications Authority on matters relating to *health and safety*;
- (c) liaise with any other statutory bodies concerned with matters relating to *health and safety*;
- (d) promote a culture of *health and safety* in the mining industry;
- (e) at least once every two years arrange and co-ordinate a tripartite summit to review the state of *health and safety at mines*;

[Para. (a) substituted by s. 19 (a) of Act 72 of 1997]

- (eA) annually advise the *Minister* on relevant research relating to *health and safety at mines*; and

[Para. (eA) inserted by s. 19 (c) of Act 72 of 1997 and substituted by s. 11 of Act 74 of 2008]

- (f) perform every duty imposed upon the *Council* in terms of *this Act*.

### **44. ....**

[S. 44 amended by ss. 20 and 47 of Act 72 of 1997 and repealed by s. 12 of Act 74 of 2008]

#### **45. Mining Qualifications Authority**

- (1) The Mining Qualifications Authority consists of-
  - (a) five members representing *employers* in the mining industry;
  - (b) five members representing *employees* in the mining industry;
  - (c) four members representing departments of State; and
  - (d) the *Chief Inspector of Mines*, who must chair the Mining Qualifications Authority.

[Para. (d) substituted by s. 21 (a) of Act 72 of 1997]

- (2) The members of the Mining Qualifications Authority must be appointed in accordance with the constitution contemplated in section 97 (4).

[Sub-s. (2) substituted by s. 27 of Act 31 of 2003]

- (3) The Mining Qualifications Authority and its committees must govern themselves in accordance with the constitution contemplated in section 97 (4).

[Sub-s. (3) substituted by s. 21 (b) of Act 72 of 1997]

#### **46. Mining Qualifications Authority's functions**

- (1) The Mining Qualifications Authority must-
  - (a) seek registration in terms of the South African Qualifications Act, 1995 (Act 58 of 1995), as a body responsible for generating education and training standards and qualifications as contemplated in section 5 (1) (a) (ii) (aa) of that Act;

[Para. (a) substituted by s. 22 (a) of Act 72 of 1997]

- (b) seek accreditation in terms of the South African Qualifications Act, 1995 (Act 58 of 1995), as a body responsible for monitoring and auditing achievements as contemplated in section 5 (1) (a) (ii) (bb) of that Act;
  - (c) propose education and training standards and qualifications to bodies registered with that Authority and responsible for developing education and training standards;

[Para. (c) substituted by s. 22 (b) of Act 72 of 1997]

- (d) generate education and training standards and qualifications in the mining industry;

[Para. (d) substituted by s. 22 (b) of Act 72 of 1997]

- (e) monitor and audit achievement in terms of those standards and qualifications; and
- (f) perform the functions of a sector education and training authority in terms of the Skills Development Act, 1998 (Act 97 of 1998).

[Para. (f) added by s. 28 (a) of Act 31 of 2003]

- (2) The Mining Qualifications Authority-
  - (a) may appoint committees and *ad hoc committees*, and subcommittees, for any period and on any conditions;
  - (b) must administer and control its financial affairs in accordance with the Skills Development Act, 1998 (Act 97 of 1998); and
  - (c) may do anything necessary to achieve its objectives.

[Sub-s. (2) substituted by s. 28 (b) of Act 31 of 2003]

- (3) The Mining Qualifications Authority may delegate any of its powers or assign any of its duties by or under *this Act* in accordance with the constitution contemplated in section 97 (4).

[Sub-s. (3) substituted by s. 22 (c) of Act 72 of 1997]

- (4) A delegation or an assignment under subsection (3)-
  - (a) must be in writing;
  - (b) may be subject to such conditions and restrictions as the Authority may determine; and
  - (c) does not prevent the exercise of that power or the performance of that duty by the Authority.
- (5) In performing its functions, the Mining Qualifications Authority must comply with the policies and criteria formulated by the South African Qualifications Authority in terms of section 5 (1) (a) (ii) of the South African Qualifications Authority Act, 1995 (Act 58 of 1995).

## CHAPTER 5

### INSPECTORATE OF MINE HEALTH AND SAFETY

#### 47. Inspectorate established

- (1)
- (a) A juristic person to be known as the Mine Health and Safety Inspectorate is hereby established.
  - (b) The Public Finance Management Act, 1999 (Act 1 of 1999), applies to the Inspectorate.

[Sub-s. (1) substituted by s. 13 of Act 74 of 2008]

- (2) The *Minister*, by notice in the *Gazette*, may establish regions of the country for the purpose of administering *this Act* through regional offices of the Mine Health and Safety Inspectorate.

#### 48. Chief Inspector of Mines

- (1) The *Minister* must appoint an *officer*, with suitable mining qualifications and appropriate experience in *health and safety at mines*, to be *Chief Inspector of Mines*.
- (2) Subject to the control and direction of the *Minister*, the *Chief Inspector of Mines* must perform the functions entrusted to the *Chief Inspector of Mines* by *this Act*.
- (3) The *Chief Inspector of Mines* may perform any of the functions of an *inspector*.

#### 49. Chief Inspector of Mines' functions

- (1) Without limiting any statutory duty of any other person in terms of *this Act*, the *Chief Inspector of Mines* must-
- (a) ensure that the provisions of *this Act* are complied with and enforced and that every duty imposed upon the *Chief Inspector of Mines*, the *Medical Inspector* or *inspectors* in terms of any other law is performed;
- (b) appoint an *officer* with the *prescribed* qualifications and experience as the *Medical Inspector*;
- (c) appoint *officers* with the *prescribed* qualifications and experience as *inspectors*;
- (d) administer the Mine Health and Safety Inspectorate;
- (e) determine and implement policies to promote the *health and safety* of persons at *mines* and any person affected by mining activities;

- (f) consult with the *Council* before issuing guidelines on the form, content and distribution of codes of practice referred to in section 9;
- (g) collect, process and distribute information relating to *health and safety*;
- (h) advise the *Minister* on *health or safety* matters at *mines*;
- (i) each year, after consulting the *Council* and with the approval of the *Minister*, publish and distribute a plan of action for the activities of the Mine Health and Safety Inspectorate;
- (j) complete a report on *health and safety* at *mines* and the activities of the Mine Health and Safety Inspectorate for each year and submit the report to the *Minister* within three months of the end of the year concerned;

[Para. (j) substituted by s. 14 (a) of Act 74 of 2008]

- (k) perform any duties relating to *health or safety* at *mines* that the *Minister* directs or prescribes;

[Para. (k) substituted by s. 14 (b) of Act 74 of 2008]

- (l) develop and maintain an integrated *mine health and safety* database and reporting system;

[Para. (l) added by s. 14 (c) of Act 74 of 2008]

- (m) conduct or commission relevant research and evaluate and publish the results of the research; and

[Para. (m) added by s. 14 (c) of Act 74 of 2008]

- (n) provide logistical, administrative and technical support to the *Council*.

[Para. (n) added by s. 14 (c) of Act 74 of 2008]

- (2) The *Chief Inspector of Mines* must furnish a *prescribed* certificate to the *Medical Inspector* and to each *inspector*.
- (3) Despite the provisions of the *Minerals and Petroleum Resources Development Act* or any other law, the *Chief Inspector of Mines*—
  - (a) has the power to monitor and control those environmental aspects at *mines* that affect, or may affect, the *health or safety* of *employees* or other persons; and

- (b) must consult with the appropriate *officer* appointed in terms of the *Minerals and Petroleum Resources Development Act* concerning the exercise of those powers.

[Sub-s. (3) amended by s. 14 (d) of Act 74 of 2008 and Para. (b) substituted by s. 14 (e) of Act 74 of 2008]

- (4) To further the objectives of *this Act* the *Chief Inspector of Mines* may-
- (a) enter into agreements with other persons;
  - (b) authorise a competent independent person to perform any or all the functions of an *inspector*;
  - (c) perform any act, whether in the Republic or elsewhere, that is calculated, directly or indirectly, to enhance the value of the services which the Mine Health and Safety Inspectorate renders, or perform any *prescribed* act;
  - (d) require all *mines* or groups of *mines* to prepare and implement a *health and safety* management system for *mines*;
  - (e) require all *mines* or groups of *mines* to prepare and implement a *hazard* management system for significant *hazards* mentioned under section 11;
  - (f) in consultation with the *Minister* and the Minister of Finance acquire or dispose of immovable property;
  - (g) hire, purchase or otherwise acquire any movable property and proprietary right, and lease or dispose of property;
  - (h) collaborate with any other body or institution or establish and control facilities for the collection and dissemination of scientific and technical information relating to *health and safety* at *mines*;
  - (i) collaborate with any educational, governmental or scientific body or institution in connection with the provision of instruction for, or the training of, persons required by the Mine Health and Safety Inspectorate;
  - (j) provide financial or other assistance in connection with the training of persons in so far as is necessary to ensure that a sufficient number of trained persons are available to enable the Mine Health and Safety Inspectorate to perform its functions efficiently;
  - (k) insure the Mine Health and Safety Inspectorate against any loss, damage, risk or liability;
  - (l) invest any of the money of the Mine Health and Safety Inspectorate; and
  - (m) institute or defend any legal action.
- (5) The *Chief Inspector of Mines* must furnish a *prescribed* certificate to each person authorised under subsection (4) (b).
- (6) The *Chief Inspector of Mines* must issue guidelines by notice in the *Gazette*.

[Sub-s. (4) substituted by s. 14 (f) of Act 74 of 2008 and Sub-s. (6) added by s. 14 (g) of Act 74 of 2008]

#### **49A. Financial and judicial management of Mine Health and Safety Inspectorate**

- (1) The funds of the Mine Health and Safety Inspectorate consist of-
  - (a) money appropriated by Parliament;
  - (b) any donations made to the Mine Health and Safety Inspectorate;
  - (c) revenue made on investments; and
  - (d) money raised and received in terms of *this Act*.
- (2) The Mine Health and Safety Inspectorate must utilise its funds to defray expenses incurred by it in the performance of its functions.
- (3) The *Chief Inspector of Mines* must, after consultation with the Council, use the monies collected in terms of section 55B for the promotion of *health and safety* in the mining industry.
- (4) The *Chief Inspector of Mines* as the accounting authority of the Inspectorate must-
  - (a) open a bank account in the name of the Mine Health and Safety Inspectorate with an institution registered as a bank in terms of the Banks Act, 1990 (Act 94 of 1990); and
  - (b) deposit therein all money received in terms of subsection (1).
- (5) The Mine Health and Safety Inspectorate may invest any of its funds not immediately required-
  - (a) subject to any investment policy that may be prescribed; and
  - (b) in such a manner as may be approved by the *Minister*.
- (6) The Mine Health and Safety Inspectorate's financial year is from 1 April in any year to 31 March in the following year.
- (7) The report of the *Chief Inspector of Mines* referred to in section 49 (1) (j) must reflect the financial affairs of the Mine Health and Safety Inspectorate.
- (8) Despite any other law, the Mine Health and Safety Inspectorate may not be placed under judicial management or in liquidation except if authorised by an Act of Parliament adopted especially for that purpose.

[S. 49A inserted by s. 15 of Act 74 of 2008]

#### **49B. Co-operative governance**

- (1) The *Chief Inspector of Mines* must co-ordinate the exercise of the functions of the Mine Health and Safety Inspectorate with other organs of state in respect of regulating and promoting *occupational health* and *safety*, in accordance with the principles of co-operative governance contemplated in Chapter 3 of the Constitution.
- (2) The *Chief Inspector of Mines* may conclude co-operative agreements with relevant organs of state to give effect to the co-operation contemplated in subsection (1).

[S. 49B inserted by s. 15 of Act 74 of 2008]

#### **50. Inspectors' powers**

- (1) An *inspector* may for the purposes of monitoring or enforcing compliance with *this Act*-
  - (a) enter any *mine* at any time without warrant or notice;
  - (b) enter any other place after obtaining the necessary warrant in terms of subsection (7); and
  - (c) bring into and use at any *mine*, or at any place referred to in paragraph (b), vehicles, equipment and material as necessary to perform any function in terms of *this Act*.
- (2) While the *inspector* is at any *mine* or place referred to in subsection (1), the *inspector* may, for the purposes of monitoring or enforcing compliance with *this Act*-
  - (a) question any person on any matter to which *this Act* relates;
  - (b) require any person who has control over, or custody of, any document, including but not limited to, a plan, book or record to produce that document to the *inspector* immediately or at any other time and place that the *inspector* requires;
  - (c) require from any person referred to in paragraph (b) an explanation of any entry or non-entry in any document over which that person has custody or control;
  - (d) examine any document produced in terms of paragraph (b), and make a copy of it or take an extract from it;
  - (e) inspect-
    - (i). any article, *substance* or *machinery*;
    - (ii). any work performed; or
    - (iii). any condition;
  - (f) inspect arrangements made by the *employer* for *medical surveillance* of *employees*;

- (g) seize any document, article, *substance* or *machinery* or any part or sample of it; and
  - (h) perform any other *prescribed* function.
- (3) An *inspector* may instruct any *employer*, *employee* or any other person who performs an activity regulated by *this Act* or any former *employer* or *employee* or person who formerly performed an activity regulated by *this Act*, to appear before the *inspector* to be questioned on any matter to which *this Act* relates.
- (4) Before an *inspector* may seize any document under subsection (2) (g), the *employer* of the *mine* may copy it.
- (5) An *inspector* may remove any article, *substance* or *machinery* or any part or sample of it from any *mine* or place referred to in subsection (1) for examination or analysis.
- (6) When an *inspector* seizes or removes any item under this section, the *inspector* must issue a receipt for that item to the *employer* of the *mine* or place involved.
- (7) A magistrate may issue a warrant contemplated in subsection (1) (b) only on written application by an *inspector* setting out under oath or affirmation the need to enter a place other than a mine to monitor or enforce compliance with *this Act*.
- (7A) The *Inspector* may impose a prohibition on the further functioning of the site where-
- (a) a person's death;
  - (b) serious injury or illness to a person; or
  - (c) a health threatening occurrence, has occurred by blocking, barring or barricading the site in such a manner as the Inspector may deem necessary.
- [NB: A sub-s. (7A) has been inserted by s. 16 of the Mine Health and Safety Amendment Act 74 of 2008, a provision which will be put into operation by proclamation.]
- (8) For the purpose of this section, '*mine*' does not include any home, or residential quarters, situated at the *mine*.

### **51. Inspector may be accompanied**

When performing any function under *this Act*, an *inspector* may be accompanied by an interpreter or any other person reasonably required to assist the *inspector*.

### **52. Duty to assist inspector and answer questions**

- (1) When an *inspector* enters any *mine* or place referred to in section 50 (1), the *employer* and each *employee* performing any work there must provide any facility that the *inspector* reasonably requires.
- (2) Persons questioned by an *inspector* under section 50 (2) (a) or (c) or (3) must answer each question to the best of their ability, but no person is required to answer any question if the answer may be self-incriminating.

### **53. Duty to produce documents required by inspector**

Any person who holds or should hold a permit, licence, permission, certificate, authorisation or any other document issued in accordance with *this Act* or the *Mineral and Petroleum Resources Development Act*, must produce it at the request of the *Chief Inspector of Mines* or any *inspector*.

### **54. Inspector's power to deal with dangerous conditions**

- (1) If an *inspector* has reason to believe that any occurrence, practice or condition at a mine endangers or may endanger the *health* or *safety* of any person at the *mine*, the *inspector* may give any instruction necessary to protect the *health* or *safety* of persons at the *mine*, including but not limited to an instruction that-
  - (a) operations at the *mine* or a part of the *mine* be halted;
  - (b) the performance of any act or practice at the *mine* or a part of the *mine* be suspended or halted, and may place conditions on the performance of that act or practice;
  - (c) the *employer* must take the steps set out in the instruction, within the specified period, to rectify the occurrence, practice or condition; or
  - (d) all affected persons, other than those who are required to assist in taking steps referred to in paragraph (c), be moved to *safety*.

[Sub-s. (1) amended by s. 23 of Act 72 of 1997.]

- (2) An instruction under subsection (1) must be given to the *employer* or a person designated by the *employer* or, in their absence, the most senior *employee* available at the *mine* to whom the instruction can be issued.

- (3) An *inspector* may issue an instruction under subsection (1) either orally or in writing. If it is issued orally, the *inspector* must confirm it in writing and give it to the person concerned at the earliest opportunity.
  - (4) If an instruction issued under subsection (1) is not issued to the *employer*, the *inspector* must give a copy of the instruction to the *employer* at the earliest opportunity.
  - (5) Any instruction issued under subsection (1) (a) must either be confirmed, varied or set aside by the *Chief Inspector of Mines* as soon as practicable.
  - (6) Any instruction issued under subsection (1) (a) is effective from the time fixed by the *inspector* and remains in force until set aside by the *Chief Inspector of Mines* or until the *inspector's* instructions have been complied with.
- (7) .....

[Sub-s. (7) deleted by s.17 of Act, No. 74 of 2008.]

- (8) .....

[Sub-s. (8) deleted by s.17 of Act, No. 74 of 2008.]

- (9) .....

[Sub-s. (9) deleted by s.17 of Act, No. 74 of 2008.]

- (10) .....

[Sub-s. (10) deleted by s.17 of Act, No. 74 of 2008.]

## **55. Inspectors' power to order compliance**

- (1) If an *inspector* has reason to believe that an *employer* has failed to comply with any provision of *this Act*, the *inspector* may instruct that *employer* in writing to take any steps that the *inspector*—
  - (a) considers necessary to comply with the provision; and
  - (b) specifies in the instruction.

[Sub-s. (1) amended by s. 24 of Act 72 of 1997.]

- (2) When issuing an instruction under subsection (1), an *inspector* must specify the period within which the specified steps must be taken. A period specified in an instruction may be extended by an *inspector* at any time by giving notice in writing to the person concerned.

#### **55A. Inspector's powers to recommend fine**

- (1) An *inspector* may make a recommendation in writing to the *Principal Inspector of Mines* that a fine be imposed on an *employer* who has failed to comply with any provision contemplated in section 91 (1B).

[Sub-s. (1) substituted by s. 18 (a) of Act 74 of 2008.]

- (2) .....

[Sub-s. (2) deleted by s. 18 (b) of Act 74 of 2008.]

- (3) The *inspector* concerned must serve a copy of the recommendation on-
- (a) the *employer*;
  - (b) the *health and safety committee*, or if there is no *health and safety committee*, to any *health and safety representative* responsible for the *working place* in question; and
  - (c) the *representative trade union*, or if there is no *representative trade union*, to every *registered trade union* with members at the *mine*.

[Sub-s. (3) amended by s. 18 (c) of Act 74 of 2008.]

- (4) The *employer* may make written representations to the *Principal Inspector of Mines* within 30 days of the recommendation.

[Sub-s. (4) added by s. 18 (d) of Act 74 of 2008.]

- (5) A representation made in terms of this section may not be used against the *employer* in any criminal or civil proceedings in respect of the same set of facts.

[S. 55A inserted by s. 25 of Act 72 of 1997 and Sub-s. (5) added by s. 18 (d) of Act 74 of 2008.]

#### **55B. Principal Inspector of Mines may impose fines**

- (1) The *Principal Inspector of Mines*, after considering the recommendation and any representations made in accordance with section 55A, may-
- (a) disregard the recommendation;

- (b) impose a fine not exceeding the maximum amount mentioned in Table 2 of Schedule 8; or
  - (c) refer the matter to the prosecuting authority for a decision as to whether the *employer* should be charged with an offence.
- (2) The *Principal Inspector of Mines* must notify the *employer*, committee, representative and trade union contemplated in section 55A (3), as the case may be, of any decision made in terms of subsection (1).
- (3) An *employer* must pay any fine imposed in terms of this section within 30 days of the imposition of the fine.
- (4) If the *employer* fails to pay the fine within the specified period, the *Chief Inspector of Mines* may apply to the Labour Court for the fine to be made an order of that court.

[S. 55B inserted by s. 25 of Act 72 of 1997 and substituted by s. 19 of Act 74 of 2008.]

**55C .....**

[S. 55C inserted by s. 25 of Act 72 of 1997 and repealed by s. 20 of Act, No. 74 of 2008.]

**55D. .....**

[S. 55D inserted by s. 25 of Act 72 of 1997 and repealed by s. 20 of Act, No. 74 of 2008.]

**55E. .....**

[Section 55E inserted by s. 25 of Act 72 of 1997 and repealed by s. 20 of Act, No.74 of 2008.]

**55F. .....**

[Section 55F inserted by s. 25 of Act 72 of 1997 and repealed by s. 20 of Act, No. 74 of 2008.]

**55G. .....**

[Section 55G inserted by s. 25 of Act 72 of 1997 and repealed by s. 20 of Act, No. 74 of 2008.]

**55H. .....**

[Section 55H inserted by s. 25 of Act 72 of 1997 and repealed by s. 20 of Act, No. 74 of 2008.]

## **56. Instructions to be posted at mine**

The employer of a *mine* must-

- (a) promptly supply a copy of any instruction of an *inspector* to-
  - (i). the *health and safety representative* representing the *employees* affected by the instruction; and
  - (ii). the *health and safety committee* responsible for those *employees*; and
- (b) promptly publicise the instruction by-
  - (i). prominently and conspicuously displaying copies of the instruction to the *employees* whose interests may be affected; and
  - (ii). causing its contents to be communicated orally to those *employees*.

## **57. Right to appeal inspectors' decisions**

- (1) Any person adversely affected by a decision of an *inspector*, except a decision contemplated in section 55B, may appeal against that decision to the *Chief Inspector of Mines*.

[Sub-s. (1) substituted by s. 27 (a) of Act 72 of 1997 and by s. 21 of Act 74 of 2008.]

- (2) An appeal under subsection (1) must-
  - (a) be lodged with the *Chief Inspector of Mines* within 30 days of the decision, or such further period as may be *prescribed*; and

[Para. (a) substituted by s. 27 (b) of Act 72 of 1997.]

- (b) set out the grounds of appeal.
- (3) After considering the grounds of the appeal and the inspector's reasons for the decision, the *Chief Inspector of Mines* must as soon as practicable-
  - (a) confirm, set aside or vary the decision; or
  - (b) substitute any other decision for the decision of the *inspector*.

## **57A .....**

[S. 57A inserted by s. 28 of Act 72 of 1997 and repealed by s. 22 of Act 74 of 2008.]

## **58. Right to appeal Chief Inspector of Mines' decision**

- (1) Any person adversely affected by a decision of the *Chief Inspector of Mines*, either in terms of section 57 (3) or in the exercise of any power under *this Act*, may appeal against the decision to the *Labour Court*.
- (2) An appeal under subsection (1), must be lodged with the registrar of the *Labour Court* in accordance with the rules of the *Labour Court*, within 60 days of the date that the *Chief Inspector of Mines*' decision was given.

- (3) The *Labour Court* must consider the appeal and confirm, set aside or vary the decision.

## **59. Appeal does not suspend decision**

- (1) An appeal against a decision under either section 57, 57A or 58 does not suspend the decision.
- (2) Despite subsection (1)-
  - (a) an appeal in terms of section 57A or 58 against a decision to impose a fine suspends the obligation to pay the fine, pending the outcome of the appeal; and
  - (b) the *Labour Court* may suspend the operation of the decision, pending the determination of the matter, if there are reasonable grounds for doing so.

[S. 59 substituted by s. 29 of Act 72 of 1997.]

## **60. Initiating investigations**

- (1) The *Chief Inspector of Mines* must instruct an *inspector* to investigate any accident or occurrence at a *mine* that results in the death of any person.

[Sub-s. (1) substituted by s. 30 of Act 72 of 1997.]

- (2) At any time an *inspector* may investigate-
  - (a) any accident or occurrence at a *mine* that results in the *serious injury* or *serious illness* of any person;
  - (b) any occurrence, practice or condition concerning *health* or *safety* of persons at one or more *mines*; or
  - (c) any actual or suspected contravention of, or failure to comply with, any provision of *this Act*.

[Sub-s. (2) substituted by s. 30 of Act 72 of 1997.]

- (3) If there is cause for concern on *health* or *safety* grounds, an *inspector* must investigate any matter referred to in subsection (2), if-
  - (a) instructed to do so by the *Chief Inspector of Mines*; or
  - (b) requested to do so by-
    - (i). a *registered trade union* with members at the *mine* or *mines*;
    - (ii). a *health and safety representative* or *health and safety committee* at the *mine*; or
    - (iii). if there is no *health and safety representative*, an *employee* at the *mine*.

## **61. Chief Inspector of Mines may designate assistant in investigation**

At any time before or during an investigation, the *Chief Inspector of Mines* may designate one or more persons to assist the *inspector* holding the investigation.

## **62. Duty to answer questions during investigation**

Persons questioned during an investigation must answer every question to the best of their ability, but no person is required to answer any question if the answer may be self-incriminating.

## **63. Enhancing effectiveness of investigation**

(1)

- (a) For the purpose of enhancing the effectiveness of an investigation in terms of section 60 the National Prosecuting Authority, after receiving representations from the *Chief Inspector of Mines*, may issue a certificate that no prosecution may be instituted in respect of any contravention of, or failure to comply with, a provision of *this Act* related to the event being investigated.
- (b) If a certificate is issued, no fine in terms of section 55B or disciplinary action related to the event investigated may thereafter be imposed on or taken against any person.

[Sub-s. (1) substituted by s. 31 of Act 72 of 1997 and by s. 23 of Act 74 of 2008.]

- (2) The *Chief Inspector of Mines* must communicate in writing the protection afforded under subsection (1) to all persons questioned during the investigation.
- (3) Persons questioned during the investigation who are afforded protection under this section must answer every question to the best of their ability and may not refuse to answer any question on the grounds that the answer may be self-incriminating.

## **64. Reports on investigations**

- (1) After completing an investigation, an *inspector* must prepare a written report of the findings, recommendations and any remedial steps.
- (2) The *inspector*—
  - (a) must submit a copy of the report referred to in subsection (1) to the *Chief Inspector of Mines*;

- (b) must supply a copy of the report to the *employer* and to the *health and safety representative, health and safety committee, registered trade union or employee* that requested the investigation; and
- (c) may instruct the *employer* of the *mine* concerned to prominently and conspicuously display a copy of the report or portion of it for *employees* to read.

## **65. Initiating inquiries**

- (1) Unless the provisions of section 63 have been invoked, the *Chief Inspector of Mines* must direct an *inspector* to conduct an inquiry into any accident or occurrence at a *mine* that results in the death of any person.
- (2) Unless the provisions of section 63 have been invoked, the *Chief Inspector of Mines* may direct an *inspector* to conduct an inquiry into-
  - (a) any accident or occurrence at a *mine* that results in the *serious injury or serious illness* of any person;
  - (b) any occurrence, practice or condition concerning *health or safety* of persons at one or more *mines*; or
  - (c) any actual or suspected contravention of, or failure to comply with, any provision of *this Act*.
- (3) If there is cause for concern on *health or safety* grounds and if the provisions of section 63 have not been invoked, the *Chief Inspector of Mines* may direct an *inspector* to conduct an inquiry into any matter referred to in subsection (2) if requested in writing to do so by-
  - (a) a *registered trade union* with members at the *mine* or *mines*;
  - (b) a *health and safety representative* or *health and safety committee* at the *mine*; or
  - (c) if there is no *health and safety representative* at the *mine*, an *employee*.
- (4) This section does not limit any other law regulating the holding of an inquest or other inquiry into the death of a person.

## **66. Investigation may be converted into inquiry**

- (1) At any time during an investigation, the *Chief Inspector of Mines* may convert it into an inquiry.
- (2) The provisions of sections 68 to 71 relating to attendance and examination of witnesses at inquiries apply equally to a converted investigation.

- (3) Any person instructed or summoned to give evidence at an inquiry that was converted from an investigation is not entitled to refuse to give evidence only on the grounds that a statement had previously been given, or documents previously been adduced, during the investigation.
- (4) This section does not preclude or limit holding an inquiry after an investigation has been completed.

#### **67. Chief Inspector of Mines may designate assistant in inquiry**

At any time before or during an inquiry the *Chief Inspector of Mines* may designate one or more persons to assist in the inquiry or to preside at the inquiry.

#### **68. Inquiry to be public**

- (1) An inquiry must be held in public.
- (2) Despite subsection (1) the person presiding at an inquiry may of that person's own accord or at the request of a witness exclude members of the public or specific persons or categories of persons from attending the proceedings or part of the proceedings when the proper conduct of the inquiry requires.
- (3) The person presiding at an inquiry may make any order necessary to ensure that *employees* at the *mine* and members of the public have access to the premises in which the inquiry is held.

#### **69. Right to participate in inquiry**

The persons listed in this section may participate in an inquiry and, either personally or through a representative, may put questions to witnesses and inspect any book, plan, *record* or other document or item presented at the inquiry. The persons entitled to participate are-

- (a) any person who has a material interest in the inquiry;
- (b) a representative of any *registered trade union* with members at the *mine* in respect of which the inquiry is being held; and
- (c) any *health and safety representative* responsible for the *working place* in respect of which the inquiry is being held.

[Para. (c) substituted by s. 32 of Act 72 of 1997.]

#### **70. Powers of person presiding at inquiry**

The person presiding at an inquiry may-

- (a) instruct or summon any person to appear at any specified time and place;
- (b) question any person under oath or affirmation;

- (c) instruct any person-
  - (i). to produce any book, plan, *record* or other document or item necessary for the purposes of the inquiry; or
  - (ii). to perform any other act in relation to *this Act* necessary for the purpose of the inquiry.

## **71. Duty of persons summoned or instructed**

- (1) Subject to subsection (2), every person giving evidence at an inquiry must answer any relevant question.
- (2) The law regarding a witness's privilege in a court of law applies equally to any person being questioned at an inquiry.
- (3) The person presiding at an inquiry may direct that any evidence given by a person during an inquiry may not be used in any criminal or disciplinary proceedings against that person except in criminal proceedings on a charge of perjury against that person.

[Sub-s. (3) substituted by s. 33 of Act 72 of 1997 and by s. 24 of Act 74 of 2008.]

- (4) When a directive has been issued under subsection (3), the person involved is not entitled to refuse to answer any relevant question only on the grounds that the answer could expose that person to a criminal charge, disciplinary proceedings or a recommendation under section 55A.

[Sub-s. (4) substituted by s. 33 of Act 72 of 1997.]

- (5) A person instructed in terms of section 70 (c) must comply with that instruction unless the person has sufficient cause for not doing so.

## **72. Inquiry records and reports**

- (1) A person presiding at an inquiry must-
  - (a) record the evidence given at the inquiry, including any evidence given with the assistance of an interpreter;
  - (b) at the conclusion of the inquiry, prepare a written report of the findings, recommendations and any remedial steps;
  - (c) submit a copy of the report and the record of the inquiry to the *Chief Inspector of Mines*;
  - (d) supply a copy of the report and the record of the inquiry to the *employer* and to any *health and safety representative*, *health and safety committee* or *registered trade union* that requested the inquiry; and
  - (e) on request, supply a copy of the report and the *record* of the inquiry to any person who has a material interest in the inquiry.

- (2) An *inspector* may instruct the *employer* of the *mine* concerned to prominently and conspicuously display a copy of the report or any portion of it for *employees* to read.
- (3) The *Chief Inspector of Mines* may submit a copy of the report to the appropriate Attorney-General.

### **73. Chief Inspector of Mines may order further inquiry**

Upon considering the evidence and the report referred to in section 72, the *Chief Inspector of Mines* may require that the matter be inquired into further.

### **74. Inquiry and inquest may be conducted jointly**

- (1) An inquiry in terms of *this Act* into the death of a person may be held jointly with an inquest in terms of the Inquests Act, 1959 (Act 58 of 1959).
- (2) The judicial officer contemplated in the Inquests Act, 1959 (Act 58 of 1959), must preside at a joint inquiry referred to in subsection (1) and the person instructed to hold the inquiry in terms of *this Act* must be deemed to be an assessor appointed in terms of the Inquests Act, 1959.
- (3) The provisions of the Inquests Act, 1959 (Act 58 of 1959), apply to a joint inquiry.
- (4) The assessor referred to in subsection (2) must-
  - (a) prepare a report contemplated in section 72 (1) (b); and
  - (b) submit the report and the record of the joint inquiry to the *Chief Inspector of Mines*.

## **CHAPTER 6**

### **MINISTER'S POWERS**

### **75. Minister may prohibit or restrict work**

- (1) For any reason relating to *health* or *safety*, the *Minister*, by notice in the *Gazette*, may prohibit or restrict any work or any exposure of a person to a *substance* or an environmental condition, if-
  - (a) the *Minister* has consulted the *Council* on the prohibition or restriction; and
  - (b) unless the *Minister* believes that the public interest requires the notice to be published immediately, the *Minister* has-

- (i). published a draft of the proposed notice at least three months previously; and
  - (ii). at that time invited interested persons to submit comments and representations concerning the proposed notice within a specified period.
- (2) The *Minister* may attach any conditions to a prohibition or restriction by specifying them in the published notice.
- (3) The *Minister*, after consulting the *Council*, may amend or withdraw a notice under subsection (1) at any time.

## **76. Minister may declare health hazards**

- (1) The *Minister*, by notice in the *Gazette*, may declare that an environmental condition or a substance present at a mine is a *health hazard* to *employees* who are or may be exposed to that condition or *substance*, if-
    - (a) the *Minister* has consulted the Council on the issuing of the declaration; and
    - (b) unless the *Minister* believes that the public interest requires the notice to be published immediately, the *Minister* has-
      - (i). published a draft of the proposed notice at least three months previously; and
      - (ii). at that time invited interested persons to submit comments and representations concerning the proposed notice within a specified period.
- (2) In connection with any *health hazard*, the *Minister*, after consulting the Council, by notice in the *Gazette*, may-
- (a) impose conditions on the performance of work by *employees* exposed to the *health hazard*;
  - (b) stipulate the standards of fitness for an *employee* to perform work involving exposure to the *health hazard*;
  - (c) require *employers* to take measures to eliminate, control and minimise *health risks* associated with the *health hazard*;
  - (d) require *employers* to conduct specified *occupational hygiene* measurements;
  - (e) require *employers* to conduct specified *medical surveillance* in respect of *employees* exposed to the *health hazard*; and
  - (f) provide for any other matter that the *Minister* considers necessary to protect employees exposed to the *health hazard*.

- (3) The *Minister* may enter any *mine* at any time only for the purposes of *health hazards*.

[Sub-s. (3) substituted by s. 25 of Act 74 of 2008.]

## **77. Application of Minister's notice**

A notice under either section 75 or 76 may differentiate between *mines*, types of *mines*, parts of a *mine*, occupations and types of work.

## **78. Exemption from Minister's notice**

- (1) A notice under either section 75 or 76 may exempt a particular person or group of persons from compliance with that notice if the *Minister* is satisfied that any of the following conditions exists-
- (a) in the circumstances the exemption is desirable;
  - (b) the performance of the work by that person or group of persons is temporary; or
  - (c) the *risk* to which that person or group of persons is exposed is negligible.
- (2) The *Minister*, after consulting the *Council*, may cancel an exemption granted under subsection (1) at any time.

## **79. Exemption from all or part of this Act**

- (1) The *employer* of a *mine* may request an exemption from the *Minister*, and if satisfied that the *employer* has consulted appropriately with the affected *employees* or their representatives, the *Minister* may exempt the *employer* from any or all the provisions of *this Act* or from a notice or instruction issued under this Act. An exemption may be-
- (a) general or particular;
  - (b) for any period; and
  - (c) on any conditions that provide the same overall protection which would result from the full application of *this Act*.
- (2) When an exemption is granted under subsection (1), the *Minister* must issue a certificate of exemption to the *employer*, specifying the scope, period and conditions of the exemption.
- (3) The *Minister* may amend or withdraw a certificate of exemption at any time.
- (4) The *employer* must prominently and conspicuously display any exemption granted, or deemed to have been granted, under this section to the *employees* to read.

**80. Minister may apply other laws to mine**

- (1) After consulting the *Council*, the *Minister*, by notice in the *Gazette*, may declare that any provision of the Occupational Health and Safety Act, 1993 (Act 181 of 1993), or any regulation made under that Act, or the provisions of any other Act or regulations, must apply to a *mine*.
- (2) A declaration in terms of subsection (1) may differentiate between *mines*, types of *mines*, parts of a *mine*, occupations and types of work.

**81. Minister to table annual report**

- (1) Within 30 days of receiving the annual report of the *Chief Inspector of Mines*, the *Minister* must table it in Parliament.
- (2) If Parliament is not in session at the end of the period referred to in subsection (1), the *Minister* must table the report within 14 days of the beginning of the next session of Parliament.

**CHAPTER 7**

**LEGAL PROCEEDINGS AND OFFENCES**

**82. Jurisdiction of Labour Court**

- (1) The *Labour Court* has exclusive jurisdiction to determine any dispute about the interpretation or application of any provision of *this Act* except where *this Act* provides otherwise.
- (2) The *Labour Court* has no jurisdiction in respect of offences in terms of *this Act*.

**83. No discrimination against employees who exercise rights**

- (1) No person may discriminate against any *employee* for-
  - (a) exercising a right in terms of *this Act* or in terms of a collective agreement contemplated in *this Act*;
  - (b) doing anything that the *employee* is entitled to do in terms of *this Act* or in terms of a collective agreement contemplated in *this Act*;
  - (c) refusing to do anything that the *employee* is entitled to refuse to do in terms of *this Act* or in terms of a collective agreement contemplated in *this Act*;
  - (d) refusing to do anything that the *employee* is prohibited from doing in terms of *this Act* or in terms of a collective agreement contemplated in *this Act*; and

- (e) standing for election, or performing any function, as a *health and safety representative* or a member of a *health and safety committee*.
- (2) For the purposes of this section-
- (a) 'discriminate' means to dismiss an *employee* or to engage in any other conduct which has the effect of prejudicing or disadvantaging the employee, or which prejudices or disadvantages the *employee* relative to other *employees*; and
  - (b) '*employee*' includes any applicant for employment who has previously been employed at a *mine*.

#### **84. Safety equipment not to be interfered with**

Unless specifically authorised by the *employer*, no person-

- (a) other than an *inspector* acting in terms of section 50, may remove personal protective equipment from a *mine*, or cause that equipment to be removed;
- (b) other than an *inspector* acting in terms of section 50, may remove anything that is provided in the interest of *health or safety*, or cause that equipment to be removed; or
- (c) may alter, damage, misuse, render ineffective or interfere with anything that is provided in the interest of *health or safety*, or cause that equipment to be altered, damaged, misused, rendered ineffective or interfered with.

#### **85. Juvenile employment underground prohibited**

- (1) No person may cause or permit an *employee* under the age of 18 years to work underground at a *mine*.
- (2) No *employee* under the age of 18 years may work underground at a mine.
- (3) Despite subsections (1) and (2), an *employee* under the age of 18 years but over the age of 16 years may work underground as part of vocational education or training.

#### **86. Negligent act or omission**

- (1) Any person who, by a negligent act or by a negligent omission, causes *serious injury* or *serious illness* to a person at a *mine*, commits an offence.

[Sub-s. (1) substituted by s. 35 (a) of Act 72 of 1997.]

- (2) Any person, other than an *employer* or *employee*, who, by a negligent act or by a negligent omission, endangers the *health* or *safety* of a person at a *mine*, commits an offence.

[Sub-s. (2) substituted by s. 35 (b) of Act 72 of 1997.]

- (3) .....

[Sub-s. (3) deleted by s. 35 (c) of Act 72 of 1997.]

## **86A. Criminal liability**

- (1) An *employer*, chief executive officer, manager, agent or employee commits an offence if he or she contravenes or fails to comply with the provisions of this Act thereby causing-
  - (a) a person's death; or
  - (b) serious injury or illness to a person.
- (2) If a chief executive officer, manager, agent or *employee* of the *employer* commits an offence by performing or omitting to perform an act and such performance or omission would have constituted an offence had it been done by the *employer*, that *employer* is equally committing an offence if the act or omission fell within the scope of the authority or employment of the chief executive officer, manager, agent or *employee* concerned and the *employer*-
  - (a) connived at or permitted the performance or an omission by the chief executive officer, manager, agent, or employee concerned; or
  - (b) did not take all reasonable steps to prevent the performance or an omission.
- (3) For the purposes of subsection (1) the-
  - (a) fact that the person issued instructions prohibiting the performance or an omission is not in itself sufficient proof that all reasonable steps were taken to prevent the performance or an omission;
  - (b) defence of ignorance or mistake by any person accused cannot be admitted; or
  - (c) defence that the death of a person, injury, illness or endangerment was caused by the performance or an omission of an act falling within the scope of the authority or employment of any individual within the employ of the *employer* may not be admitted.

[NB: s. 86A has been inserted by s. 26 of the Mine Health and Safety Amendment Act 74 of 2008, a provision which will be put into operation by proclamation.]

### **87. Breach of confidence**

- (1) Any person who discloses any information that they acquired in the performance of a function in terms of *this Act* and that relates to the financial and business affairs of an *employer* or any other person who employs *employees*, commits an offence.

[Sub-s. (1) substituted by s. 36 of Act 72 of 1997.]

- (2) Subsection (1) does not apply if the information-
- (a) was disclosed to enable a person to perform a function in terms of *this Act*;
  - (b) must be disclosed in terms of *this Act*, any other law or an order of court; or
  - (c) was disclosed to a *health and safety representative* or *health and safety committee* in terms of Chapter 3.

### **88. Hindering administration of this Act**

Any person who hinders, opposes, obstructs or unduly influences any person who is performing a function in terms of *this Act* commits an offence.

### **89. Falsifying documents**

Any person who obtains or attempts to obtain a *prescribed* certificate of competency by means of fraud, dishonesty, false pretences or the presentation or submission of a false or forged document commits an offence.

### **90. Failure to attend when summoned**

A person commits an offence who, having been instructed or summoned to attend an inquiry-

- (a) without sufficient cause fails-
  - (i). to appear at the time and place specified; or
  - (ii). to remain in attendance until excused by the person presiding at the inquiry;
- (b) attends as required, but without sufficient cause-
  - (i). fails to comply with an instruction in terms of section 70 (c) (i); or
  - (ii). refuses to be sworn or to make an affirmation; or
- (c) attends as required and having been sworn or having made an affirmation-
  - (i). without sufficient cause fails to answer any question fully and to the best of that person's ability; or
  - (ii). gives evidence, knowing or believing it to be false.

## 91. Failure to comply with this Act

- (1) Any person, including an *employer*, who contravenes, or fails to comply with, any-
- (a) provision of *this Act*;
  - (b) *regulation*; or
  - (c) condition, suspension, notice, order, instruction, prohibition, authorisation, permission, consent, exemption, certificate or document determined, given, issued, prescribed or granted by or under this Act by the *Minister*, *Chief Inspector of Mines*, *inspector*, any person authorised under section 49 (4) or any person to whom any power has been delegated or the performance of any duty has been assigned under section 96, commits an offence and is liable to a fine or imprisonment as may be prescribed.

[Sub-s. (1) substituted by s. 37 (a) of Act 72 of 1997 and by s. 27 (a) of Act 74 of 2008.]

(1A) .....

[Sub-s. (1A) inserted by s. 37 (b) of Act 72 of 1997 and deleted by s. 27 (b) of Act 74 of 2008.]

- (1B) Any *employer* is liable to a fine in terms of section 55B if the *employer* contravenes, or fails to comply with, any-
- (a) provision of *this Act*, other than a provision referred to in subsection (1A), or any provision of Chapter 3 or section 83;

[Para. (a) substituted by s. 27 (d) of Act 74 of 2008.]

- (b) *regulation*; or
- (c) condition, suspension, notice, order, instruction, prohibition, authorisation, permission, consent, exemption, certificate or document determined, given, issued, promulgated or granted by or under *this Act* by the *Minister*, *Chief Inspector of Mines*, *inspector*, any person authorised under section 49 (4) or any person to whom any power has been delegated or the performance of any duty has been assigned under section 96.

[Sub-s. (1B) inserted by s. 37 (b) of Act 72 of 1997 and amended by s. 27 (c) of Act 74 of 2008.]

- (1C) Despite subsection (1B), any *employer* who, contravenes or fails to comply with any *standard* in a code of practice prepared in terms of section 9 (2) is not liable to a fine in terms of section 55B if-
- (a) the standard exceeds any compulsory standard in any relevant guideline issued by the *Chief Inspector of Mines*; and

- (b) the conduct constituting the contravention or failure complies with the compulsory *standard* in any relevant guideline issued by the *Chief Inspector of Mines*.

[Sub-s. (1C) inserted by s. 37 (b) of Act 72 of 1997 and amended by s. 27 (e) of Act 74 of 2008.]

(2) .....

[Sub-s. (2) deleted by s. 27 (f) of Act 74 of 2008.]

- (3) A person appointed under section 4 (1) to perform any function entrusted to an *employer* by *this Act* commits an offence if that person fails to exercise reasonable care in performing that function.
- (4) Any *chief executive officer* or member of the board contemplated in section 2A who performs a function in terms of section 2A (1) or (3) commits an offence if that person fails to take reasonable steps in performing that function.

[Sub-s. (4) added by s. 37 (c) of Act 72 of 1997.]

## 92. Penalties

- (1) Any person convicted of an offence in terms of section 87, may be sentenced to a fine or to imprisonment to be determined by the court.
- (2) Any person convicted of an offence in terms of section 90 (a) or (b) (i), may be sentenced to the penalty applicable to a similar offence in a magistrate's court.
- (3) Any person convicted of an offence in terms of section 90 (c) (ii), may be sentenced to any penalty that may be imposed in law for perjury.
- (4) Any person convicted of an offence in terms of *this Act* for which no penalty is otherwise expressly determined, may be sentenced to a fine or to imprisonment for a period not exceeding six months.
- (5) Any person convicted of an offence in terms of any section mentioned in Column 1 of Table 1 of Schedule 8 may be sentenced to a fine or to imprisonment for a period not exceeding the period mentioned in Column 2 of that Table opposite the number of that section.

[Sub-s. (5) substituted by s. 28 (a) of Act 74 of 2008. Table substituted by s. 38 of Act No. 72 of 1997 and deleted by s.28 (b) of Act No. 74 of 2008]

- (6) Any *owner* convicted of an offence in terms of section 86 or 86A may be sentenced to-

- (a) withdrawal or suspension of the permit; or
- (b) a fine of three million rands or a period of imprisonment not exceeding five years or to both such fine or imprisonment.

[Sub-s. (6) added by s. 28 (b) of Act 74 of 2008.]

- (7) In the event of a conviction, the court may, in addition to imposing a sentence in respect of the offence and making an order, order the person convicted to-
  - (a) repair any damage caused, to the satisfaction of the *Chief Inspector of Mines*; and
  - (b) comply with a provision of *this Act* within a specified period of time.

[Sub-s. (7) added by s. 28 (c) of Act 74 of 2008.]

### **93. Magistrate's court has jurisdiction to impose penalties**

Despite anything to the contrary contained in any other law, a magistrate's court has jurisdiction to impose any penalty provided for in *this Act*.

### **94. Serving of documents**

Unless otherwise provided in *this Act*, a notice, order or other document which, in terms of *this Act*, must be served on or delivered to a person, will have been properly served or delivered if it has been either-

- (a) served on or delivered to that person; or
- (b) sent by registered post to that person's last known address; or
- (c) published in the *Gazette*.

### **95. Proof of facts**

In any legal proceedings in terms of *this Act*-

- (a) if it is alleged that a person at a *mine* is or was an *employee*, that person is presumed to be an *employee* at that *mine*, unless the contrary is proved;
- (b) if it is proved that a false statement, entry or information appears in or on a book, plan, *record* or other document, the person who kept that document is presumed to have made, entered, recorded or stored that statement, entry, *record* or information, unless the contrary is proved; and
- (c) subject to the provisions of sections 63 (1), 63 (3) and 71 (2), any statement, entry or information in or on any book, plan, record or other document is admissible in evidence as an admission of the facts in or on it by the person who made, entered, recorded or stored it unless it is proved that that person did not make, enter, record or store it within the scope of their functions.

## CHAPTER 8

### GENERAL PROVISIONS

#### 96. Delegation and exercise of power

- (1) The *Minister* may delegate any power conferred upon the *Minister* by or under this Act, except the power to make *regulations*, to the *Chief Inspector of Mines*.
- (2) The *Chief Inspector of Mines* may delegate any power or assign the performance of any duty conferred or imposed upon the *Chief Inspector of Mines* by or under *this Act*, or any other law, to-
  - (a) any *inspector*;
  - (b) any other person with appropriate knowledge and experience who is under the control of the *Chief Inspector of Mines*; or
  - (c) any other person, after consulting the *Council*.

[Sub-s. (2) substituted by s. 39 of Act 72 of 1997.]

- (3) A delegation or assignment under subsection (1) or (2) must be in writing, and may be subject to any conditions or restrictions determined by the *Minister* or *Chief Inspector of Mines*, as the case may be.
- (4) A delegation under subsection (1) or (2) does not prevent the exercise of that power by the *Minister* or *Chief Inspector of Mines*, as the case may be.

#### 97. Minister's power to add and change Schedules

- (1) The *Minister*, after consulting the *Council*, by notice in the *Gazette* may add to, change or replace any Schedule to *this Act* other than Schedules 2, 3 and 7 and, subject to subsection (5), Schedule 4.

[Sub-s. (1) substituted by s. 29 of Act 31 of 2003.]

- (2) The *Minister*, after consulting the *Council*, by notice in the *Gazette* may add to *this Act* a further Schedule containing matters in respect of which *health and safety committees* may consult.
- (3) The *Minister*, after consulting the *Council*, by notice in the *Gazette*, may add to this Act a further Schedule containing the constitution of the *Council* and its committees.

[Sub-s. (3) substituted by s. 40 (a) of Act 72 of 1997.]

- (4) The *Minister*, after consulting the *Council* and the Mining Qualifications Authority, by notice in the *Gazette* may add to *this Act* a further Schedule containing the constitution of the Mining Qualifications Authority and its committees.

[Sub-s. (4) substituted by s. 40 (a) of Act 72 of 1997.]

- (5) The *Minister*, after consulting the *Council*, by notice in the *Gazette* may add to Schedule 4 further items containing transitional provisions necessary for the implementation of *this Act*.
- (6) The *Minister*, after consulting the *Council* and in consultation with the Minister of Health, by notice in the *Gazette* may add to this Act a further Schedule to suspend or vary the application of the Occupational Diseases in Mines and Works Act, 1973 (Act 78 of 1973), except in relation to the determination or payment of compensation.
- (7) The *Minister* may add to, change or replace any page header or sidenote by notice in the *Gazette*.

## 98. Regulations

- (1) The *Minister*, after consulting the *Council*, by notice in the *Gazette* may make regulations regarding-
- (a) *health and safety* of persons at *mines*;
  - (b) *health and safety standards*, codes of practice and the provision of protective clothing, equipment and facilities in connection with *health and safety* at *mines*;
  - (c) the performance of work by *employees* exposed to a *health hazard* and the measures to eliminate, control and minimise *health risks*;
  - (d) *health and safety employer* systems at *mines*;
  - (e) orderly operations at *mines*;
  - (f) the powers, duties, functions and responsibilities of *employees* at *mines* and of the *employers*;
  - (g) the issuing of permits for the use of *machinery*, equipment and material at *mines* and the accreditation of persons to test machinery, equipment and material for these purposes;
  - (h) the conditions under which *machinery*, equipment or material may be erected or used at *mines*;
  - (i) the elimination, control and minimisation of *health and safety hazards*;
  - (j) requirements for the safe use, handling, processing, storage, transport and disposal of hazardous *substances* used in the mining process and waste produced at the *mine*;

- (k) the transport, handling, storage and use of explosives and the mixing of substances to make explosives at a *mine*;
- (l) the protection of equipment, structures, water sources and the surface of land;
- (m) the conditions in which equipment, structures, water sources or the surface of land may be used, and the prohibition on, or restriction of, the erection of equipment and structures and the use of water sources or the surface of land in the vicinity of the *working places* at a *mine*;
- (n) the making safe of undermined ground and of dangerous excavations, tailings, waste dumps, ash dumps and structures of whatever nature made in the course of *prospecting* or mining operations or which are connected with those operations;
- (o) the monitoring and control as contemplated in section 49 (3) (a) of those environmental aspects at *mines* which affect, or may affect, the *health and safety of employees* or other persons;
- (p) standards of housing and nutrition of *employees* who are accommodated at the *mine*;
- (q) initial standards of fitness to perform work involving exposure to a *health hazard*, standards of fitness to continue performing such work and the conditions under which *employees* may be withdrawn either temporarily or permanently from such work;
- (r) standards of *occupational hygiene* measurement techniques, the frequency and manner in which measurements must be made, the manner of record keeping and reporting of *occupational hygiene* measurements made at *mines*;
- (s) standards of medical tests or *biological monitoring* used in *medical surveillance*, the persons who may carry out those tests and that monitoring, the interpretation of results of *medical surveillance*, the frequency for carrying out periodic *medical surveillance*, the keeping of records of *medical surveillance* and the reporting of confidential extracts from records of *medical surveillance*;
- (t) the manner of reporting *prescribed accidents* and *health matters* at *mines*, the keeping of records and statistics in relation to accidents and *health matters* and the provision of emergency medical treatment after an accident or in connection with a *health matter*;
- (u) the manner of reporting *prescribed occupational diseases* at *mines*, the keeping of records in relation to *occupational diseases* and the control and provision of medical services in connection with *occupational diseases*;
- (v) the form of an exit certificate and the content of medical examinations associated with an exit certificate;

- (w) the form of any application to be made in terms of *this Act* and of any consent or document required to be submitted with an application, and the information or details which must accompany an application;
- (x) the form of any register, record, notice, sketch plan or information to be kept, given, published or submitted in terms of or for the purposes of *this Act*, and the manner in which a register, record, notice, sketch plan or information is to be kept, given, published or submitted;
- (y) the drawing up and keeping of *mine* plans and the submission of statistical and other reports in relation to *minerals, mines and machinery*;
- (z) negotiations and consultations in terms of sections 26 and 33 and the time periods within which the negotiations and consultations must be completed;
- (zA) qualifications for appointment as a *health and safety representative*, the election and terms of office of representatives, the circumstances in which a representative must vacate office, the circumstances in which a representative may be removed from office, the manner in which vacancies may be filled, the functions of representatives, the manner in which the functions of representatives must be conducted, the facilities and assistance that must be provided to representatives and the training of representatives;
- (zB) the establishment of *health and safety committees*, the election and appointment of members to a committee, the terms of office of members of a committee, the circumstances in which a member must vacate office, the circumstances in which a member may be removed from office, the manner in which vacancies may be filled, meetings of the committees, the rules and procedures of the committees, the facilities and assistance that must be provided to committees and the training of the members of committees;
- (zC) the appointment of members to the *Council* in accordance with the provisions of Schedule 2, the functions of the *Council*, the payment of allowances to members, the funding of the *Council* and its committees, and any other matter the regulation of which, in the opinion of the *Minister*, may be necessary for the proper functioning of the *Council* and its committees.
- (zD) the appointment of members of the Mining Qualifications Authority in accordance with Schedule 2;
- (zE) qualifications for *inspectors*;
- (zF) the establishment of one or more accounts and the control of those accounts by the *Chief Inspector of Mines* with a view to funding-
  - (i). research and surveys regarding, and for the promotion of *health and safety at mines*; and

- (ii). the administration costs of the overall programme for relevant *health* and *safety* research;

[Para. (zF) substituted by s. 41 (a) of Act 72 of 1997.]

- (zG) the manner in which the presence of witnesses at inquiries must be obtained in terms of section 71, and the procedures to be followed at inquiries;
- (zH) procedures to be followed in respect of appeals to the *Chief Inspector of Mines* or *Medical Inspector* under *this Act*;
- (zI) fees payable in relation to applications, appeals and documents;
- (zJ) the payment of levies by *mines* on the basis of *health* and *safety* risk for
  - (i). research and surveys regarding, and for the promotion of *health* and *safety* at *mines*; and
  - (ii). the administration costs of the overall programme for relevant *health* and *safety* research.

[Para. (zJ) substituted by s. 41 (b) of Act 72 of 1997.]

- (zK) the imposition of monetary and other obligations in connection with safe-making referred to in paragraph (n) on persons who
  - (i). are or were responsible for the undermining of any ground or the making of any excavations, tailings, waste dumps, ash dumps or structures or for the dangerous condition of any of them; or
  - (ii). will benefit from that safe-making;
- (zL) the assumption by the State of responsibility for safe-making referred to in paragraph (n) in particular cases;
- (zM) the use of plain language in documents that are required to be published, displayed or distributed in terms of *this Act*; and
- (zN) any other matter the regulation of which may be necessary or desirable in order to achieve the objects of *this Act*;

[Para. (zN) substituted by s. 29 (a) of Act 74 of 2008.]

- (zO) the system of fines contemplated in sections 55A and 55B including *regulations* regarding forms and documents, periods of time, procedures, records to be kept and the payment of fines; and

[Para. (zO) added by s. 41 (c) of Act 72 of 1997 and substituted by s. 29 (b) of Act 74 of 2008.]

- (zP) minimum standards for the establishment, functioning, training, equipping and staffing of rescue services at *mines* and reporting by *employers* in respect of rescue services.

[Para. (zP) added by s. 29 (c) of Act 74 of 2008.]

- (2) No *regulation* may be made relating to-
  - (a) State revenue or expenditure except with the concurrence of the Minister of Finance;
  - (b) any *health* matter, except after consultation with the Minister for Health.
- (3) The *Minister*, after consultation with the Mining Qualifications Authority, by notice in the *Gazette*, may make *regulations* to provide for-
  - (a) the qualifications for employment in any occupation;
  - (b) conditions for acceptance as a candidate for examinations;
  - (c) the issuing of certificates of competency in respect of any occupation;
  - (d) the funding of the Mining Qualifications Authority including the manner by which such funds may be raised;
  - (e) procedures for assessing competency;
  - (f) the accreditation of assessors;
  - (g) the establishment of examination bodies;
  - (h) the appointment of examiners and moderators;
  - (i) the monitoring and administration of examinations;
  - (j) the setting of examination fees;
  - (k) the accreditation of providers of training;
  - (l) the establishment of quality assurance procedures;
  - (m) the issue of qualifications;
  - (n) the registering of qualifications; and
  - (o) any other matter, the regulation of which may be necessary or desirable in order to promote the activities of the Mining Qualifications Authority.
- (4) *Regulations* made in terms of subsection (3) must be in accordance with the National Qualifications Framework approved in terms of the South African Qualifications Authority Act, 1995 (Act 58 of 1995).
- (5) The *Minister* may incorporate all or part of any health and safety standard, without restating the text of it, in a *regulation* by referring to the number, title and year of issue of that *health and safety standard* or, to any other particulars by which that *health and safety standard* is sufficiently identified.
- (6) The *Minister* must consult the *Council* before incorporating a health and safety standard in a regulation.
- (7) The *Minister*, after consulting the *Council*, by notice in the *Gazette* may make *regulations* imposing any function of an *employer* on any person, other than the *employer*, who employs *employees*.

[Sub-s. (7) substituted by s. 41 (d) of Act 72 of 1997.]

- (8) For the purposes of *this Act*, any *health and safety standard* referred to in subsection (5) incorporated in a *regulation* is deemed to be a *regulation*, in so far as it is not repugnant to any *regulation* made under subsection (1).
- (9) Whenever a *health and safety standard* which has been incorporated in a *regulation* is subsequently amended or substituted by the competent authority, the *regulation* referred to in subsection (5) incorporating that *health and safety standard* is deemed to refer to that *health and safety standard* as so amended or substituted, unless a contrary intention is stated in the notice.
- (10) The *Chief Inspector of Mines* must keep a register of particulars of-
  - (a) every amendment or substitution of a *health and safety standard* incorporated in the *regulations*;
  - (b) the publication of any amendment or substitutions;
  - (c) every publication in which a *health and safety standard* that has been incorporated in the *regulations* under subsection (5) was published; and
  - (d) the place in the Republic where each of those standards and publications is obtainable or otherwise available for inspection.
- (11) The *Chief Inspector of Mines* must allow any person to inspect the register kept in terms of subsection (9) and to make an extract from it.
- (12) The provisions of section 31 of the Standards Act, 1993 (Act 29 of 1993), do not apply to any incorporation of a *health and safety standard* or to any amendment or substitution of a *health and safety standard* under this section.

## **99. Amendment of laws**

Each of the laws referred to in Schedule 3 is hereby amended to the extent specified in that Schedule.

## **100. Transitional arrangements**

- (1) The amendment of laws referred to in Schedule 3 does not affect any transitional arrangement made in Schedule 4.
- (2) The transitional arrangements in Schedule 4 must be read and applied as substantive provisions of *this Act*.

## **101. Interpretation**

- (1) .....

[Sub-s. (1) deleted by s. 42 of Act 72 of 1997.]

- (2) Subject to sections 26 and 33, no agreement may affect any-
  - (a) provision of *this Act*;
  - (b) condition, notice, order, instruction, prohibition, authorisation, permission, consent, exemption, certificate or document determined, given, issued, promulgated or granted by or under this Act by the *Minister*, *Chief Inspector of Mines*, *inspector* or any other person authorised under *this Act*; or
  - (c) any condition contained in any exemption.
- (3) Subsection (2) applies to any agreement whether entered into before or after the commencement of *this Act* or before or after the issuing of the documents referred to in subsection (2).
- (4) Any notice, order or any other document issued in good faith in terms of *this Act*, is valid according to its terms, despite any want of form or lack of power on the part of any person to issue or authenticate it, provided the necessary power is subsequently conferred upon that person.

## 102. Definitions

In *this Act*, unless the context otherwise indicates-

- '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*;
- 'chief executive officer'** means the person who is responsible for the overall management and control of the business of an *employer*;

[Definition of 'chief executive officer' inserted by s. 43 (a) of Act 72 of 1997.]

**'Chief Inspector of Mines'** means the *officer* appointed in terms of section 48 (1) and includes any officer acting in that capacity;

**'Commission'** means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the *Labour Relations Act*;

**'Constitution'** means the Constitution of the Republic of South Africa, 1996;

[Definition of 'Constitution' inserted by s. 30 (a) of Act 74 of 2008.]

**'Council'** means the Mine Health and Safety Council established by section 41 (1);

**'Department'** means the Department of Minerals and Energy;

[Definition of 'Department' substituted by s. 43 (b) of Act 72 of 1997.]

'employee' means any person who is employed or working at a *mine*;  
'employer' means an *owner*;

[Definition of 'employer' substituted by s. 43 (c) of Act 72 of 1997.]

'engine' means any appliance or combination of appliances by which power, other than human or animal power, can be applied to do mechanical work;

'hazard' means a source of or exposure to danger;

'health' refers to *occupational health* at *mines*;

'health and safety committee' means a *health and safety committee* established in terms of section 34;

'health and safety equipment' means an article or part of an article that is manufactured, provided or installed in the interest of the *health* or *safety* of any person;

'health and safety representative' means an *employee* elected and appointed in terms of section 29;

'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 *this Act*;

'health hazard' means any physical, chemical or biological *hazard* to *health*, including anything declared to be a *health hazard* by the *Minister*;

'health-threatening occurrence' means any occurrence that has or may have the potential to cause *serious illness* or damage to *health*;

'healthy' means free from illness or injury attributable to occupational causes;

'inspector' means an officer appointed in terms of section 49 (1) (c), a *Medical Inspector* and any *Principal Inspector of Mines*;

[Definition of 'inspector' substituted by s. 43 (d) of Act 72 of 1997.]

'Labour Court' means the *Labour Court* established by section 151 of the *Labour Relations Act*;

'Labour Relations Act' means the *Labour Relations Act*, 1995 (Act 66 of 1995);

'machinery' means any *engine*, boiler or appliance or any combination of them, which is situated at a *mine* and used or intended to be used-

(a) for generating, developing, receiving, storing, converting, transforming, transmitting or distributing any form of power or energy; or

(b) for conveying persons, material or *minerals*;

**'manager'** means any competent person appointed in terms of section 3 (1) (a);

**'Medical Inspector'** means a *Medical Inspector* appointed in terms of section 49 (1) (b);

**'medical practitioner'** means a *medical practitioner* as defined in the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974);

**'medical surveillance'** means a planned programme of periodic examination, which may include clinical examinations, *biological monitoring* or medical tests, of *employees* by an *occupational health practitioner* or by an *occupational medical practitioner* contemplated in section 13;

**'mine'** means, when-

(a) used as a noun-

(i). any borehole, or excavation, in any tailings or in the earth, including the portion of the earth that is under the sea or other water, made for the purpose of searching for or winning a *mineral*, whether it is being worked or not; or

(ii). any other place where a *mineral* deposit is being exploited, including the *mining* area and all buildings, structures, *machinery*, *mine* dumps, access roads or objects situated on or in that area that are used or intended to be used in connection with searching, winning, exploiting or *processing* of a *mineral*, or for *health* and *safety* purposes. But, if two or more excavations, boreholes or places are being worked in conjunction with one another, they are deemed to comprise one mine, unless the *Chief Inspector of Mines* notifies their *employer* in writing that those excavations, boreholes or places comprise two or more mines; or

(iii). a *works*; and

(b) used as a verb, the making of any excavation or borehole referred to in paragraph (a) (i), or the exploitation of any *mineral* deposit in any other manner, for the purpose of winning a *mineral*, including prospecting in connection with the winning of a *mineral*;

**'mineral'** means any *substance*, excluding water, but including sand, stone, rock, gravel and clay, as well as soil, other than top soil-

(a) whether that *substance* is in solid, liquid or gaseous form;

(b) that occurs naturally in or on the earth, in or under water or in tailings; and

(c) that has been formed by or subjected to a geological process;

**'Mineral and Petroleum Resources Development Act'** means the *Mineral and Petroleum Resources Development Act, 2002* (Act 28 of 2002);  
[Definition of 'Mineral and Petroleum Resources Development Act' inserted by s. 30 (b) of Act 74 of 2008.]

**'Minerals Act'** .....

[Definition of 'Minerals Act' deleted by s. 30 (c) of Act 74 of 2008.]

**'mining area'** means a prospecting area, mining area, retention area, exploration area and production area as defined in section 1 read with section 65 (2) (b) of the *Petroleum and Mineral Resources Development Act, 2002* (Act 28 of 2002).

[Definition of 'mining area' substituted by s. 110 of Act 28 of 2002.]

**'Minister'** means the Minister of Minerals and Energy;

[Definition of 'Minister' substituted by s. 43 (e) of Act 72 of 1997.]

**'occupational disease'** means any *health* disorder including a compensatable disease as contemplated by the Occupational Diseases in Mines and Works Act, 1973 (Act 78 of 1973), and an occupational disease contemplated by the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993);

[Definition of 'occupational disease' substituted by s. 43 (f) of Act 72 of 1997.]

**'occupational health'** includes *occupational hygiene* and *occupational medicine*;

**'occupational health practitioner'** .....

[Definition of 'occupational health practitioner' deleted by s. 30 (d) of Act 74 of 2008.]

**'occupational hygiene'** means the anticipation, recognition, evaluation and control of conditions at the *mine*, that may cause illness or adverse *health* effects to persons;

**'occupational medicine'** means the prevention, diagnosis and treatment of illness, injury and adverse health effects associated with a particular type of work;

**'occupational medical practitioner'** means a *medical practitioner* who holds a qualification in *occupational medicine*, or an equivalent qualification, recognised by the Health Professions Council of South Africa;

[Definition of 'occupational medical practitioner' substituted by s. 30 (e) of Act 74 of 2008.]

**'officer'** means a woman or man who has been appointed permanently despite the fact that such appointment may be on probation to a post contemplated in section 8 (1) (a) of the Public Service Act, 1994 (Proclamation 103 of 1994), and includes a woman or man contemplated in section 8 (1) (b) or 8 (3) (c) of that Act;

**'organism'** means any biological entity which is capable of causing illness to persons;

**'owner'-**

(a) in relation to a *mine*, means—

(i). the holder of a *prospecting* permit or mining authorisation issued under the *Mineral and Petroleum Resources Development Act*;

[Sub-para. (i) substituted by s. 30 (f) of Act 74 of 2008.]

(ii). if a prospecting permit or mining authorisation does not exist, the person for whom the activities contemplated in paragraph (b) of the definition of '*mine*' are undertaken, but excluding an independent contractor; or

(iii). if neither (i) or (ii) is applicable, the last person who worked the mine or that person's successor in title; and

(b) in relation to a works, means the person who is undertaking the activities contemplated in the definition of '*works*', but excluding an independent contractor;

[Definition of 'owner' substituted by s. 43 (g) of Act 72 of 1997.]

**'prescribed'** means prescribed by *regulation*;

**'Principal Inspector of Mines'** means the *officer* appointed by the *Chief Inspector of Mines* to be in charge of *health* and *safety* in any region established in terms of section 47 (2);

[Definition of 'Principal Inspector of Mines' inserted by s. 43 (h) of Act 72 of 1997.]

**'processing'** means the recovering, extracting, concentrating, refining, calcining, classifying, crushing, milling, screening, washing, reduction, smelting or gasification of any *mineral*, and '**process**' has a similar meaning;

**'prospecting'** means intentionally searching for any *mineral* by means that disturb any tailings or the surface of the earth, including the portion of the earth that is under the sea or under other water, by means of excavation or drilling, but does not include *mine* as a verb;

**'Public Finance Management Act'** means the Public Finance Management Act, 1999 (Act 1 of 1999);

[Definition of 'Public Finance Management Act' inserted by s. 30 (g) of Act 74 of 2008.]

- '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 costs and the benefits of removing or mitigating that *hazard or risk*;
- 'record'** includes information contained in or on a computer printout, tape or disc or any other computer storage medium;
- 'record of medical surveillance'** means a *record* kept in terms of section 13 (3);
- 'registered trade union'** means a *trade union registered* in terms of the *Labour Relations Act*;
- 'regulation'** means a regulation made under section 98 or in force in terms of item 4 of Schedule 4;
- 'representative trade union'** means a *registered trade union*, or two or more *registered trade unions* acting jointly, that have as members the majority of *employees at a mine*;
- 'risk'** means the likelihood that occupational injury or harm to persons will occur;
- 'safety'** means safety at *mines*;
- 'serious injury'** means any injury which is reportable under *this Act*;
- 'serious illness'** means any illness resulting from occupational exposure that affects the *health* of a person to the extent that it incapacitates the affected person from resuming that person's normal or similar occupation for four days or more;
- '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, 1993 (Act 29 of 1993); or
  - (b) in any specification, code or any other directive having standardisation as its aim and issued by an institution or organisation 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 standardisation;
- 'substance'** includes any solid, liquid, vapour, gas or aerosol, alone or in any combination;

**'this Act'** includes—

- (a) the section numbers, but not the page headers, headings or sidenotes;
- (b) the Schedules;
- (c) the *regulations*; and
- (d) any condition, suspension, notice, order, instruction, prohibition, authorisation, permission, consent, exemption, certificate or document determined, given, issued, promulgated or granted by or under this Act by the *Minister*, *Chief Inspector of Mines*, an inspector, any person authorised under section 49 (4) or any person to whom a power has been delegated or the performance of a duty has been assigned under section 96;

[Para. (d) substituted by s. 43 (i) of Act 72 of 1997.]

**'topsoil'** means topsoil as defined in section 1 of the *Mineral and Petroleum Resources Development Act*;

[Definition of 'topsoil' inserted by s. 43 (j) of Act 72 of 1997 and substituted by s. 30 (h) of Act 74 of 2008.]

**'working place'** means any place at a *mine* where *employees* travel or work; **'works'** means any place, excluding a *mine*, where any person carries out—

- (a) the transmitting and distributing to another consumer of any form of power from a *mine*, by the *employer* thereof, to the terminal point of bulk supply or where the supply is not in bulk, to the power supply meter on any such other consumer's premises; or
- (b) training at any central rescue station; or
- (c) the making, repairing, re-opening or closing of any subterranean tunnel; or
- (d) any operations necessary or in connection with any of the operations listed in this paragraph.

### **103. Occupational Health and Safety Act, 1993, not applicable**

The Occupational Health and Safety Act, 1993 (Act 85 of 1993), is not applicable to any matter in respect of which any provision of *this Act* is applicable.

#### **104. Civil liability of State**

The State Liability Act, 1957 (Act 20 of 1957), applies with the changes required by the context in respect of the Mine Health and Safety Inspectorate, and in such application a reference in that Act to the *Minister* of a department concerned must be construed as a reference to the Chief Inspector of Mines.

[S. 104 substituted by s. 31 of Act 74 of 2008.]

#### **105. Act binds State**

The provisions of *this Act* bind the State except in so far as any criminal liability is concerned.

#### **106. Short title and commencement**

- (1) *This Act* is called the Mine Health and Safety Act, 1996.
- (2) *This Act* comes into operation on a date fixed by the President by proclamation in the *Gazette*.

### **SCHEDULE 1**

#### **GUIDELINES FOR DETERMINING THE NUMBER OF FULL-TIME HEALTH AND SAFETY REPRESENTATIVES**

##### **1. Introduction**

- (1) This Schedule contains guidelines for determining the number of full-time *health and safety representatives*.
- (2) *This Act* places the highest value on agreement. The parties referred to in section 26 must refer to this Schedule, using its guidelines in a manner that best suits the particular *mine*.
- (3) If agreement is not reached, the Commissioner appointed by the *Commission* must refer to this Schedule, using its guidelines in a manner that best suits the particular *mine*.

##### **2. Minimum threshold**

- (1) There should be a full-time *health and safety representative* in every *mine* that requires the use of a full-time *health and safety representative*, taking into account-
  - (a) the volume, size and physical location of the *mine*;
  - (b) the *health and safety record* of the *mine*;

- (c) the number of designated *working places*; and
  - (d) the objects of *this Act*.
- (2) The guidelines as to the size of the *mine* that should have a full-time *health and safety representative* is a *mine* with 500 *employees*.

### **3. Number of full-time health and safety representatives**

- (1) The formula for determining the number of full-time *health and safety representatives* should take into account-
  - (a) the nature, size and physical location of the *mine*;
  - (b) the *health and safety record* of the *mine*;
  - (c) the number of designated *working places*;
  - (d) the number of *health and safety representatives*;
  - (e) the number of shafts and the number of *employees* at the shaft; and
  - (f) the objects of *this Act*.

## **SCHEDULE 2**

### **NOMINATION AND APPOINTMENT OF MEMBERS TO TRIPARTITE INSTITUTIONS**

[Schedule 2 amended by ss. 44 and 47 of Act 72 of 1997.]

The *Minister* must make the regulations referred to in sections 42 (2) and 45 (2) in a manner that ensures that-

- (a) members appointed to represent *employees* are either-
  - i). all nominated by agreement between *registered trade unions* representing at least 75% of *employees* belonging to such trade unions in the mining industry; or
  - ii). failing agreement in terms of subparagraph (i)-
    - (aa) at least half are persons nominated by a *registered trade union* or unions representing the majority of *employees* belonging to such trade unions in the mining industry; and
    - (bb) the rest are persons nominated by *registered trade unions* and appointed in accordance with the significance of the trade unions concerned; and
- (b) members appointed to represent *employers* are either-
  - i). all nominated by agreement between *employers' organisations* whose members employ at least 75% of *employees* in the mining industry; or
  - ii). failing agreement in terms of subparagraph (i)-

(aa) at least half are persons nominated by an *employers'* organisation or organisations whose members employ the majority of the *employees* in the mining industry; and

[Item (aa) substituted by s. 44 of Act 72 of 1997.]

(bb) the rest are persons nominated by *employers'* organisations and appointed in accordance with the significance of the organisations concerned.

## SCHEDULE 3

### AMENDMENT OF LAWS

[Schedule 3 amended by ss. 45 and 47 of Act 72 of 1997.]

#### A: MINERALS ACT, 1991

1. Amends section 1 of the Minerals Act 50 of 1991, as follows: paragraph (a) deletes the definitions of 'certificated', 'engine', 'investigating officer', 'machinery', 'manager', 'mine safety committee', 'peace officer', 'regional director', 'regional mining engineer', 'serious bodily harm' and 'works'; paragraph (b) inserts the definition of 'Chief Inspector of Mines'; and paragraph (c) inserts the definition of 'Director: Mineral Development'.

Section 1 of the Minerals Act, 1991 (in this Schedule referred to as the principal Act), is hereby amended—

- (a) by the deletion of the definitions of "certificated", "engine", "investigating officer", "machinery", "manager", "mine safety committee", "peace officer", "regional director", "regional mining engineer", "serious bodily harm" and "works";
- (b) by the insertion before the definition of "Department" of the following definition:  
" 'Chief Inspector of Mines' means the Chief Inspector of Mines appointed in terms of section 48 of the Mine Health and Safety Act, 1996;"; and
- (a) by the insertion before the definition of "elevator" of the following definition:  
" 'Director: Mineral Development' means any officer appointed in terms of section 4;".

2. Amends section 2 of the Minerals Act 50 of 1991 by deleting subsection (2).  
Section 2 of the principal Act is hereby amended by the deletion of subsection (2).

3. Amends section 8 of the Minerals Act 50 of 1991 by substituting subsection (1).

*Section 8 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:*

*"1) No holder of any prospecting permit shall remove any mineral found by [him] the holder in or on land or in tailings in the course of prospecting operations, from such land or the land on which such tailings are situated or dispose of any such mineral, excluding samples of any such mineral removed for tests thereon or identification or analysis thereof, except with the written consent of the holder of the right to such mineral in respect of such land or tailings, and with written permission granted by the [regional director] Director: Mineral Development concerned, subject to such conditions in respect of [safety and health] optimal utilization or rehabilitation as may be [determined by him and] specified therein."*

4. Amends section 9 of the Minerals Act 50 of 1991, as follows: paragraph (a) substitutes subsection (3) (a); paragraph (b) substitutes subsection (3) (c); paragraph (c) substitutes subsection (5) (c); paragraph (d) deletes the word 'and' at the end of subsection (5) (d) and substitutes subsection (5) (e); paragraph (e) adds subsection (5) (f); and paragraph (f) adds subsections (7) and (8).

*Section 9 of the principal Act is hereby amended-*

- (a) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
  - "a) with the manner in which and scale on which the applicant intends to mine the mineral concerned optimally [and safely] under such mining authorization;"
- (b) by the substitution for paragraph (c) of subsection (3) of the following paragraph:
  - " c) that such applicant has the ability and can make the necessary provision to mine such mineral optimally [and safely] and to rehabilitate such disturbances of the surface; and";
- (c) by the substitution for paragraph (c) of subsection (5) of the following paragraph:
  - " c) particulars about the manner in which and scale on which the applicant intends to mine such mineral under such mining authorization optimally [and safely] and to rehabilitate disturbances of the surface which may be caused by [his] the intended mining operations;"

- (d) by the deletion of the word "and" at the end of paragraph (d) of subsection (5) and by the substitution for paragraph (e) of that subsection of the following paragraph.
- " e) particulars about the applicant's ability to make the necessary provision to mine such mineral optimally [and safely] and to rehabilitate such disturbances of the surface; and";
- (e) by the addition to subsection (5) of the following paragraph:
- " f) particulars about the applicant's ability to mine in a healthy and safe manner, "; and
- (f) by the addition of the following subsections:
- " 7) The Director: Mineral Development shall consult as to the issuing of a mining authorisation with the Chief Inspector of Mines, and no mining authorisation may be issued unless the Chief Inspector of Mines is satisfied that the applicant has the ability and can make the necessary provision to mine in a healthy and safe manner.
- " 8) Subsection (7) shall apply mutatis mutandis in relation to the issuing of a prospecting permit in terms of section 6 or a permission in terms of section 8. ".
5. Amends section 12 of the Minerals Act 50 of 1991 by adding subsection (2), the existing section becoming subsection (1).  
Section 12 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):
- " 2) Before issuing a certificate referred to in subsection (1), the Director: Mineral Development shall consult with the Chief Inspector of Mines in that regard, and no such certificate shall be issued if the Chief Inspector of Mines is of opinion that the provisions of the Mine Health and Safety Act, 1996, have not been complied with by the holder referred to in subsection (1). ".
6. Substitutes section 15 of the Minerals Act 50 of 1991.  
Section 15 of the principal Act is hereby substituted for the following section:

**"15. Restriction on issuing of more than one prospecting permit or mining authorization in respect of same mineral and land**

*No prospecting permit or mining authorization shall be issued in respect of any mineral in respect of land or tailings, as the case may be, if a prospecting permit or mining authorization has already been issued in respect of such mineral and land or tailings, as the case may be, unless the [regional director] Director: Mineral Development is satisfied that such first-mentioned issuing will not detrimentally affect the object of this Act in relation to optimal exploitation of minerals [safety, health] or rehabilitation. ".*

7. Amends section 25 of the Minerals Act 50 of 1991 by substituting subsection (2).

*Section 25 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:*

*" 2) The Manager of a mine [or works] may search or cause to be searched any person employed at such mine [or works] for possession of any mineral in respect of which the possession has been prohibited under subsection (1).".*

8. Repeals sections 26 to 37 inclusive of the Minerals Act 50 of 1991.  
*Sections 26 to 37 of the principal Act are hereby repealed.*
9. Amends section 39 (3) of the Minerals Act 50 of 1991 by substituting the words following paragraph (c).

*Section 39 of the principal Act is hereby amended by the substitution in subsection (3) of the words following upon paragraph (c) of the following words:*

*"he or she shall consult as to that with the Chief Inspector of Mines and each department charged with the administration of any law which relates to any matter affecting the environment.".*

10. Amends section 41 of the Minerals Act 50 of 1991 by substituting subsection (1).

*Section 41 of the principal Act is hereby amended by the substitution for subsection (1) of the' following subsection:*

" 1) *The [regional director] Director: Mineral Development may issue directives and determine conditions in relation to the use of the surface of land comprising the subject of any prospecting permit or mining authorization [or upon which a works is situated] in order to limit any damage to or the disturbance of the surface, vegetation, environment or water sources to the minimum which is necessary for any prospecting or mining operations or processing of any mineral: Provided that such directives and conditions shall not be construed as placing the holder of any such prospecting permit or mining authorization [or the owner of such works, as the case may be], in a better position vis-à-vis the owner of such land in relation to the use of the surface thereof.*".

11. Amends section 51 of the Minerals Act 50 of 1991, as follows: paragraph (a) substitutes subsection (2) (b); and paragraph (b) deletes subsection (2) (d).

*Section 51 of the principal Act is hereby amended—*

- (a) *by the substitution for paragraph (b) of subsection (2) of the following paragraph:*
  - " b) question any person and take a statement from [him] such person, in which case section [29(4)] 53C(4) shall be applicable mutatis mutandis;"; and*
- (b) *by the deletion of paragraph (d) of subsection (2).*

12. *Inserts sections 53A to 53D inclusive in the Minerals Act 50 of 1991.*

*The following sections are hereby inserted after section 53:*

**"53A. Orders, suspensions and instructions**

- 1) *If an officer authorised by the Director-General is of the opinion that any contravention or suspected contravention of or any failure to comply with any provision of this Act or any condition to which any authorization, exemption, environmental management programme or permission granted or approved in terms of this Act, is subject, occurs at any mine or place presumed to be a mine, such officer may-*
  - a) *order the owner, manager or any official, employee or agent of such mine or place to take immediate rectifying steps; or*
  - b) *order that the operations at such mine or place or part thereof be suspended, and give such instructions in connection therewith as he or she may deem desirable.*
- 1) *Any order referred to in subsection (1)(b) shall be confirmed or set aside by the Director: Mineral Development, who shall notify the owner or manager of the mine or presumptive mine concerned in writing of his or her decision as soon as practicable.*

- 2) Any order given under subsection (1)(b) shall take effect from the time fixed by the officer concerned and shall remain in force until set aside by the Director: Mining Development or until the instructions of the officer have been complied with.

### **53B. Inquiries**

- 1) If any contravention or suspected contravention of or any failure or suspected failure to comply with any provision of this Act occurs at any mine or place presumed to be a mine, an inquiry may be held into any such matter by an officer designated by the Director-General.
- 2) The Director-General may, either before the commencement or at any stage of an inquiry held in terms of subsection (1) or (4) designate one or more other officers to assist in the holding of such inquiry and may designate an officer to Preside at such inquiry.
- 3) Any investigating officer holding an inquiry into any matter in terms of this section shall, if necessary with the assistance of an interpreter, take down or record by mechanical means the evidence given thereat and submit a written copy thereof with a report thereon to the Director: Mineral Development, who shall transmit it to the Director-General, unless otherwise directed by the latter.
- 4) Upon consideration of the evidence and report referred to in subsection (3) the Director-General may require that the matter concerned be inquired into further.

### **53C. Attendance and examination of witnesses at inquiry**

- 1) An investigating officer holding an inquiry in terms of section 53B(1) or (4) into any matter or who is to preside or is presiding at such inquiry may, for the purposes of such inquiry.
  - a) direct or summon any person to appear before him or her at such time and place as may be determined by him or her; or
  - b) order any person present at the place where such inquiry is being held-
    - (i). to give evidence thereat;
    - (ii). to produce any document or thing which he or she may deem necessary for the proper disposal of such inquiry; or
    - (iii). to perform any other act in relation to this Act which he or she may direct.

2)

- a) *If any person has reason to believe that he or she may be held liable for any matter which shall or may be inquired into in terms of section 53B(1) or (4), he or she shall have the right, but is, subject to subsection (1), not compelled, to be present at any such inquiry and to be assisted or represented by another person.*
- b) *If at any inquiry held in terms of section 53B(1) or (4) evidence has been or is being given from which any person may reasonably infer that he or she may be charged with contravening any provision of this Act or failing to comply therewith or may be held responsible in any manner for the matter comprising the subject of such inquiry, he or she shall have the right, but is not compelled, to give evidence and, either personally or through a representative-*
  - (iv) *to be heard;*
  - (v) *to call any witness or to request the investigating officer to direct or summon any witness on his or her behalf, either to give evidence thereat or to produce any document or thing;*
  - (vi) *to cross-examine anybody giving evidence at such inquiry; and*
  - (vii) *to peruse any document which has been presented as evidence.*

3) *Any person who satisfies an investigating officer that he or she has a material interest in any inquiry held in terms of section 53B(1) or (4) may, either personally or through a representative, put such questions as the investigating officer may consider relevant to such inquiry, to a witness giving evidence thereat.*

4)

- a) *Any investigating officer may, at any inquiry held in terms of section 53B(1) or (4), administer an oath which is normally administered to a witness in a court of law, to any witness before giving evidence or, if objecting to taking such oath, he or she may make an affirmation, and such affirmation shall have the same legal force and effect as such oath.*

- b) *No person called as a witness at any inquiry held in terms of section 53B(1) or (4) shall, when he or she is requested thereto, refuse or fail to take an oath or, if he or she objects thereto, to make an affirmation.*
  - c) *No person to whom an oath referred to in paragraph (a) has been administered or who has made an affirmation so referred to shall give evidence knowing it to be false or make a statement under oath or affirmation which is contrary to any statement which that person made under oath or affirmation on a previous occasion.*
- 5) *Any witness at any inquiry held in terms of section 53B(1) or (4) shall have the same privileges in relation to the answering of questions or the production of documents or things as such witness would have had under the same circumstances if the witness had been summoned as such before a court of law.*
- 6)
- a) *Any inquiry or any part thereof held in terms of section 53B(1) or (4) shall, in so far as it is in the opinion of the investigating officer practically possible or desirable, be held in public.*
  - b) *The investigating officer may decide whether any witness who has to give evidence or has given evidence at any inquiry referred to in paragraph (a), shall be present whilst other witnesses are giving their evidence thereat.*

**53D. Obstruction of inquiry or investigating officer or failure to render assistance**

*No person shall, in relation to any inquiry held in terms of section 53B(1) or (4)-*

- a) *without reasonable justification fail to comply with any direction, summons or order issued or given under section 53C(1) or by virtue of a request under section 53C(2)(b)(ii);*
- b) *refuse or fail to answer to the best of his or her knowledge any question lawfully put to him or her by or with the concurrence of the investigating officer: Provided that no person shall be obliged to answer any question whereby that person may incriminate himself or herself;*

- c) *in any manner whatsoever advise, encourage, incite, order or persuade any person who has been directed, summoned or ordered under section 53C(1) or by virtue of a request under section 53C(2)(b)(ii), not to comply with such direction, summons or order or in any manner prevent him or her from doing so;*
  - d) *refuse or fail, when required thereto by the investigating officer, to furnish him or her with the means or to render him or her the necessary assistance for holding such inquiry;*
  - e) *refuse or fail, when required thereto by the investigating officer, to attend an inquiry; or*
  - f) *intentionally insult an investigating officer or intentionally interrupt the proceedings thereat.".*
13. Amends section 54 of the Minerals Act 50 of 1991 by substituting subsection (1).
- Section 54 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:*
- " 1) The holder of or applicant for any prospecting permit or mining authorization [or the owner of a works] shall, at least 14 days before he or she commences with any operations under any such a permit or authorization [or at a works] or intends to cease such operations temporarily or permanently, notify the [regional director] Director: Mineral Development concerned and the Chief Inspector of Mines in writing of any such intended commencement or cessation, and provide particulars in connection with the location, nature and extent of such operations.".*
14. Amends section 60 of the Minerals Act 50 of 1991, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes subsection (2).

*Section 60 of the principal Act is hereby amended*

a) *by the substitution for subsection (1) of the following subsection:*

*" 1) Any person who contravenes or fails to comply with—*

- a) *any provision of—*
  - i). *section 5(2), 8(1), [31(1), (3) or (4), 37(a)] 38(1), 39(1), 40, 41(2), 42(5), 52 or 54;*
  - ii). *section 7(1) [31(5), 33(1) or 34(1)];*
  - iii). *section 19(1) or (2), [29(4)(b), 30(b), (c), (d), (e) or (f)] 38(2)(a), 53C(4)(b), 53D(b), (c), (d), (e) or (f) [58] or 59;*
  - iv). *[section 35(1) or 36]*
  - v). *[section 32(1) or (2) or 34(3)]*
  - vi). *[section 37(b)]*

vii). [section 29(4)(c)] 53C(4)(c); or  
viii). [section 30(a)] 53D(a); or  
b) any provision of—  
i). any direction, notice, suspension, order, instruction or condition issued, given or determined under section 22(1), 23(1), [27(1) or (5), 33(2), 34(2) or] 38(2)(b) or 53A(1);  
ii). any request referred to in section 51(3); or  
iii). any notice issued under section 25(1), shall be guilty of an offence."; and  
b) by the substitution for subsection 2 of the following subsection:  
" 2) Any person who contravenes or fails to comply with a provision of this Act, a regulation or any condition, notice, order, instruction, prohibition, authorization, permission, consent, exemption, certificate or document determined, given, issued, promulgated or granted by or under this Act by the Director-General, [the Government Mining Engineer, a regional director, a regional mining engineer] a Director: Mineral Development or any other officer in the service of the Department duly authorized thereto ex officio or by the Director-General shall, if any such contravention or failure is not declared an offence elsewhere, be guilty of an offence.".

15. Amends section 61 (1) of the Minerals Act 50 of 1991 by deleting paragraphs (d), (e) and (f).

Section 61 of the principal Act is hereby amended by the deletion of paragraphs (d), (e) and (f) of subsection (1).

16. Amends section 63 of the Minerals Act 50 of 1991, as follows: paragraph (a) deletes subsection (1) (a), (b), (h) (iv) and (v), (i), (j), (k), (l), (n), (u), (v), (w) and (x); paragraph (b) substitutes subsection (1) (m); paragraph (c) substitutes subsection (2); and paragraph (d) deletes subsection (3).

Section 63 of the principal Act is hereby amended—

- a) by the deletion of paragraphs (a), (b), (h)(iv) and (v), (i), (j), (k), (l), (n), (u), (v), (w) and (x) of subsection (1);  
b) by the substitution for paragraph (m) of subsection (1) of the following paragraph:

" m) the manner in which the presence of witnesses at inquiries held in terms of section [28(1), (2) or (5)] 53B(1) or (4) shall be obtained and procedures to be followed at such inquiries;"

- c) by the substitution for subsection (2) of the following subsection:

" 2) No regulation relating to State revenue or expenditure [or to any health matter] shall be made by the Minister except with the concurrence of the Minister of Finance [or the Minister of State Expenditure or after consultation with the Minister for National Health and Welfare, respectively]"; and

d) by the deletion of subsection (3).

17. Amends the Minerals Act 50 of 1991 by substituting the expression 'Director: Mineral Development' for the expression 'regional director', wherever it occurs in the Act.

*The principal Act is hereby amended by the substitution for the expression "regional director", wherever it occurs, in the Act, of the expression "Director: Mineral Development".*

18. Substitutes the long title of the Minerals Act 50 of 1991.

*The following long title is hereby substituted for the long title of the principal Act:*

*"To regulate the prospecting for and the optimal exploitation, processing and utilization of minerals; [to provide for the safety and health of persons concerned in mines and works] to regulate the orderly utilization and the rehabilitation of the surface of land during and after prospecting and mining operations; and to provide for matters connected therewith.".*

## B: REFERENCE TO GOVERNMENT MINING ENGINEER IN CERTAIN ACTS

### Substitution for Government Mining Engineer

The following Acts are hereby amended by the substitution for the expression 'Government Mining Engineer', wherever it occurs, of the expression 'Chief Inspector of Mines as contemplated in the Mine Health and Safety Act, 1996,':

Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940)

Rand Water Board Statutes (Private) Act, 1950 (Act 17 of 1950)

Mines and Works Act, 1956 (Act 27 of 1956)

Atmospheric Pollution Act, 1965 (Act 45 of 1965)

National Roads Act, 1971 (Act 54 of 1971)

Occupational Diseases in Mines and Works Act, 1973 (Act 78 of 1973)

National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977).

## SCHEDULE 4

### TRANSITIONAL PROVISIONS

[Schedule 4 amended by s. 46 of Act 72 of 1997 and by s. 32 of Act 74 of 2008.]

- (1) Any *health and safety standard* which, immediately prior to the commencement of *this Act*, was incorporated under the provisions of the *Mineral and Petroleum Resources Development Act* or the regulations made under that Act is deemed to be a *health and safety standard* incorporated under this item.
- (2) A certificate of fitness issued under the provisions of the Occupational Diseases in Mines and Works Act, 1973 (Act 78 of 1973), which was valid immediately before the commencement of *this Act* shall be deemed to be sufficient proof that the *employee* is fit to perform work until the certificate is cancelled or expires.
- (3) A declaration in respect of any work which has been declared under the Occupational Diseases in Mines and Works Act, 1973 (Act 78 of 1973), to be *risk work* at controlled mines is deemed to be a declaration made under section 76 (1) of *this Act* and remains in force until the declaration is withdrawn or superseded under *this Act*.
- (4) Any regulation made or deemed to be made under the *Mineral and Petroleum Resources Development Act* that relates to *health and safety* issues that can be regulated under *this Act*, may be amended under *this Act* and remains in force until repealed under *this Act*.

[Item 4 substituted by s. 46 of Act 72 of 1997.]

- (5) To the extent that it grants exemptions from the operation of a provision similar to a provision of this Act, an exemption is deemed to have been granted under section 79 if-
  - (a) it was granted under the provisions of the *Mineral and Petroleum Resources Development Act*; and
  - (b) it is still in force when *this Act* commences.
- (6) Section 85 does not apply to an *employee* employed at any mine immediately before the commencement of that section.
- (7) The Mine Health and Safety Inspectorate continues to exist as a juristic person and the *Chief Inspector of Mines* is its accounting authority.

[Item 7 added by s. 32 of Act 74 of 2008.]

## SCHEDULE 5

### SUSPENSION AND VARIATION OF APPLICATION OF OCCUPATIONAL DISEASES IN MINES AND WORKS ACT, 1973 (ACT 78 OF 1973)

[Schedule 5 added by GN R848 in GG 18078 of 21 June 1997.]

#### A: Suspension of Application of Act No. 78 of 1973

The application of the following sections of the Occupational Diseases in Mines and Works Act, 1973 (in this Schedule referred to as the 1973 Act) is hereby suspended:

- (a) Section 4 (2) (b).
- (b) Section 15.
- (c) Section 16 (1) (b) and (c).
- (d) Section 23.
- (e) Section 24.
- (f) Section 25.
- (g) Section 26.
- (h) Section 27 (2), (3), (4) and (5).
- (i) Section 28.
- (j) Section 29.
- (k) Section 30.
- (l) Section 37 (2) (a).
- (m) Section 121 (1) (b), (h) and (i).
- (n) Section 124 (3) (g) and (h).
- (o) Section 125.
- (p) Section 126 (1), (2) (a) and (b) and (3) (a) and (b) (i).

#### B: Variation of Application of Act No. 78 of 1973

- (1) The application of the following sections of the 1973 Act is hereby limited to medical examinations for the purpose of determining benefits:
  - (a) Section 4 (1) and (2) (a).
  - (b) Section 5.
  - (c) Section 31 (1).
  - (d) Section 36, subject to item 3 (b).
  - (e) Section 37 (1), (2) (b) and (3).
- (2) The application of section 27 (1) of the 1973 Act is hereby limited to instances where the director receives a communication as contemplated in section 33 (1).
- (3) The application of the following sections of the 1973 Act is hereby limited to persons employed at mines or works:
  - (a) Section 31 (1).
  - (b) Section 36 (1) (a).

## SCHEDULE 6

### CONSTITUTION OF THE MINE HEALTH AND SAFETY COUNCIL

[Schedule 6 added by GN R1317 in GG 18352 of 10 October 1997 and amended by GN R906 in GG 23585 of 2 July 2002 (as corrected by GN R1575 in GG 24168 of 13 December 2002).]

[An italicised word or phrase is defined in section 102 of the Mine Health and Safety Act, 1996 (Act No. 29 of 1996), (*this Act*) and an italicised word or phrase in bold is defined in item 24 of this Constitution. In this Constitution all references to sections are references to sections in *this Act* unless otherwise indicated.]

#### 1. Establishment of Council and committees

- (1) The *Council* and the *committees* of the *Council*, the Mining Regulation Advisory Committee, the Mining Occupational Health Advisory Committee and the Safety in Mines Research Advisory Committee are established by section 41 (1) and (2) of *this Act*.
- (2) The *Council* may establish *ad hoc* committees and subcommittees for such periods as the *Council* may consider necessary, to achieve the object or perform the functions of the *Council*.
- (3) Every committee or *ad hoc* committee may, subject to such conditions as the *Council* may determine, establish subcommittees, for such periods as the committee may consider necessary, to perform any function of that committee.

#### 2. Legal status

- (1) The *Council* is a body corporate.
- (2) All actions, suits or other proceedings at law, by or against any *committee* must be brought by or against the *Council*.
- (3) The *Council* may authorise any person or persons to act on behalf of the *Council* and to sign all such documents and to take all such steps as may be necessary in connection with any proceedings at law brought by or against the *Council*.

#### 3. Object of Council

The object of the *Council* is to advise the Minister on *health and safety at mines*.

(Section 41(1) prescribes the object of the Council.)

#### 4. Functions of Council

The *Council* must-

- (a) advise the *Minister* on *health and safety* at *mines* including, but not limited to, any legislation on mine rehabilitation in so far as it concerns *health and safety*;
- (b) co-ordinate the activities of the **committees**;
- (c) consider the reports of the **committees**;
- (d) liaise with the Mining Qualifications Authority on matters relating to *health and safety*;
- (e) liaise with any other statutory bodies concerned with matters relating to *health and safety*;
- (f) promote a culture of *health and safety* in the mining industry;
- (g) at least once every two years arrange and co-ordinate a tripartite summit to review the state of *health and safety* at *mines*;
- (h) for each year consider an overall programme for relevant *health and safety* for approval as *prescribed* and deliver a copy to the Minister of Finance for consideration; and
- (i) perform every duty imposed upon the *Council* in terms of this Act.

(Sections 43(a) to (f) determine the duties of the Council.)

#### 5. Functions of committees

- (1) The Mining Regulation Advisory Committee must advise the *Council* on-
  - (a) proposed changes to legislation to improve *health or safety* at *mines*;
  - (b) proposals for changes to legislation made by any committee;
  - (c) guidelines for codes of practice; and
  - (d) *standards* approved by the South African Bureau of Standards.

(Sections 44(1)(a) to (d) determine the duties of MRAC.)

- (2) The Mining Occupational Health Advisory Committee must advise the *Council* on-
  - (a) policy relating to *health*;
  - (b) *standards*, systems and procedures for assessing, avoiding, eliminating, controlling and minimising *health risks*;
  - (c) *regulations* on any aspect of *health*;
  - (d) *health research*; and
  - (e) collecting, processing and distributing *health* data in the mining industry.

(Sections 44(2)(a) to (e) determine the duties of MOHAC.)

- (3) The Safety in Mines Research Advisory Committee must advise the *Council* on-
  - (a) criteria for determining the funding of *health and safety* research;

(Section 98(l)(zJ) empowers the Minister to make regulations for the payment of levies for funding research and surveys and for the promotion of health and safety at mines.)

- (b) the need for research into *health and safety at mines*;
- (c) research projects, including priorities of projects, cost, assessment, ratification and execution;
- (d) communication and publication of research results; and
- (e) the management of the cost of the overall programme.

(Sections 44(3)(a) to (e) and 44(4)(a) to (d) determine the duties of SIMRAC.)

- (4) The Safety in Mines Research Advisory Committee must prepare the programme for relevant *health and safety* research for the *Council* to consider. The programme must include-
  - (a) a review of *health and safety* performance in the different mining sectors;
  - (b) an evaluation of the research proposals made by the *Council* or any **committee**;
  - (c) the focus of *health and safety* research and priorities for the different sectors of mining; and
  - (d) an estimate of the cost of the programme.

(Sections 44(3)(a) to (e) and 44(4)(a) to (d) determine the duties of SIMRAC.)

(The Council considers the overall programme in terms of item 4(h).)

## 6. Functions of other committees

**Other committees** must perform the functions delegated or assigned to them in terms of item 7.

## 7. Delegation and assignment of functions

- (1) The *Council* may delegate or assign any of the functions of the *Council* by or under this Act to any **committee**.
- (2) Permanent and *ad hoc* committees may delegate or assign any of their functions to any of their subcommittees.
- (3) A delegation or assignment under subitem (1) or (2)-
  - (a) must be in writing;
  - (b) is subject to such conditions and restrictions as determined by the *Council*, a permanent or an *ad hoc* committee, as the case may be; and
  - (c) does not prevent the performance of that function by the *Council*, a permanent or an *ad hoc* committee, as the case may be.

(Sections 42(4) and (5) enable the Council to delegate any of its powers or assign any of its duties by or under this Act to committees.)

## 8. Composition of Council and committees

- (1) The *Council* consists of-
  - (a) five members representing *employers* in the mining industry;
  - (b) five members representing *employees* in the mining industry;
  - (c) four members representing departments of State; and
  - (d) the *Chief Inspector of Mines*, who must chair the *Council*.
  
- (2) Every *committee* consists of-
  - (a) five members representing *employers* in the mining industry;
  - (b) five members representing *employees* in the mining industry;
  - (c) four members representing departments of State; and
  - (d) an *officer* of the Mine Health and Safety Inspectorate who must chair the committee.
  
- (3) Every ***other committee*** consists of the number of members determined by the relevant establishing authority.
  
- (4) The *parties* are entitled to equal representation on *other committees*.

## 9. Nomination and appointment of members

- (1) Members of the *Council* and *committees* are nominated and appointed in accordance with the *regulations* and members of any ***other committee*** are nominated and appointed in accordance with this item.

(Regulations 18.1 to 18.7 published by GNR 93 in the Gazette of 15 January 1997)

- (2) Every ***party*** on the relevant ***establishing authority*** may nominate persons as members representing their ***party*** on any ***other committee***.
  
- (3) The relevant ***establishing authority***-
  - (a) must appoint the members; and
  - (b) may appoint one of the members as chairperson.
  
- (4) If the relevant ***establishing authority*** does not appoint a chairperson, the ***members*** of the committee may appoint a chairperson from among their number.

- (5) Members representing *employees* or *employers* on any **other committee** may hold office for such period as the relevant **establishing authority** may determine, which period may not exceed three years. A member whose period of office expires, may be reappointed.

(Regulation 18.5 published by GNR 93 in the Gazette of 15 January 1997 determines the term of office of members of the Council and its committees.)

- (6) If the office of a member of any **other committee** is vacated before the end of the period of office of such member, a person to replace such member must, subject to the provisions of this Constitution-
- be nominated by the **party** that was represented by the member; and
  - be appointed by the relevant **establishing authority** for a period not exceeding the balance of the period of office of the member in whose place the person is appointed.

(Mine Health and Safety Regulation 18.6 deals with the filling of casual vacancies of the Council and committees.)

- (7) The appointment of any member of any **other committee** is subject to any condition that the relevant **establishing authority** determine.
- (8) The chairperson of the relevant **establishing authority** must in writing notify the members of their appointment.
- (9) If a member appointed in terms of this item does not accept such appointment, a person to replace such person must be appointed in accordance with this item.
- (10) Every **party** must appoint an **alternate** for each of its members on the *Council*, a committee or *ad hoc* committee and must notify the chairperson of the *Council* or the relevant committee or *ad hoc* committee, as the case may be, of such appointment.
- (11) The relevant **establishing authority**-
- may appoint **alternates** for members of subcommittees; and
  - must notify-
    - the **alternates** of their appointment; and
    - the members of their respective **alternates**.

## 10. Vacation of office

- (1) A **member** vacates office-
  - (a) on expiry of the **member's** period of office;
  - (b) if such **member**-
    - (i). is absent from two consecutive meetings of the *Council* or **committee** for which such **member** is appointed without notifying the chairperson before the meeting that the **member** will be absent;
    - (ii). resigns as a **member**; or
    - (iii). is required to vacate office by the **party** or the organisation which that **member** represents;
  - (c) if such **member** was nominated by an organisation and that organisation no longer meets the criteria allowing it to nominate **members**; or
  - (d) if the *Council* or **committee** on which the **member** serves, is abolished.
  - (2) If a member vacates office, the **alternate** appointed for such member ceases to hold office as alternate.

## 11. Functions of chairperson

- (1) Every **chairperson** must with regard to the *Council* or **committee** which the person chairs-
  - (a) allow each **party** to appoint from among its members a person to act as convenor of such **party** for communication purposes. If a **party** does not appoint such convenor, the **chairperson** may appoint any member of that **party** as convenor of the **party**;
  - (b) cause meetings to be convened; and
  - (c) ensure the orderly conduct of meetings and that all resolutions are recorded.
- (2) If in the opinion of the **chairperson** the behaviour of any **member** is disruptive to the orderly conduct of the meeting, the **chairperson** may order that **member** to leave a meeting.
- (3) If the chairperson of the *Council* or a **committee** is unable to attend a meeting, the chairperson may designate another *officer* of the Mine Health and Safety Inspectorate to chair the meeting.

(If the chairperson of any other committee is unable to attend a meeting, a member of that committee may be elected in terms of item 16(3) to chair the meeting.)

## 12. Appointment and functions of secretary

- (1) The *Chief Inspector of Mines* must appoint a secretary for-
  - (a) the *Council* and every permanent and *ad hoc* committee; and

- (b) any subcommittee if the **establishing authority** so requires.

[Sub-s. (1) amended by GN R906 in GG 23585 of 2 July 2002.]

- (2) If a secretary is not appointed for a subcommittee, the **members** of that committee must keep a record of and report to the relevant **establishing authority** on their activities.
- (3) A secretary must, with regard to the *Council* or **committee** for which the secretary is appointed-
  - (a) prepare the agenda for every meeting;
  - (b) prepare the minutes of every meeting;
  - (c) record every resolution of such meeting and if so requested by a **member**, the views of that **member**;
  - (d) keep general records, records of **members**, minutes, documents and files of the *Council* or such **committee**; and
  - (e) serve every member with-
    - (i). a convening notice and the agenda of a meeting at least five **clear days** before the meeting or two **clear days** before an urgent meeting;
    - (ii). any reports or documentation to be considered at a meeting, a reasonable period before the meeting; and
    - (iii). the minutes of every meeting.

### 13. Rights and obligations of members

- (1) Any **member** who is unable to attend a meeting of the *Council* or any **committee**-
  - (a) may designate any **alternate** of that **member's party** on the *Council* or that committee as the case may be, to represent the **member** at the meeting; and
  - (b) must before the meeting give notice of it to the **chairperson**.
- (2) An **alternate** designated under subitem (1) has the rights and obligations of the member whom that **alternate** represents.
- (3) Every **member** has the right to-
  - (a) be heard on any matter considered at the meeting;
  - (b) take part in the resolution of any matter before the meeting; and
  - (c) have their views, on any matter considered at the meeting, recorded in the minutes of the meeting and in any report or recommendation of the meeting.

(Section 42(6) entitles members to have their views reflected in any report of the Council or committee.)

#### **14. Meetings**

- (1) The *Council* must meet at such intervals as required for the proper performance of the functions of the *Council*, but at least once every six months.
- (2) Every permanent and *ad hoc* committee must meet at such intervals as required for the proper performance of the functions of the committee, but at least once every three months.
- (3) Subcommittees must meet at such intervals as determined by their activities and the dates for the completion of their tasks.
- (4) An urgent meeting of the *Council* or any **committee** may be called by the **chairperson** at the written request of at least two **members** or when the **chairperson** deems it necessary.
- (5) The *Council* may direct any **committee** to call an urgent meeting to resolve any matter determined by the *Council*.
- (6) A permanent or *ad hoc* committee may direct any of its subcommittees to call an urgent meeting to resolve any matter determined by such committee.

#### **15. Quorum**

- (1) Eight **members** form a quorum for any meeting of the *Council* or a **committee** provided that at least two **members** of each **party** are present.
- (2) The quorum for any **other committee** must be determined by the relevant **establishing authority**.
- (3) Despite subitems (1) and (2), if the convenors of the **parties** in the *Council* or any **committee** so agree, a smaller number may constitute a quorum for an urgent meeting of the *Council* or that **committee**, as the case may be.
- (4) If a quorum is not present at a meeting, the meeting must be postponed to a date, time and place determined by the **chairperson**. The **members** present at the subsequent meeting form a quorum for that meeting.

#### **16. Procedures at meetings**

- (1) Items may be added to the agenda of any meeting if the meeting so decides.

- (2) Any **member** who has a direct or personal financial interest in any matter before the meeting must, before the matter is discussed by the meeting, declare such interest to the meeting and the **chairperson** must determine whether such **member** may participate in the consideration of that matter.
- (3) If the designated **chairperson** is not present at a meeting the **members** may elect from among their number a **chairperson** for that meeting.

## 17. Resolution of meeting

- (1) The *Council* or any **committee** must endeavour to reach consensus on any matter that requires resolution.
- (2) If **consensus** cannot be reached on any matter after sincere endeavours to do so, a decision of the majority of **members** present and voting at a meeting constitutes the resolution on that matter by the *Council* or any **committee**, as the case may be.
- (3) Any report or advice of the *Council* or any **committee** which reflects a resolution that was not reached by **consensus**, must reflect-
  - (a) the different views of the **members** on the matter so resolved; and
  - (b) which **members** supported each view.
- (4) No resolution nor any act authorised by the *Council* or any **committee** is invalid merely because of a vacancy on the *Council* or that **committee** or because any person not entitled to sit as a **member** sat at such meeting at the time the resolution was taken or the act was authorised if a quorum was constituted by the rest of the **members** present at the meeting and entitled to sit as **members** at the meeting.
- (5) Despite subitems (1) to (3), if the **members** present and voting at a meeting reach consensus on the matter, the *Council* may resolve that any specific resolution of the *Council* may only be amended or revoked by a special majority of, or the consensus of the *Council*.

[Subitem (5) added by GN R906 in GG 23585 of 2 July 2002 (as corrected by GN R1575 in GG 24168 of 13 December 2002).]

## 18. Funds of Council

- (1) The funds of the *Council* consist of-
  - (a) moneys appropriated by Parliament to perform the functions of the *Council*;
  - (b) other moneys received in terms of *this Act*;

- (c) revenue obtained from investments;
- (d) fees or royalties obtained from intellectual property of the *Council*;
- (e) donations or contributions received from any person, body, government or administration; and
- (f) any other money received from any other source.

(Section 42(7) empowers the Minister to provide funds for the administration of the Council and its committees from public funds.)

- (2) Moneys appropriated by Parliament must be used for
  - (a) the payment to **members** who are not in the full-time service of the State of such remuneration and allowances as the *Minister* may determine with the agreement of the Minister of Finance; and
  - (b) the payment for administrative functions of the Council and **committees**.

(Section 42(7) requires the agreement of the Minister of Finance for the provision of funds for the administration of the Council and its committees from public funds.)

- (3) Moneys referred to in subitem (1) (b), (c), (d) or (f) may be
  - (a) used as contemplated in *this Act*;
  - (b) invested with any bank registered as such under the Banks Act, 1990 (Act 94 of 1990), or invested in such other manner as may be determined by the *Minister* with the agreement of the Minister of Finance; and
  - (c) used to register or utilise any intellectual property of the *Council*.
- (4) Moneys referred to in subitem (1) (e) must be utilised in accordance with the conditions, if any, imposed by the donor or contributor of such moneys.
- (5) The chairperson of the *Council* must for each financial year submit a statement of estimated income and expenditure during such financial year to the *Minister* who, with the agreement of the Minister of Finance, must approve the budget for
  - (a) the first financial year, before the first meeting of the *Council*; and
  - (b) every other financial year, before the beginning of such financial year.

## 19. Accountability

- (1) The chairperson of the *Council* is the accounting officer of the *Council*.
- (2) The accounting officer is responsible for all moneys received and payments made by the *Council*.
- (3) The financial year of the *Council* ends on 31 March in each year.

- (4) The accounting officer must cause records to be kept in accordance with the Generally Accepted Accounting Principles that are necessary to represent fairly the state of affairs and business of the *Council* and to explain the transactions and financial position of the *Council*.
- (5) Annual financial statements must be prepared in respect of every financial year. The statements must consist of-
  - (a) a balance sheet dealing with the state of affairs of the *Council*;
  - (b) a return of income received and expenses incurred by the *Council*; and
  - (c) a statement of cash flow information.
- (6) The books of account, statements of account and annual financial statements of the *Council* must be audited annually by the Auditor-General. The Auditor General must compile a report on the audit and submit a copy of it to the *Minister* and the chairperson of the *Council*.
- (7) The secretary of the *Council* must supply each member of the *Council* with a copy of the report of the Auditor-General.
- (8) As soon as practicable after the report of the Auditor-General has been submitted to the *Minister* in terms of subitem (6), the *Minister* must table it in Parliament.

## **20. Administrative, secretarial and other services**

- (1) The *Council* may employ employees to provide such administrative, secretarial or other services to the *Council* and its committees as the *Council* may determine.
- (2) Despite subitem (1), the *Council*, with the approval of the *Minister*, may contract any person, or arrange for officers of the Mine Health and Safety Inspectorate, to provide such administrative, secretarial and other services to the *Council* and committees as the *Council* may determine.

[Item 20 substituted by GN R906 in GG 23585 of 2 July 2002.]

## **21. Abolition of Council or committee**

- (1) The *Council* and the committees may be abolished by an Act of Parliament.
- (2) The *Council* may at any time abolish any other committee.
- (3) A permanent or *ad hoc* committee may at any time abolish any subcommittee established by that committee.

(See item 1 for the establishment of the Council and committees.)

## **22. Limitation of liability**

- (1) A **member** or an employee of the *Council* does not incur any civil liability only because of doing or failing to do something which such **member** may do or is required to do in terms of *this Act* or this Constitution.

[Subitem (1) substituted by GN R906 in GG 23585 of 2 July 2002.]

- (2) The *Council* does not incur any civil liability only because a **member**, or an employee of the *Council*, or any person contracted to perform a function of the *Council* or a **committee**, or an officer of the Mine Health and Safety Inspectorate assigned to perform such functions, took an action or failed to take an action under or in terms of *this Act* or this Constitution, and in taking or failing to take that action acted without negligence and in good faith.

[Subitem (2) substituted by GN R906 in GG 23585 of 2 July 2002 (as corrected by GN R1575 in GG 24168 of 13 December 2002).]

## **23. Amendment of constitution**

- (1)
  - (a) If the *Minister* wants to amend the constitution, the *Minister* must furnish a proposal containing such amendments to the chairperson of the Council, who must convene a meeting to consider the proposal.
  - (b) At such meeting the *Council* must consider the proposal and resolve either to-
    - (i). support the proposal as it is;
    - (ii). support the proposal with certain amendments; or
    - (iii). oppose the proposal.
  - (c) The *Council* must submit its resolution to the *Minister*.
  - (d) If the *Council* resolves to support the proposal with certain amendments or to oppose the proposal, the motivation for such resolution and the amendments, if any, must be included in the submission to the *Minister*.

(2)

- (a) If the *Council* wants the constitution to be amended, the *Council* must submit a proposal regarding such amendment to the *Minister*.
- (b) Such proposal by the *Council* is deemed to be consultation by the *Minister* with the *Council* as contemplated in section 97 (1).
- (c) If the *Minister* is not satisfied with the amendments or the motivation for the amendments, the *Minister* may refer the proposal back to the *Council* for further consideration.

*(Section 97(1) read with 97(3) of this Act authorises the Minister to add to, change or replace this Constitution, after consultation with the Council, by publication in the Gazette.)*

## 24. Definitions

Unless the context otherwise indicates-

**'alternate'** means any person appointed as an alternate to a member under item 9 (10);

**'chairperson'** means any person who chairs any meeting of the *Council* or a committee;

**'clear day'** means any day of the week except Sundays and public holidays;

**'committee'** means any *committee* or ***other committee***;

**'consensus'** means unanimous agreement;

**'establishing authority'** means-

- (i). in the case of the *Council* and a committee, Parliament by legislation;
- (ii). in the case of an *ad hoc* committee, the *Council*; and
- (iii). in the case of a subcommittee, the *Council*, or any committee or *ad hoc* committee that establishes the subcommittee;

**'member'** means any member of the *Council* or any ***committee*** and includes any ***alternate*** designated by a member to represent that member at a meeting of the *Council* or ***committee***;

**'other committee'** means-

- (a) an *ad hoc* committee established for a limited term to perform any function of the *Council* which is not a function of any committee; and
- (b) a subcommittee established by-
  - (i). the *Council* to perform any function of the *Council* which is not assigned by or under *this Act* to a committee; and
  - (ii). a permanent or an *ad hoc* committee to perform any function of that committee; and

'party' means *employers*, employees or the State, as the case may be.

## SCHEDULE 7

### CONSTITUTION OF MINING QUALIFICATIONS AUTHORITY

[Schedule 7 added by GN R612 in GG 18854 of 24 April 1998.]

#### ARRANGEMENT OF CONSTITUTION

1. Establishment of Authority and committees
2. Legal status
3. Objects of Authority
4. Functions of Authority
5. Functions of committees
6. Functions of other committees
7. Composition of Authority and committees
8. Nomination and appointment of members of committees
9. Vacation of office
10. Appointment and functions of the executive officer
11. Delegation and assignment of functions
12. Functions of the chairperson
13. Appointment and functions of secretary
14. Rights and obligations of members
15. Meetings
16. Quorum
17. Procedures at meetings
18. Resolution of meeting
19. Funds of Authority
20. Accounting
21. Abolition of Authority and committees
22. Limitation of liability
23. Amendments to constitution
24. Interpretation

## CONSTITUTION OF THE MINING QUALIFICATIONS AUTHORITY (MQA)

**To provide for the constitution of the Mining Qualifications Authority; for the promotion of the objectives of the National Qualifications Framework in the mining industry; for advising the Minister on matters relating to education and training standards and qualifications in the mining industry; and for matters connected therewith.**

[In this Constitution all references to sections are references to sections in *this Act*, unless otherwise indicated.]

### 1. Establishment of Authority and committees

[An italicised word or phrase is defined in section 102 of the Mine Health and Safety Act, 1996 (Act 29 of 1996) (*this Act*) and an italicised word or phrase in bold is defined in item 24 of this Constitution.]

- (1) The **Authority** is established by section 41 (3).
- (2) The **Authority** may establish committees, *ad hoc* and subcommittees for such periods as the **Authority** may consider necessary, to achieve the objects or perform the functions of the Authority.
- (3) Every permanent or *ad hoc* committee may, subject to such conditions as the **Authority** may determine, subcommittees for such periods as the committee may consider necessary to achieve the objects or perform the functions of that committee.  
(Section 46(2) empowers the Authority to appoint permanent and *ad hoc* committees, and subcommittees, for any period and on any conditions. 1 (3)-*Ad hoc* and subcommittees are distinguished in the definition of "other committees".)
- (4) In the case of *committees*, the **chairperson** of the **Authority** must inform the Minister of such establishment.

### 2. Legal status

- (1) The **Authority** is a body corporate.
- (2) All actions, suits or other proceedings at law, by or against any **committee** must be brought by or against the **Authority**.

- (3) The **Authority** may authorise any person or persons to act on behalf of the **Authority** and to sign all such documents and to take all such steps as may be necessary in connection with any proceedings at law brought by or against the **Authority**.

### 3. Objects of Authority

- (1) The objects of the **Authority** are to-
- (a) advise the *Minister* on-
    - (i). *qualifications* and learning achievements in the mining industry to improve *health* and *safety standards* through proper training and education;
    - (ii). standards and competency setting, assessment, examinations, quality assurance and accreditation in the mining industry; and
    - (iii). proposals for the registration of education and training standards and qualifications in the mining industry on the **National Qualifications Framework** referred to in the South African Qualifications Authority Act, 1995 (Act 58 of 1995); and

(Section 41(3) prescribes the objects of the Authority.)

- (b) promote the objectives of the **National Qualifications Framework** in the mining industry, which are to-
  - (i). create an integrated national framework for learning achievements;
  - (ii). facilitate access to, and mobility and progression within education, training and career paths;
  - (iii). enhance the quality of education and training;
  - (iv). accelerate the redress of past unfair discrimination in education, training and employment opportunities; and thereby
  - (v). contribute to the full personal development of each learner and the social and economic development of the nation at large.

(Section 2 of the SAQA Act determines the objectives of the National Qualifications Framework.)

- (2) In order to promote its objects the **Authority** must seek-
- (a) registration in terms of the **SAQA Act** as a body responsible for generating **education and training standards** and **qualifications** as contemplated in section 5 (1) (a) (ii) (aa) of that Act; and
  - (b) accreditation in terms of the **SAQA Act** as a body responsible for monitoring and auditing achievements as contemplated in section 5 (1) (a) (ii) (bb) of that Act;

#### 4. Functions of Authority

- (1) The **Authority** must-
  - (a) generate **education and training standards** and **qualifications** in the mining industry;
  - (b) propose **education and training standards** and **qualifications** to bodies registered with the South African Qualifications Authority and responsible for developing **education and training standards**;
  - (c) monitor and audit achievements in terms of those standards and qualifications;
  - (d) accredit providers, assessors and moderators of education and training in the mining industry;
  - (e) analyse and prioritise education and training needs in the mining industry and recommend on the provision of such education and training;
  - (f) promote a culture of **learning** in the mining industry;
  - (g) assure the quality of education and training in the mining industry, without itself being a provider of education and training;
  - (h) facilitate strategic human resources development planning in the mining industry;
  - (i) liaise with the South African Qualifications Authority, or other bodies, persons or institutions concerned with or directly affected by education and training in the mining industry;
  - (j) keep a record of learning for people in the mining industry;
  - (k) perform any other function required by the South African Qualifications Authority in terms of the **Authority's** registration or accreditation; and
  - (l) perform any, other function that must be performed by the **Authority** in terms of *this Act* or any other applicable law.
- (2) The **Authority** may perform any other function that may be performed by the **Authority** in terms of *this Act* or any other applicable law.

(Sections 46(1)(c), (d) and (e) determine the advisory functions of the Authority. Section 46(5) requires that, in performing its functions, the Authority must comply with the policies and criteria formulated by the South African Qualifications Authority in terms of section 5(1)(a)(ii) of the SAQA Act.)

#### 5. Functions of committees

Every committee, at the relevant levels of the **National Qualifications Framework** in the mining industry, must-

- (a) make recommendations to the **Authority** on-
  - (i). the generation of **education and training standards** and **qualifications**;

- (ii). the assessment of **education and training standards** and **qualifications**; and
  - (iii). the accreditation and moderation of education and training providers and assessors;
- (b) undertake activities necessary for the development and implementation of the **National Qualifications Framework**;
  - (c) co-ordinate the activities and consider the reports of its subcommittees; and
  - (d) perform such other functions delegated or assigned to it by the **Authority**.

## 6. Functions of other committees

**Other committees** must perform the functions assigned or delegated to them in terms of item 11.

## 7. Composition of Authority and committees

- (1) The **Authority** consists of-

- (a) five members representing *employers* in the mining industry;
- (b) five members representing employees in the mining industry;
- (c) four members representing departments of State; and
- (d) the Chief Inspector of Mines who must chair the Authority.

(Section 45(1) prescribes the membership of the Authority.)

- (2) Every committee of the **Authority** consists of the following members:
    - (a) five members representing *employers* in the mining industry;
    - (b) five members representing employees in the mining industry;
    - (c) five members representing departments of State; and
    - (d) an employee of the **Authority** who must chair the committee.
  - (3) Every **other committee** consists of the number of members determined by the relevant **establishing authority**.
- (4) The **parties** are entitled to equal representation on **other committees**.

## 8. Nomination and appointment of members of committees

- (1) **Members** of the **Authority** are nominated and appointed in accordance with the regulations and members of any committee are nominated and appointed in accordance with this item.

(Regulations 18.1 to 18.7 published by GN R.93 in the Gazette of 15 January 1997.)

- (2) **Members** of the relevant **establishing authority** may nominate persons as members representing their **party** on **any committee**.
- (3) The relevant **establishing authority**-
  - (a) must appoint the members; and
  - (b) may appoint one of the members as chairperson.
- (4) If the relevant **establishing authority** does not appoint a chairperson, the **members** of the **committee** may appoint the chairperson from among their number.
- (5) Members representing employees or employers on any **committee** may hold office for such period as the relevant **establishing authority** may determine, which period may not exceed three years. A member whose period of office expires, may be reappointed.

(Regulation 18.5 published by GN R.93 in the Gazette of 15 January 1997 determines the term of office of members of the Authority and its committees.)

- (6) If the office of a member of any **committee** is vacated before the end of the period of office of such member, a person to replace such member must, subject to the provisions of this Constitution-

(Mine Health and Safety Regulation 18.6 deals with the filling of casual vacancies of the Authority.)

- (a) be nominated by the **party** that was represented by the member; and
  - (b) be appointed by the relevant **establishing authority** for a period not exceeding the balance of the period of office of the member in whose place the person is appointed.
- (7) The appointment of any member of any **committee** is subject to any condition that the relevant **establishing authority** may determine.
  - (8) The chairperson of the relevant **establishing authority** must in writing notify the members of their appointment.
  - (9) If a member appointed in terms of this item does not accept such appointment, a person to replace such person must be appointed in accordance with this item.

- (10) Every **party** must appoint an **alternate** for each of its members on the **Authority**, a committee or *ad hoc* committee and must notify the chairperson of the **Authority** or the relevant committee or ad hoc committee, as the case may be, of such appointment.
- (11) The relevant **establishing authority**-
- (a) may appoint **alternates** for members of subcommittees; and
  - (b) must notify-
    - (i). the **alternates** of their appointment; and
    - (ii). the members of their respective **alternates**.

## 9. Vacation of office

- (1) A **member** vacates office-
  - (a) on expiry of the **member's** period of office; or
  - (b) if such **member**-
    - (i). is absent from two consecutive meetings of the **Authority** or **committee** for which such member is appointed without notifying the **chairperson** before the meeting that the **member** will be absent;
    - (ii). resigns as a **member**; or
    - (iii). is required to vacate office by the **party** or the organisation which that **member** represents;
  - (c) if such **member** was nominated by an organisation and that organisation no longer meets the criteria allowing it to nominate **members**; or
  - (d) if the **Authority** or **committee** on which the **member** serves, is abolished.

(2) If a **member** vacates office, the **alternate** appointed for such **member** ceases to hold office as alternate.

## 10. Appointment and functions of the executive officer

- (1) The **Minister**, after consulting the **Authority**, must appoint a person with experience and expertise in matters relating to functions of the **Authority** as **executive officer** of the **Authority**.
- (2) The **executive officer** must perform such functions as may be assigned to the **executive officer** by *this Act* or by the **Authority**.
- (3) The **executive officer** must attend all meetings of the **Authority**.

- (4) If the **executive officer** is absent or for any reason is unable to perform the functions of the **executive officer** or if there is a vacancy in the office of the executive officer, the chairperson of the **Authority** may designate an employee of the **Authority** to act as **executive officer** until the executive officer is able to resume the functions of **executive officer** or until an **executive officer** is appointed in terms of subitem (1).
- (5) The **Authority** may, subject to the provisions of item 19 (2) (b), appoint persons as employees of the **Authority** to assist in the performance of the functions of the **executive officer**.
- (6) The terms and conditions of service of persons appointed under subitem (5) are determined by the *Minister* after consulting the **Authority**.

## 11. Delegation and assignment of functions

- (1) The **Authority** may delegate any of its powers or assign any of its functions by or under this Act to any **committee** or the **executive officer**.
- (2) Any permanent or *ad hoc* committee may delegate or assign any of its functions to any of its subcommittees.
- (3) The **executive officer** may delegate any power or assign the performance of any function conferred or imposed upon the **executive officer** to any employee of the **Authority**.
- (4) A delegation or assignment under subitem (1), (2) or (3)-
  - (a) must be in writing;
  - (b) may be subject to such conditions and restrictions as determined by the **Authority**, a committee, or an *ad hoc* committee or the **executive officer**, as the case may be; and
  - (c) does not prevent the exercise of that power or performance of that function by the **Authority**, a committee or an *ad hoc* committee or the **executive officer**, as the case may be.

(Sections 46(3) and (4) enable the Authority to delegate any of its powers or assign any of its duties by or under this Act in accordance with the constitution contemplated in section 97(4).)

## 12. Functions of the chairperson

- (1) Every **chairperson** must, with regard to the **Authority** or **committee** which the person chairs-
  - (a) allow each **party** to appoint from among its members a person to act as convenor of such **party** for communication purposes. If a **party** does not appoint such convenor, the **chairperson** may appoint any member of that **party** as convenor of the **party**;
  - (b) cause meetings to be convened; and
  - (c) ensure the orderly conduct of meetings and that all resolutions are recorded.
- (2) A **chairperson** may order any **member** to leave a meeting if in the opinion of the **chairperson** the behaviour of such **member** is disruptive to the orderly conduct of the meeting.
- (3) If the **chairperson** of the **Authority** is unable to attend a meeting, the **chairperson** may designate another officer of the Mine Health and Safety Inspectorate, to chair the meeting.

(If the chairperson of any other committee is unable to attend a meeting, a member of that committee may be elected in terms of item 17(3).)

- (4) If the **chairperson** of a committee is unable to attend a meeting, the **executive officer** may designate another employee of the **Authority** to chair the meeting.

## 13. Appointment and functions of secretary

- (1) The **executive officer** must appoint a secretary for-
  - (a) the **Authority** and every committee and ad hoc committee; and
  - (b) any subcommittee if the **establishing authority** so requires.
- (2) If a secretary is not appointed for a subcommittee, the **members** of that committee must keep a record of and report to the relevant **establishing authority** on their activities.
- (3) A secretary must, with regard to the **Authority** or **committee** for which the secretary is appointed-
  - (a) prepare the agenda for every meeting;
  - (b) prepare the minutes of every meeting;
  - (c) record every resolution of such meeting and if so requested by a **member**, the views of that **member**;
  - (d) keep general records, records of **members**, minutes, documents and files of the **Authority**, or such **committee**; and
  - (e) serve every member with-

- (i). a convening notice and the agenda of a meeting at least five **clear days** before the meeting or two **clear days** before an urgent meeting;
- (ii). any reports or documentation to be considered at a meeting, a reasonable period before the meeting; and
- (iii). the minutes of every meeting.

#### **14. Rights and obligations of members**

- (1) Any **member** who is unable to attend a meeting of the **Authority** or any **committee**-
  - (a) may designate any **alternate** of that **member's party** on the **Authority** or that committee, as the case may be, to represent the **member** at the meeting; and
  - (b) must before the meeting give notice of it to the **chairperson**.
- (2) An **alternate** designated under subitem (1) (a), has the rights and obligations of the **member** whom that **alternate** represents.
- (3) Every **member** has the right to-
  - (a) be heard on any matter considered at the meeting;
  - (b) take part in the resolution of any matter before the meeting; and
  - (c) have their views, on any matter considered at the meeting, recorded in the minutes of the meeting and in any report or recommendation of the meeting.

#### **15. Meetings**

- (1) The **Authority** must meet at least once every three months.
- (2) Every committee and ad hoc committee must meet at least once every two months.
- (3) Subcommittees must meet at such intervals and frequency as determined by their activities and the dates for the completion of their tasks.
- (4) An urgent meeting of the **Authority** or any **committee** may be called by the **chairperson** at the written request of at least two **members** or when the **chairperson** deems it necessary.
- (5) The **Authority** may direct any **committee** to call an urgent meeting to resolve any matter determined by the **Authority**.

- (6) A permanent or *ad hoc* committee may direct any of its subcommittees to call an urgent meeting to resolve any matter determined by such committee.

## 16. Quorum

- (1) Eight **members** form a quorum for any meeting of the **Authority** or a committee provided that at least two **members** of each **party** are present.
- (2) The quorum for any **other committee** must be determined by the relevant **establishing authority**.
- (3) Despite subitems (1) and (2), if the convenors of the **parties** in the **Authority** or any **committee** so agree, a smaller number may constitute a quorum for an urgent meeting of the **Authority** or that **committee**, as the case may be.
- (4) If a quorum is not present at a meeting, the meeting must be postponed to a date, time and place determined by the **chairperson**. The **members** present at the subsequent meeting form a quorum for that meeting.

## 17. Procedures at meetings

- (1) Items may be added to the agenda of any meeting if the meeting so decides.
- (2) Any **member** who has a direct or personal financial interest in any matter before the meeting must, before the matter is discussed by the meeting, declare such interest to the meeting and the **chairperson** must determine whether such **member** may participate in the consideration of the matter.
- (3) If the designated **chairperson** is not present at a meeting the **members** may elect from among their number a **chairperson** for that meeting.

## 18. Resolution of meeting

- (1) The **Authority** or any **committee** must endeavour to reach **consensus** on any matter that requires resolution.
- (2) If **consensus** cannot be reached on any matter after sincere endeavours to do so, a decision of the majority of **members** present and voting at a meeting constitutes the resolution on that matter by the **Authority** or any **committee**, as the case may be.
- (3) Any report or advice of the **Authority** or any **committee** which reflects a resolution that was not reached by **consensus**, must reflect-

- (a) the different views of the **members** on the matter so resolved; and
  - (b) which **members** supported each view.
- (4) No resolution nor any act authorised by the **Authority** or any **committee** is invalid merely because of a vacancy on the **Authority** or that **committee** or because any person not entitled to sit as a **member** sat at such meeting at the time the resolution was taken or the act was authorised if a quorum was constituted by the rest of the **members** present at the meeting and entitled to sit as members at the meeting.
- (5) The chairperson of a committee has no voting right.

## 19. Funds of Authority

- (1) The funds of the **Authority** consist of-
- (a) moneys appropriated by Parliament to perform its functions;
  - (b) moneys which accrue to the **Authority** in terms of regulations made under *this Act* or in terms of any other applicable law;
  - (c) revenue obtained from investments;
  - (d) fees obtained from services provided by the **Authority**;
  - (e) donations received from any person, body, government or administration; and
  - (f) any other money received from any other source.

(In terms of Section 98(3)(d) the Minister, after consulting the Mining Qualifications Authority, by notice in the Gazette, may make regulations to provide for the funding of the Mining Qualifications Authority including the manner in which such funds may be raised.)

- (2) Moneys appropriated by Parliament must be used for-
- (a) the payment to **members** who are not in the full-time service of the State of such remuneration and allowances as the *Minister* may determine with the agreement of the Minister of Finance;
  - (b) the payment of salaries, allowances, subsidies and other benefits as approved by the *Minister*, with the agreement of the Minister of Finance to the **executive officer** and other employees of the **Authority**; and
  - (c) the payment for administrative functions of the **Authority**.
- (3) Moneys referred to in subitem (1) (b), (c), (d) or (f) may be-
- (a) used as contemplated in *this Act*;
  - (b) invested with any bank registered as such under the Banks Act, 1990 (Act 94 of 1990), or invested in such other manner as may be determined, by the *Minister* with the agreement of the Minister of Finance; and
  - (c) used to register or utilise any intellectual property of the **Authority**.

- (4) Moneys referred to in subitem (1) (e) must be utilised in accordance with the conditions, if any, imposed by the donor of such moneys.
- (5) The chairperson of the **Authority** must for each financial year, submit a statement of estimated income and expenditure during such financial year to the *Minister* who, with the agreement of the Minister of Finance, must approve the budget for-
  - (a) the first financial year, before the first meeting of the **Authority**; and
  - (b) every other financial year, before the beginning of such financial year.

## 20. Accounting

- (1) The **executive officer** is the accounting officer of the **Authority**.
- (2) The accounting officer is responsible for all moneys received and payments made by the **Authority**.
- (3) The financial year of the **Authority** ends on 31 March in each year.
- (4) The accounting officer must cause records to be kept in accordance with the Generally Accepted Accounting Principles that are necessary to represent fairly the state of affairs and business of the **Authority** and to explain the transactions and financial position of the **Authority**.
- (5) Annual financial statements must be prepared in respect of every financial year. The statement must consist of-
  - (a) a balance sheet dealing with the state of affairs of the **Authority**;
  - (b) a return of income received and expenses incurred by the **Authority**; and
  - (c) a statement of cash flow information.
- (6) The books of account, statements of account and annual financial statements of the **Authority** must be audited annually by the Auditor-General. The Auditor-General must compile a report on the audit and submit a copy of it to the *Minister* and the **chairperson** of the **Authority**.
- (7) The **executive officer** of the **Authority** must supply each member of the Authority with a copy of the report of the Auditor-General.
- (8) As soon as practicable after the report of the Auditor-General has been submitted to the Minister in terms of subitem (6), the Minister must table it in Parliament.

(Section 46(2)(b) provides that the Mining Qualifications Authority may administer and control its financial affairs.)

## **21. Abolition of Authority and committees**

- (1) The **Authority** may be abolished by an Act of Parliament.
- (2) The **Authority** may at any time abolish any **committee**.
- (3) A permanent or *ad hoc* committee may at any time abolish any subcommittee established by that committee.

## **22. Limitation of liability**

- (1) A **member** does not incur any civil liability only because of doing or failing to do something which such **member** may do or is required to do in terms of *this Act*.
- (2) The **Authority** does not incur any civil liability only because a **member** or employee of the **Authority** took an action or failed to take an action under or in terms of *this Act*, and in taking or failing to take that action such person acted without negligence and in good faith.

## **23. Amendments to constitution**

- (1) If the **Minister** or the **Authority** wants to amend the constitution, the **Minister** or the **Authority**, as the case may be, must serve a proposal containing such amendments to the chairperson of the **Council** who must convene a meeting to consider the proposal.
- (2) At such meeting the **Council** after consulting the **Authority** must consider the proposal and resolve either to-
  - (i). support the proposal as it is; or
  - (ii). support the proposal with certain amendments; or
  - (iii). oppose the proposal.
- (3) The **Council** must submit its resolution and the comments or the proposal of the **Authority**, as the case may be, to the **Minister**.
- (4) If the **Council** resolves to support the proposal with certain amendments or to oppose the proposal, the motivation for such resolution and the amendments, if any, must be included in the submission to the **Minister**.

- (5) If the **Authority** wants the constitution to be amended-
  - (a) the proposal by the **Authority** is deemed to be consultation by the *Council* with the **Authority** contemplated in subitem (2); and
  - (b) the resolution of the *Council* on the proposal by the **Authority** is deemed to be consultation by the *Minister* with the *Council* as contemplated in section 97 (1).
- (6) If the *Minister* is not satisfied with the amendments or the motivation for the amendments, the *Minister* may refer the proposal back to the *Council* for further consideration.

(Section 97(1) read with 97(4) of this Act authorises the Minister to add to, change or replace this Constitution, after consultation with the Council and the Mining Qualifications Authority, by publication in the Gazette.)

## 24. Interpretation

Unless the context indicates otherwise-

'**alternate**' means any person appointed as an alternate to a *member* under item 8 (10);

'**Authority**' means the Mining Qualifications Authority established by section 41 (3);

'**chairperson**' means any person who chairs any meeting of the **Authority** or a **committee**;

'**clear day**' means any day of the week except Sundays and public holidays;

'**committee**' means any *committee*, *ad hoc committee* or *subcommittee* of the **Authority**;

'**consensus**' means unanimous agreement;

'**education and training standards**' means registered statements of desired education and training outcomes and their associated assessment criteria as defined in section 1 of the **SAQA Act**;

'**establishing Authority**' means-

- (i). in the case of the **Authority**, Parliament by legislation;
- (ii). in the case of a permanent or *ad hoc committee*, the **Authority**; and
- (iii). in the case of a subcommittee, the **Authority** or any committee or *ad hoc committee* that establishes the subcommittee;

'**executive officer**' means the executive officer appointed in terms of item 10 (1) or designated in terms of item 10 (4);

'**learning**' means a process by which a person gains skills, knowledge and values;

'**member**' means any member of the **Authority** or any **committee** and includes any **alternate** designated by such member to attend a meeting of the **Authority** or any **committee** on behalf of such member;

'**National Qualifications Framework**' means the **National Qualifications Framework** as defined in section 1 of the **SAQA Act**;

'**other committee**' means-

- (a) an *ad hoc committee* established for a limited term to perform any function of the **Authority** which is not a function of any **committee**; and
- (b) a *subcommittee* established by-
  - (i). the **Authority** to perform a function which is not assigned by or under *this Act* to a **committee**; and
  - (ii). a permanent or an *ad hoc committee* to perform any function of that **committee**;

(If a function of the Authority needs to be performed on a permanent basis by a committee, the Authority may either delegate or assign the function to a committee or establish a new committee to perform the function.)

'**party**' means *employers*, *employees*, or the State, as the case may be;

'**qualification**' means the formal recognition of the achievement of the required number and range of credits and such other requirements at specific levels of the **National Qualifications Framework** as may be proposed by the Mining Qualifications Authority and determined by the South African Qualifications Authority as defined in section 1 of the **SAQA Act**; and

'**SAQA Act**' means the South African Qualifications Authority Act, 1995 (Act 58 of 1995).

## SCHEDULE 8

[Schedule 8 added by s. 33 of Act 74 of 2008.]

**TABLE 1  
MAXIMUM FINES OR PERIOD OF IMPRISONMENT THAT CAN BE  
IMPOSED FOR OFFENCES**

<b>Column 1</b>	<b>Column 2</b>
Section under which convicted	Maximum fine and term of imprisonment
2	R1000 000 or 5 yrs imprisonment
2A	R1000 000 or 5 yrs imprisonment
3	R1000 000 or 5 yrs imprisonment
5	R1000 000 or 5 yrs imprisonment
6	R1000 000 or 5 yrs imprisonment
7 (1)	R1000 000 or 5 yrs imprisonment
10	R1000 000 or 5 yrs imprisonment
11	R1000 000 or 5 yrs imprisonment
15	R500 000 or five years imprisonment
16	R500 000 or five years imprisonment
21 (1), (3) or (4)	R500 000 or five years imprisonment
22	R200 000 or two years imprisonment
24	R500 000 or five years imprisonment
52	R200 000 or two years imprisonment
53	R200 000 or two years imprisonment
62	R200 000 or two years imprisonment
66 (3)	R200 000 or two years imprisonment
70	R200 000 or two years imprisonment
71	R200 000 or two years imprisonment
84	R200 000 or two years imprisonment
85	R200 000 or two years imprisonment
87, 88, 89, 90	R50 000 or six months imprisonment
88	R300 000 or three years imprisonment

**TABLE 2**

**MAXIMUM FINES THAT CAN BE IMPOSED FOR CONTRAVENTIONS  
CONTEMPLATED IN SECTION 55B**

The maximum fine that can be imposed in terms of section 55B may not exceed an amount of R1 000 000.

## **MINE HEALTH AND SAFETY ACT REGULATIONS**

### **Published under**

GN R93 in GG 17725 of 15 January 1997

### **as amended by**

GN R846 in GG 18078 of 21 June 1997

GN R1315 in GG 19354 of 16 October 1998

GN R721 in GG 20155 of 11 June 1999

GN R1486 in GG 20714 of 17 December 1999

(as corrected by GN R303 in GG 21029 of 24 March 2000)

GN R134 in GG 22055 of 9 February 2001

(as corrected by GN R787 in GG 23498 of 14 June 2002)

GN R569 in GG 23410 of 17 May 2002

GN R786 in GG 23498 of 14 June 2002

GN R904 in GG 23583 of 2 July 2002

GN R907 in GG 23586 of 2 July 2002

(as replaced by GN R1573 in GG 24168 of 13 December 2002)

GN R959 in GG 23615 of 12 July 2002

(as corrected by GN R886 in GG 25097 of 20 June 2003)

GN R1573 in GG 24168 of 13 December 2002

GN R1579 in GG 24168 of 13 December 2002

GN R886 in GG 25097 of 20 June 2003

GN R1237 in GG 25404 of 29 August 2003

GN R1792 in GG 25812 of 12 December 2003

GN R583 in GG 26333 of 14 May 2004

GN R783 in GG 26496 of 2 July 2004

GN R1304 in GG 26963 of 12 November 2004

(as corrected by GN R89 in GG 30698 of 1 February 2008)

GN R1323 in GG 26963 of 12 November 2004

GN R1224 in GG 28333 of 15 December 2005

(as corrected by GN R90 in GG 30698 of 1 February 2008)

GN R1225 in GG 28333 of 15 December 2005

(as corrected by GN R90 in GG 30698 of 1 February 2008)

GN R1226 in GG 28333 of 15 December 2005

GN 911 in GG 29214 of 8 September 2006

GN R989 in GG 29276 of 5 October 2006

GN R1279 in GG 29458 of 15 December 2006

[with effect from 1 July 2007]

GN 34 in GG 29544 of 19 January 2007

GN 86 in GG 30697 of 1 February 2008

GN R89 in GG 30698 of 1 February 2008

GN R90 in GG 30698 of 1 February 2008

GN R92 in GG 30698 of 1 February 2008

GN R93 in GG 30698 of 1 February 2008

GN R94 in GG 30698 of 1 February 2008

Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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GN R1053 in GG 33752 of 12 November 2010

GN R1068 in GG 33763 of 19 November 2010

GN R89 in GG 34003 of 11 February 2011

GN R447 in GG 34308 of 27 May 2011

(as corrected by GN R621 in GG 36761 of 23 August 2013)

GN R622 in GG 36761 of 23 August 2013

GN R701 in GG 37980 of 12 September 2014

GN R702 in GG 37980 of 12 September 2014

GN R906 in GG 38216 of 21 November 2014

GN R125 in GG 38493 of 27 February 2015

[with effect from 3 months from date of publication, unless otherwise indicated]

GN R330 in GG 38708 of 24 April 2015

GN R332 in GG 38708 of 24 April 2015

GN R584 in GG 38970 of 10 July 2015

[with effect from three months after publication]

GN R893 in GG 41065 of 25 August 2017

GN R894 in GG 41065 of 25 August 2017

GN R896 in GG 41065 of 25 August 2017

**Notice No. R93 of 1997**

Notice No. R93

15 January 1997

Under section 98 of the Mine Health and Safety Act, 1996 (Act 29 of 1996), I, Penuell Mpapa Maduna, Minister of Minerals and Energy, hereby make the regulations in the Schedule.

**P M MADUNA**  
**Minster of Minerals and Energy**

## SCHEDULE 1<sup>1</sup>

### CHAPTER 1

#### APPOINTMENTS AND ADMINISTRATION

[Chapter 1 promulgated by GN R1315 of 16 October 1998.]

##### 1.1 Prescribed period for representations

- (1) Representations invited by the *Principal Inspector of Mines* as contemplated in section 55D(1)(b) must be submitted to the *Principal Inspector of Mines* within 30 days of the date of the invitation or within such further period or periods as the *Principal Inspector of Mines* may determine.

##### 1.2 Prescribed period for payment of fine

- (1) A fine imposed on an *employer* in terms of section 55D, must be paid to the *Principal Inspector of Mines* within 60 days of the date on which the fine was imposed or within such further period or periods as the person or court imposing the fine, may determine.
- (2) The date on which the fine is imposed is regarded as the date on which notification of the administrative fine was served on the employer by-(a) hand;(b) registered post; or(c) any other form of communication agreed to between the *employer* and the *Principal Inspector of Mines*.

### CHAPTER 2

#### DUTIES AND RESPONSIBILITIES

[Chapter 2 not published.]

[1. An italicised word or phrase is defined in section 102 of this Act and such word or phrase in bold is defined in Chapter 20 of these regulations. Unless otherwise indicated all references to sections are references to sections of this Act]

## CHAPTER 3

### ELECTRICITY

[Chapter 3 inserted by GN R332 of 24 April 2015.]

#### Definitions

In these Regulations, unless the context indicates otherwise:

- 'Accredited Test Laboratory'** (ATL) means an organisation that is accredited by the South African National Accreditation System (SANAS).
- 'Arc Flash'** means an uncontrolled electrical discharge through the air between **conductors** or between a **conductor** and earth. The resulting discharge of energy can result in fire, serious damage to electrical apparatus and injury or death to a person.
- 'Armouring'** means a **metallic covering** of an electric cable, in the form of tape, wire or tube enclosing one or more **conductors** to provide adequate mechanical protection against damage.
- 'Bus-coupler'** means a device, or set of devices, needed to facilitate the connection of two parallel **circuits**.
- 'Bus-section'** means a device, or set of devices, that will extend a bus-bar to another.
- 'Circuit'** means an interconnection of electrical elements such as resistors, inductors, capacitors, transmission lines, voltage sources, current sources and switches which have a closed loop giving a return path for the current.
- 'Clearance'** means a minimum distance any part of a person's body or any work tool may encroach to any unearthed, bare conductor or to any unearthed and unscreened conductor.
- 'Collectively Screened'** means having a conductive covering enclosing all power conductors as well as all control **conductors** within the protective outer sheath of a cable.
- 'Conductor'** means any substance or material which can transfer an electrical charge along or through it and is connected to an **electrical circuit**.
- 'Dead'** means at or about zero potential with respect to the general mass of earth and disconnected from any live reticulation system.
- 'Domestic Voltage'** means a voltage not exceeding  $230V \pm 10\%$  alternating current phase to neutral.
- 'Earthing'** means connected to the general mass of earth in such a manner as will ensure at all times an immediate discharge of electrical energy without risk.
- 'Electrical Apparatus'** means any apparatus, machine and fitting in which **conductors** are used, or of which they form a part.

**'Electrical Single-Line Diagram'** means a diagram that shows, by means of single lines and graphic symbols, the general layout of an electric circuit or system of circuits.

**'Flexible cable'** means a cable of which the **conductors** consist of strands of diameter not exceeding 0,51 mm and of which the insulation and covering are such that they afford flexibility and in which the nominal cross sectional area of each **conductor** exceeds 4 mm<sup>2</sup>, but shall not include signalling cable, telephone cable, blasting cable, or **flexible cord** used with **electric apparatus** at a voltage not exceeding **domestic voltage** alternating current on a single phase system.

**'Flexible cord'** means a cable of which the nominal cross sectional area of each **conductor** does not exceed 4 mm<sup>2</sup> and of which each **conductor** consists of strands of diameter not exceeding 0,31 mm.

**'Hazard Classification'** - A system developed for categorising electrical hazards based on the voltage and fault level ratings for electrical components.

**'High Voltage (HV)'** a set of nominal voltage levels in the range 44 kV and above to 220 kV.

**'Individually Screened'** means having a conductive covering enclosing power **conductors** individually within the protective outer sheath of a cable.

**'Isolation'** means disconnecting the apparatus from all possible sources of electrical potential and locking the apparatus in such a manner so that no energisation can take place.

**'Insulated'** means covered with any material that has the characteristic of low electrical conductivity such as to prevent an electrical discharge.

**'Live'** means electrically charged.

**'Lockout-tagout (LOTO)'** or **lock and tag** is a safety procedure which is used to ensure that machines / switchgear and Electrical equipment are properly isolated, de-energised and tagged.

**'Low Voltage (LV)'** means a set of nominal voltage levels that are used for the distribution of electricity, the upper limit of which is an AC voltage of 1 000 V or a DC voltage of 1 500 V.

**'Medium Voltage (MV)'** means a set of nominal voltage levels above the range of 1 000 V to below 44 kV.

**'Metallic Covering'** means iron or steel **armouring** or metal conduit surrounding two or more **conductors** with or without a lead or other metallic sheath as required in terms of operational conditions.

**'Moveable Electrical Apparatus'** means **electrical apparatus**, excluding **self-propelled mobile machines** or **portable electrical apparatus**, which is not installed on permanent foundations and is intended to be moved from place to place.

**'Overhead Power Line'** means an overhead line erected to convey electrical energy for any purpose other than communication but excluding the overhead contact or catenary wires of an electrical traction system.

**'Permit to Work'** is a formal, written, safe system of work to control potentially hazardous activities. The permit details the work undertaken and the necessary precautions to be taken.

**'Portable Electric apparatus'** means **electric apparatus**, which is designed to be carried by hand, and may require electric power while being used.

**'Reticulation System'** means a **circuit** or combination of **circuits**.

**'Substation'** means a location containing medium or high voltage switchgear and associated equipment for the purpose of **isolation**, feeding, protecting and energising electrical equipment and reticulation systems.

**'Switchgear'** general term covering switching devices and their combination with associated control, measuring, protective and regulating equipment, also assemblies of such devices and equipment with associated interconnections, accessories, enclosures and supporting structures.

**'Trackless Mobile Machine'** means any self-propelled mobile machine that is used for the purpose of performing mining, transport or associated operations underground or on surface at a mine and is mobile by virtue of its movement on wheels, skids, tracks, mechanical shoes or any other device fitted to the machine, but excludes:

- (a) rail bound equipment;
- (b) scraper winches, mono rail installations, static winches, winding machinery installations and any equipment attached thereto.

**'Trailing Cable'** means cable used to supply power to any mobile machine and movable electrical apparatus which is designed to be dragged across the ground.

## Regulations

**3.1** The employer must take **reasonable practicable** measures to ensure that:

- (1) the design of all **electrical apparatus** and electrical **reticulation systems** are approved by a competent person;
- (2) all **electrical apparatus** are under the control of a competent person; and
- (3) all **electrical apparatus** are installed, repaired and maintained by a competent person.

**3.2** The employer must take **reasonable practicable** measures to ensure that no person suffers any electrical shock, **arc flash** or electrocution as a result of:

- (a) exposure to electrical current flow;
- (b) a person coming into contact with **live** exposed parts of any **electrical apparatus**;
- (c) exposure to electricity, **arc flash**, all fault currents, overvoltage and surges;
- (d) any **electrical apparatus** failing due to electromagnetic interference from other equipment;
- (e) any **electrical apparatus** being incorrectly designed, installed, operated or maintained; and
- (f) any exposure to blasts, fires or **arc flashes** resulting from electrical faults.

**3.3** The measures contemplated in regulation 3.2 must include measures to ensure:

**3.3.1** proper fencing off or enclosures or **clearances** of such **electrical apparatus**;

**3.3.2** that an extension of any electrical **reticulation system** is approved by a competent person before being energised, taking into account the reticulation network and the effect thereon;

**3.3.3** that only competent persons are permitted to energise, de-energise or isolate **electrical apparatus** where the operation of such apparatus poses a significant risk and that such apparatus are protected against unauthorised access and operation;

**3.3.4** that only competent persons authorised in writing by the **employer** to do so, carry out switching procedures on MV or HV equipment; and

**3.3.5** that where the interruption of electrical supply to any equipment could result in a significant risk, such electrical supply can be provided from another source or network, which can include an emergency supply alternator or generator, for power supply in the event of an interruption to the normal power supply.

**3.4** The **employer** must take **reasonable practicable** measures to ensure that at any place at a mine, where **electrical apparatus** are installed and which may constitute a danger to persons must be:

- (a) of adequate size so as to provide safe and unobstructed clear working space for operating and maintenance staff;
- (b) constructed and ventilated in such a manner that the apparatus is kept at a safe temperature to safeguard persons;
- (c) constructed in such a manner as to provide protection where necessary against the ingress of vermin and water;
- (d) illuminated in such a manner as to prevent any danger to persons and to enable all equipment to be distinguished clearly and all instruments, labels and notices to be read clearly while it is **live**;
- (e) equipped with effective means to safely disconnect the energy source; and
- (f) equipped with an effective fire extinguishing system.

**3.5** The **employer** must take **reasonable practicable** measures to ensure that at every **substation** there must be a legible, up to date single line drawing of the **reticulation system**, highlighting ring feeds, of which that **substation** is a part, displayed in a conspicuous place. Every **substation** must be clearly identified, and its position clearly marked on such drawing.

**3.6** The **employer** must take **reasonable practicable** measures to ensure that the area in which a **substation** is located is clearly demarcated and that notices are displayed at every point of entry to such an area. These notices shall:

- (a) prohibit access of any unauthorised person from accessing that area;
- (b) set out the procedures to be followed in the event of a fire;
- (c) set out the first aid treatment measures to be given to persons suffering from the effects of electric shock and burns;
- (d) indicate the presence of electricity;
- (e) describe measures to safely remove any person incapacitated as a result of contact with electricity; and
- (f) have available an effective means of communication.

**3.7** The **employer** must take **reasonable practicable** measures to ensure that all suspended electrical cables that could cause a fire due to faults or mechanical damage, in stopes, haulages or shafts either through damage by moving machinery or by fall of ground are properly protected by:

- (a) **switchgear** which is electrically supplied and commissioned with discrimination settings for overload and earth fault protection to prevent a fire;
- (b) **switchgear** installed which is correctly rated to prevent a fire or explosion;
- (c) all cables in areas where a fire can occur must be fire retardant cables or be coated with fire retardant material at areas in close proximity with timber; and
- (d) the **employer** must have a procedure to be followed in the event of such a fire.

**3.8** The **employer** of every coal mine must take **reasonable practicable** measures to ensure that all new main reticulation underground **substations** are designed and located such that they vent into the return air-way.

**3.9** The **employer** must take **reasonable practicable** measures to ensure that where mineral oil is used as the medium for insulation or cooling of **electrical apparatus**, adequate precautions are in place to address any significant risk in the event of an explosion, spillage or burning of the oil.

**3.10** The **employer** must take **reasonable practicable** measures to ensure that where **electrical apparatus** is accessible from the front and the back, each such apparatus are identifiable by clearly labelled and legible markings on the front and back fixed portions of such apparatus and on **switchgear** shutters.

**3.11** The **employer** must take **reasonable practicable** measures to ensure that where ring feeds including **bus-sections** and **bus-couplers** are accessible from the front and the back, each such apparatus are identifiable by clearly labelled and legible markings on the front and back fixed portions of such apparatuses and on **switchgear** shutters.

**3.12** The **employer** must take **reasonable practicable** measures to ensure that all **electrical apparatus** used for the distribution of electrical power, except **electrical apparatus** which contains **domestic voltages**, are clearly marked with the maximum voltage that may be present therein.

- 3.13** The **employer** must take **reasonable practicable** measures to ensure that no examination, adjustment, testing, repair or other work necessitating the dangerous approach to or the handling of **electrical apparatus** shall be carried out unless such apparatus is **dead**: Provided that where such equipment must be **live** for the purpose of examination, adjustment, repair or other work it may be done by or under the direct supervision of a competent person.
- 3.14** The **employer** must take **reasonable practicable** measures to ensure that no person other than a competent person authorised in writing by the **employer** to do so, enters a place where **electric apparatus** is installed unless all **live conductors** therein are **insulated** adequately or otherwise protected effectively against inadvertent contact: Provided that such authorised competent person may in case of an emergency be assisted by a person acting under the immediate personal supervision of such authorised competent person.
- 3.15** The **employer** must take **reasonable practicable** measures to ensure that when work is to be carried out on **electrical apparatus** which have been isolated from all sources of electrical supply, effective precautions shall be taken:
- (i). by discharging all stored electrical energy, and
  - (ii). testing for **dead** including any ring feeds by earthing such apparatus and, in the case of ring-feeds or dual supplies of power, by earthing on both sides of the associated **electrical apparatus** worked on, so as to prevent any **conductor** or apparatus from being made **live** while any person is working thereon.
- 3.16** The **employer** must take **reasonable practicable** measures to ensure that any accessible metallic portion of **electric apparatus** which, though not normally forming part of an **electric circuit**, may inadvertently become **live**, is **insulated** or **earthed** by a **conductor** of adequate cross-sectional area capable of withstanding the maximum possible earth fault current condition, so as to prevent any significant risk to persons for the duration that the fault current may be flowing in the **circuit**.
- 3.17** The **employer** must take **reasonable practicable** measures to ensure that whenever work is to be carried out on **electrical apparatus** which has been isolated from all sources of supply, effective precautions shall be taken by earthing or other means to discharge electrically such **electrical apparatus** or any adjacent **electrical apparatus** to prevent any **conductor** or apparatus from being made **live** accidentally or inadvertently while any person is working thereon.

- 3.18** The **employer** must take **reasonable practicable** measures to ensure that no metal ladder or ladder with metal reinforced stiles is used for examination, repair, or other work necessitating the dangerous approach to or work on **electrical apparatus**.
- 3.19** The **employer** must take **reasonable practicable** measures to ensure that any accessible metallic portion of electrical plant or apparatus which, though not forming part of an electrical **circuit**, may accidentally become **live** shall either be protected by an insulating material or shall be connected to earth by a **conductor** of adequate cross-section so as to prevent danger to persons.
- 3.20** The **employer** must take **reasonable practicable** measures to ensure that the cross-sectional area of any earthing **conductor** is calculated to be capable of withstanding the maximum possible earth fault current condition.
- 3.21** The **employer** must take **reasonable practicable** measures to draw up and implement a procedure for all energising, de-energising and **isolation** of medium or high voltage **electrical apparatus**.
- 3.22** The **employer** must take **reasonable practicable** measures to ensure that where any electrical cable is buried in the ground or installed in such a position that mechanical damage to it may occur, it is protected by **armouring**.
- 3.23** The **employer** must take **reasonable practicable** measures to ensure that all **flexible cables** or **trailing cables** may only be used in connection with the operation of-
- (a) any self-propelled mobile machine which requires electric power to operate such machine;
  - (b) movable **electric apparatus**; or
  - (c) portable **electric apparatus**.
- 3.24** The **employer** must take **reasonable practicable** measures to ensure that any **flexible cable** or **trailing cable** used in or on a mine or works shall be screened either individually or collectively and such screens shall be **earthed**: Provided that a cable used in a hazardous area shall be screened individually.
- 3.25** The **employer** must take **reasonable practicable** measures to ensure that no **flexible cable** or **trailing cable** shall have more than fifteen joint repairs, including sheath patches over a length of 200 metres and no joint repair or patch shall be closer than 5 metres to an adjacent joint, repair or patch and no joint, repair or patch shall be closer than 3 metres to the cable plug or its terminal connection at the machine or apparatus.

- 3.26** The **employer** must take **reasonable practicable** measures to ensure that any cable reel used in connection with self-propelled mobile machine shall be provided with a device which shall interrupt the power supply to the cable before the complete cable is unreeled so that at least one complete turn of the cable shall remain on the reel when the interruption of the power supply has been effected, unless the machine's maximum range of travel is limited to less than that permitted by the cable on the reel for reasons other than the length of the cable.
- 3.27** The **employer** must take **reasonable practicable** measures to ensure that no electrical cable trench or duct is left open, uncovered or unprotected, except when persons are working in such trench or duct or where precautions have been taken to prevent persons from inadvertently falling into such trench or duct.
- 3.28** The **employer** must take **reasonable practicable** measures to ensure that persons are prevented from significant risks arising from inadvertent contact with **overhead power lines** by **trackless mobile machines/rail bound equipment** or while erecting or moving structures or other objects.
- 3.29** The **employer** must take **reasonable practicable** measures to ensure that persons carrying out examinations, repairs or other work at elevated positions in close proximity to exposed **electrical apparatus** are protected from **live** electrical contact.
- 3.30** The **employer** must take **reasonable practicable** measures to ensure that surface residential and commercial buildings are to be wired and protected in accordance with South African Bureau of Standards Code of Practice SANS 10142-1, 2006, 'Wiring of premises and installations not exceeding 1 kV'. The normative references in SANS 10142-1, 2006 are not applicable to the **employer**.
- 3.31** The **employer** must take **reasonable practicable** measures to ensure that the design and construction of **overhead power lines** are in accordance with South African Bureau of Standards Code of Practice SANS 10280, 1995 '**Overhead power lines** for conditions prevailing in South Africa'. The normative references in SANS 10280, 1995 are not applicable to the **employer**.
- 3.32** The **employer** must take **reasonable practicable** measures to ensure that electrical security fencing is erected and maintained in accordance with the South African Bureau of Standards Code of Practice SANS 10222:2002, Part 3, 'Electrical Security Fences (non-lethal)'. The normative references of SANS 10222, 2002 are not applicable to the **employer**.

- 3.33 The **employer** must take **reasonable practicable** measures to ensure that any helmet light assemblies used underground at a mine complies with SANS 1438, 2013 'Helmet light assemblies for miners'. The normative references of SANS 1438, 2013 are not applicable to the employer.
- 3.34 The **employer** must take **reasonable practicable** measures to ensure that any helmet light assemblies used underground are tested in accordance with the requirements of ARP 0108:2013.
- 3.35 The **employer** must take **reasonable practicable** measures to ensure that the operating voltage of any portable lamp used at a mine does not exceed 32 volts.
- 3.36 The **employer** must take **reasonable practicable** measures to ensure that all **electric apparatus** are selected, installed, worked and maintained in such a manner as not to constitute a hazard and shall be placed and protected in such a manner that no person can be injured by inadvertent contact with any **live** portion.
- 3.37 The **employer** must take **reasonable practicable** measures to ensure that all **electric apparatus** used in a hazardous area shall be explosion protected and certified as such by an inspection authority (la) certificate issued by an **accredited test laboratory**.
- 3.38 The **employer** must take **reasonable practicable** measures to ensure that any type and design of explosion protected apparatus shall at all times be identified in an inspection authority (la) certificate and an identification number shall be allocated to such apparatus by the **accredited test laboratory**.
- 3.39 The **employer** must take **reasonable practicable** measures to ensure that **explosion protected** apparatus is not used at a mine unless the manager is in possession of a copy of the inspection authority certificate. The identification number referred to in regulation 3.36 must be clearly and indelibly marked on the apparatus or on a metal plate (other than a light metal) permanently fixed to the apparatus.

## CHAPTER 4

### EXPLOSIVES

[Chapter 4 substituted by GN R953 of 14 September 2018.]

#### Definitions

In this chapter, unless the context otherwise indicates-

"**blasting**" means the **initiation of explosives** for the purposes of fragmenting of rock or ore body;

"**explosive**" means –

- (a) a substance, or a mixture of substances, in a solid or liquid state, which is capable of producing an explosion;
- (b) a pyrotechnic substance in a solid or liquid state, or a mixture of such substances, designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as the result of non-detonative self-sustaining exothermic chemical reaction, including pyrotechnic substances which do not evolve gases;
- (c) any article or device containing one or more substances contemplated in paragraph (a); or
- (d) any other substance or article which the relevant Minister may from time to time by notice in the Gazette declare to be an **explosive** in terms of the **Explosives Act**, Act No 15 of 2003;

"**hot holes**" means **shot holes** in a coal mine which after being drilled has an in hole ambient temperature of 40 degrees Celsius or above or an increase of 3 degrees Celsius;

"**initiate**" means the action or intended action of setting off **explosives**;

"**manufacture**" means the making or processing of any **explosive**;

"**misfire**" means any **explosives** which have failed to explode after initiation;

"**misfired hole**" means a **shot hole** or part of a **shot hole** in which any **explosives** or any portion thereof has failed to explode after initiation;

"**old explosives**" means any **explosives** that have been used or damaged in any way, or have deteriorated due to exposure to water or the surrounding atmosphere or which have expired; and includes **explosives** recovered from **misfired holes**;

"**permitted explosives**" means **explosives** classified as such by the Chief Inspector of Explosives (as defined in the Explosives Act, Act No 15 of 2003);

"**ore-body**" means any natural in-situ rock that contains any form of **mineral**;

"**primary blasting**" means all **blasting** other than **secondary blasting**;

"**primer**" means an **explosive** cartridge or booster into which a detonator or detonating fuse has been inserted or connected;

"**pumpable explosive**" means:

- (1) a mixture of ammonium nitrate, with or without other inorganic nitrates, with combustible substances which are not, classified as UN Number 0082, Class 1.1 D; or
- (2) a mixture of ammonium nitrate, with or without other organic nitrates, partially or wholly dissolved in water and with the addition of any of the following:
  - (i). ammonium nitrate emulsions, gels and suspensions, intermediate for **blasting**, classified as UN Number 3375;
  - (ii). combustible substances which are not **explosive**; or
  - (iii). substances which control the density of the final mix, either by chemical reaction or mechanically, and the final mix is classified as UN Number 0241, Class 1.1 D; or any form of **explosive** which is inserted in a hole by means of pumping;

"**secondary blasting**" means **blasting** for the purposes of removing obstructions, reducing rocks in size or making the workings safe;

"**shot hole**" means any drill hole charged with or intended to be charged with **explosives**;

"**sleep-over blast**" means any **shot hole** charged with **explosives** but not **initiated** in the same shift during which it was charged with **explosives**;

"**socket**" means any **shot hole**, or part of any **shot hole**, known not to be a **misfired hole**, which remains after having been charged with **explosives** and blasted or which, for any other reason, may be suspected of having contained **explosives** at any time and includes any **shot hole**, or part of any **shot hole**, from which all **explosives** have been extracted;

"**stemming**" means filling in **shot holes** with inert material; and

"**tamping**" means the consolidation of **stemming** and **blasting** materials in a **shot hole**.

#### 4.1 Security in respect of explosives

- (1) The **employer** at any **mine** must take **reasonably practicable** measures to prevent persons not authorised by the **employer** from-
  - (a) gaining access to **explosives**;
  - (b) being in possession of **explosives**, or
  - (c) removing or attempting to remove **explosives** from a **mine**

- (2) Only persons authorised by the **employer** at any mine may-
  - (a) gain access to or attempt to gain access to **explosives**;
  - (b) be in possession of **explosives**, or
  - (c) remove or attempt to remove **explosives** from a **mine**.
- (3) Subject to regulation 4.2(2), no person may, or cause or permit any other person to bury, hide, submerge or abandon any **explosives**.

#### **4.2 Receipt, storage, issuing and transportation of explosives**

- (1) The **employer** at any **mine** must ensure that:
  - (a) **explosives** that are not being transported or prepared for use are stored in **explosive stores**, silos or containers which are securely locked or, as far as **reasonably practicable**, designed and located so as to facilitate the safe and secure receipt, storage and issuing of **explosives** by a person referred to in regulation 4.1 (2);
  - (b) a written procedure is prepared and implemented, after consultation with the **explosive manufacturer** or supplier, to prevent persons from being exposed to the significant **risks** associated with the receipt, storage, issuing and transportation, inadvertent initiation and the deterioration of **explosives**. This written procedure referred to in this sub-regulation must include the following:

##### **Storage of explosives**

- (i). measures to ensure that every container used for the storage of **explosives**, including **old explosives**, is-
  - (a) of robust construction;
  - (b) provided with an effective lock and the key kept only by an authorised person referred to in regulation 4.1 (2);
  - (c) clearly marked to indicate the type of **explosives** to be placed therein;
  - (d) of a capacity determined by the **employer** in consultation with the **explosive manufacturer** or supplier;
  - (e) spaced apart from any other container used for storage of **explosives**, at a distance determined by the **employer** after consultation with the **explosive manufacturer** or supplier;
  - (f) approved in writing for that purpose by the **employer**;
- (ii). measures to ensure, at every **mine** where there is a significant **risk of old explosives** being present, that adequate storage facilities are provided for such **old explosives**;

- (iii). no person must place, or cause or permit any other person to place any other materials or any implements or tools, in the **explosives** containers other than those necessary for the preparation of initiation systems or **primers**; and
- (iv). measures to ensure that **primers** are kept separate from other **explosives** and stored in a container complying with regulation 4.2(1)(b)(i);

#### **Issuing of explosives**

- (v). measures to ensure, as far as **reasonable practicable**, that the **explosives** that have been ordered or issued do not exceed the **explosive** storage capacity of the storage facility in which it is intended to store those **explosives**, either underground or on surface; and

#### **Transportation of explosives**

- (vi). measures to ensure, as far as **reasonably practicable**, that **explosives** are only transported in vehicles, conveyances, unopened cases or locked containers approved in writing for that purpose by the **employer**.
- (2) The **employer** at any **mine** must take reasonable measures to ensure, when **mine** closure is intended, or when a **mine** is not being worked as contemplated in section 2(2), that the **Principal Inspector of Mines** and the Chief Inspector of **Explosives** (as defined in the **Explosives Act**, (Act No. 15 of 2003) are notified in writing as soon as **reasonably practicable**, if any **explosives** have been left behind at the **mine**, of–
- (i). the type, quantities and location of such **explosives**; and
  - (ii). the measures taken to safeguard persons from any significant **risks** associated with such **explosives**.

#### **Destruction of explosives**

- (3) The **employer** at any **mine** must ensure that a written procedure is prepared and implemented, after consultation with the **explosive manufacturer** or supplier, to ensure that **explosives** are destroyed safely and not re-used for any purpose. Such procedure must include measures to ensure that:
- (i). only the competent person contemplated in regulation 4.4(1) destroys **explosives**;
  - (ii). in the case of underground coal **mines**, **explosives** must be destroyed only on surface;
  - (iii). the Chief Inspector of **Explosives** and **Principal Inspector of Mines** are informed in advance if more than 50kg of **explosives** are to be destroyed at any one time; and

- (iv). no person destroys **explosives** on surface within a horizontal distance of 150 metres of any public building, public thoroughfare, railway line, power line or any place where people congregate or any other structure, which it may be necessary to protect in order to prevent any significant **risk**, unless:
  - (a) a **risk** assessment has identified a lesser safe distance and any restrictions and conditions to be complied with;
  - (b) a written application accompanied by the following documents is submitted to the **Principal Inspector of Mines** for approval-
    - (i). a sketch plan indicating the distance from the **explosives** destruction area to the affected structures;
    - (ii). a **risk** assessment;
    - (iii). proof of consultation with the owners of the affected structures; and
    - (iv). restrictions and conditions.
  - (c) a written approval has been granted by the **Principal Inspector of Mines**; and
  - (d) any restrictions and conditions determined by the **Principal Inspector of Mines** are complied with.

#### **4.3 Approved explosives and the usage of explosives at mines**

- (1) The **employer** at any **mine** must take reasonable measures to ensure that only **explosives** approved in writing by the **employer** are used at the **mine**.
- (2) The **employer** at any **mine** must take reasonable measures to ensure that **explosives** are used in accordance with a written procedure prepared and implemented for that purpose by the **employer**, after consultation with the **explosive manufacturer** or supplier. The written procedure must include the following:
  - (a) All **explosives** must be used in the same sequence as they are issued;
  - (b) Under no circumstances must any **blasting** cartridge be broken or cut or a wrapper around any **blasting** cartridge be interfered with, except when preparing the **blasting** cartridge for the insertion of a detonator or detonating fuse;
  - (c) The only **primers** that are permitted to be prepared are **primers** that are required for immediate use;
  - (d) Where igniter cord is used, such an igniter cord must be laid as close as practicable to the face and not on, or in contact with timber or other combustible material or flammable substance not forming part of the **explosives** charges; and

- (e) Where **pumpable explosives** are used, the **pumpable explosives** are only sensitised at a **working place** where **explosive** charges are being prepared prior to the **pumpable explosives** being pumped into a **shot hole**.
- (3) The **employer** at any **mine** must take reasonable measures to ensure, if **explosives** are **manufactured** at the **mine**, that:
  - (a) it is done in accordance with a written procedure prepared and implemented for that purpose after consultation with the **explosive manufacturer** or supplier; and
  - (b) all mobile and portable **explosives** manufacturing units at a **mine** are used, inspected, serviced and maintained in accordance with a written procedure prepared and implemented for that purpose after consultation with the **explosives manufacturer** or supplier.
- (4) The **employer** at any **mine** must take reasonable measures to ensure that **explosive** powered tools are issued, stored, used and maintained in accordance with a written procedure prepared and implemented for that purpose by the **employer** after consultation with the **manufacturer** or supplier of such **explosive** powered tools.
- (5) The **employer** must take reasonable measures to ensure, subject to regulation 4.3(3), that only **permitted explosives** are used in fiery **mines**.
- (6) The **employer** at any **mine** must take reasonable measures to ensure that a written procedure is prepared and implemented after consultation with the **explosives manufacturer** or supplier to prevent persons from being exposed to significant **risks** associated with the spillage of **explosives**.

#### **4.4 Primary and Secondary blasting to be performed by a competent person**

- (1) The **employer** at any **mine** must take reasonable measures to ensure, where **primary** or **secondary blasting** takes place, that a **competent person** is appointed in writing to—
  - (a) exercise control over all **explosives** to be used for **blasting** at those **working places** for which the **competent person** is responsible;
  - (b) prepare **primers**;
  - (c) examine any **shot hole** to be deepened to ensure it is safe to deepen;
  - (d) examine for and deal with **misfires** and **sockets**, in accordance with the written procedure prepared in terms of regulation 4.11;

- (e) mark or indicate **shot holes** for drilling or to authorise the drilling of **shot holes** marked or indicated by another person authorised to do so by the **employer**, except where the **shot holes** were marked or indicated by means of electronic software system, including but not limited to Global Positioning System or Laser, the **competent person** must be required to over inspect and authorise the commencement of drilling of **shot holes**;
- (f) exercise control over any manufacturing at the **working places** for which such **competent person** is responsible for, of pourable or **pumpable explosives** to be used;
- (g) connect **blasting** rounds or circuits;
- (h) charge **shot holes** with **explosives** or place **explosive** charges; and
- (i) make safe all **hot holes** in terms of the written procedure contemplated in regulation 4.16(5).

#### **Management and control over explosives**

- (2) The **employer** at any **mine** must take **reasonably practicable** measures to ensure that the **competent person** referred to in regulation 4.4(1) reports to the **employer**, whenever **explosives** are delivered to the **working place** for which that **competent person** is in charge, whether or not the correct quantity of **explosives** was delivered.

#### **Persons performing primary or secondary blasting may be assisted**

- (3) The **employer** at any **mine** may appoint a **competent person** in writing to assist the **competent person** referred to in regulation 4.4(1) with the following activities:
  - (a) exercising control over those **explosives** to be used during the performance of the duties of the **competent person** referred to in regulation 4.4(1) as stipulated in paragraphs (b), (c), (d) and (e) below;
  - (b) the preparation of **primers**;
  - (c) the charging of **shot holes** with or the placing of **explosive** charges;
  - (d) the connecting of **blasting** rounds or circuits; and
  - (e) the handling and transport of **explosives**, initiation systems and accessories.

#### **4.5 Certification of initiation apparatus and blasting systems**

- (1) The **employer** at any **mine** must take reasonable practicable measures to ensure that where initiation of **explosives** charges takes place by means of electricity-
  - (a) apparatus used for the initiation of electronic detonators complies with SANS 1717-1 (2006) 'The design and approval of Electronic Explosive Devices (EED) initiation systems for use in mining and civil **blasting**' and SANS 551 (2010) 'Detonators, relays and initiating devices for commercial applications';

- (b) apparatus used for the initiation of electric detonators complies with SANS 1717-2 (2006) The design and approval of **EEO** initiation systems for use in mining and civil **blasting**' Part 2 "Electric Initiation System - Shot Exploder Based of SANS 1717';
  - (c) apparatus used for the initiation of detonators by means of a controlled **blasting** system complies with the relevant SANS 1717-3 (2014) "The design and approval of detonator initiation systems for use in mining and civil **blasting** Part 3 Controlled **Blasting** System";
  - (d) every shot exploder, initiator or electronic delay detonator system is tested and certified by a test laboratory accredited for this purpose by the government endorsed national accreditation body as contemplated in Approved Recommended Practice (ARP) 1717 (2010) "Guide to the regulatory requirements for the approval of detonators, initiators and initiation systems used in mining and civil **blasting** applications";
  - (e) every inherently safe apparatus used for the testing of a Circuit containing an electric detonator, electric or electronic initiator electronic delay detonator or a similar device is tested and certified for that purpose by a test laboratory accredited for this purpose by the government endorsed national accreditation body approved by the approving authority as contemplated in ARP 1717; and
  - (f) the shot-firing apparatus is maintained in an efficient and safe working order. Each shot-exploder must be provided with a removable operating handle or key or with a locking arrangement to secure it against unauthorised use and must be marked with a serial number, and a record must be kept of all examinations and tests carried out on it.
- (2) The normative reference in the SANS standards in regulation 4.5(1) above are not applicable to the **employer**.

#### 4.6 Precautionary measures before initiating explosive charges

- (1) The **employer** at any underground coal **mine** must take reasonable measures to ensure that the **competent person** referred to in regulation 4.4(1) does not **initiate explosive** charges in any underground coal **mine** unless the-
  - (a) coal to be blasted has two free faces;
  - (b) end of the **shot hole** is at least 150 millimetres short of the back of the cut providing the second of the two free faces; and
- (2) The **employer** at any underground coal **mine** must take reasonable measures to ensure that the **competent person** referred to in regulation 4.4(1) does not fire an **explosive** charge in an underground coal **mine** where the place where the **explosive** charge is to be fired is dry and dusty, unless -
  - (a) a **permitted explosive** is used; and

- (b) the place of firing and all contiguous accessible place(s) within a radius of 20 metres from it at the time of firing have been wetted through watering or have been given effective treatment with incombustible dust, in all parts where dust is lodged, whether roof, floor or side.
- (3) The **employer** at any underground **mine** must take reasonable measures to ensure that:
- (a) **explosives** are not brought to the working face where **blasting** is to be carried out unless-
    - (i). the drilling of **shot holes** has been completed;
    - (ii). the **shot holes** are ready to be charged with **explosives**;
    - (iii). the quantity of **explosives** does not exceed the estimated required quantity to be used for the blast; and
    - (iv). a safe distance, to which **explosives** may be brought to the working face where drilling of **shot holes** is not completed, is determined by means of a **risk** assessment conducted by the **employer** in consultation with the **explosives manufacturer** or supplier.
- (b) the **competent person** referred to in regulation 4.4(1) does not **initiate** any **explosive** charge unless:
    - (i). the portion of the **shot hole** between the **explosive** charge and the collar of the **shot hole** is **stemmed** and **tamped** in accordance with the requirements of regulation 4.14;
    - (ii). all persons have been removed from the **working place** where **explosive** charges are to be **initiated**;
    - (iii). all entrances to the working place(s) where **explosive** charges are to be **initiated**, or to the places where the safety of person(s) may be endangered by such **initiation**, are effectively guarded so as to prevent inadvertent access to such place(s) while such **explosive** charges are being **initiated**; and
    - (iv). such **competent person**, gives or causes to be given due warning in every direction and is satisfied that no person remains where they might be exposed to danger from the **initiating** of such **explosive** charges;
- (4) The **employer** at any underground **mine** must take reasonable measures to ensure that the **competent person** referred to in regulation 4.4(1) or any person authorised to do so by the **employer** does not **initiate** an **explosive** charge in any underground **mine** where a centralised **blasting** system is being used, unless all persons who may be endangered by such **initiation** of **explosive** charges have been moved to a safe area.

- (5) The **employer** at any surface **mine** must take reasonable measures to ensure that:
- (a) no person remains or approaches, or is caused or permitted to remain or approach, within 15 metres of any **shot hole** being charged with **explosives**, unless such person is assisting in the charging up of **shot holes with explosives** or authorised by the **employer** in the interest of health and safety;
  - (b) **explosives** are not brought to the working bench where **blasting** is to be carried out unless:
    - (i). the drilling of **shot holes** have been completed;
    - (ii). the **shot holes** are ready to be charged with **explosives**;
    - (iii). the quantity of **explosives** do not exceed the estimated required quantity to be used for the blast; and
    - (iv). a safe distance, to which **explosives** may be brought to the working bench where drilling of shot holes is not completed, is determined by a **risk assessment** conducted by the **employer** in consultation with the **explosive manufacturer** or supplier
  - (c) the **competent person** referred to in regulation 4.4(1) does not **initiate** any **explosive** charge unless the portion of the **shot hole** between the **explosive** charge and the collar of the **shot hole** is **stemmed** and **tamped** in accordance with the requirements of regulation 4.14;
  - (d) before the **initiation** of **explosive** charges, an adequate number of guards are stationed at a safe distance determined by a **risk assessment** to prevent persons accessing the **blasting** area and that the guards remain at the safe distance until the **initiation** of **explosive** charges is completed and the guards are recalled by the **competent person** referred to in regulation 4.4(1); and
  - (e) at least three minutes before an **explosive** charge is **initiated**, the **competent person** referred to in regulation 4.4(1) gives due warning of the **initiation** of **explosive** charges.

**4.7** The **employer** at any **mine** must take reasonable measures to ensure that when **blasting** takes place, air and ground vibrations, shock waves and fly material are limited to such an extent and at such a distance from any building, public thoroughfare, railway, power line or any place where persons congregate to ensure that there is no significant **risk** to the health or safety of persons.

**4.8** The **employer** at any **mine** must take reasonable measures to ensure that the **stemming** or **tamping** is not withdrawn from a **shot hole** that has been charged with **explosives** except when dealing with **misfired holes** in accordance with the provisions of regulation 4.11.

### **Precautions after charges have been initiated**

**4.9** The **employer** at any **mine** must take reasonable measures to ensure that after **explosive** charges have been **initiated** or **misfired holes** have been re-initiated, the **competent person** referred to in regulation 4.4(1) does not approach, or causes or permits any other person to approach, within the range of the exploding charges until such competent person is satisfied that all the **explosive** charges have exploded or until a period of 30 minutes has expired, after the **initiation** of the charges.

### **4.10 Precautions when initiating by means of electricity**

- (1) The **employer** at any **mine** must take reasonable measures to ensure that, where **initiating** takes place by means of electricity, the **competent person** referred to in regulation 4.4(1), after such **competent person** has connected the **blasting** cable to the detonator wires of any **explosive** charge or charges and before such **explosive** charge or charges have been **initiated**, does not:
  - (a) remain or approach, or cause or permit any other person to remain or approach, within a distance where such person may be endangered by the **initiating** of such **explosive** charges, except for the purpose of examining the **blasting** circuit; and
  - (b) examine the **blasting** circuit, or cause or permit the **blasting** circuit to be examined, unless both leads are disconnected from any source of electricity, whether for **initiating explosive** charges or testing the **blasting** circuit.
- (2) The **employer** at any **mine** must, where **initiation** takes place by means of electricity, take reasonable measures to ensure that the **competent person** referred to in regulation 4.4(1)-
  - (a) only uses a **blasting** cable provided for that purpose and which is in good order and of sufficient length to ensure that the **blasting** cable cannot come into contact with any other cable or electrical apparatus;
  - (b) secures the **initiating** device of the blast in an adequate and reasonable manner so as to prevent unauthorised access or use of the **blasting** system;
  - (c) connects the **blasting** cable to the detonator wires of any **explosive** charge or charges or to the wires of the initiator or similar device only after completing all **blasting** precautions, other than those referred to in paragraphs (d), (e) and (g) of this regulation;
  - (d) does not apply any electrical test to the **blasting** circuit except through the **blasting** cable and from a place of safety;

- (e) does not connect the **blasting** cable to the terminals of the **initiating** device until immediately before **initiation** of **explosive** charges or attempting to **initiate** the **explosive** charges;
  - (f) except in the case of a remotely operated centralised electric **blasting** system, immediately after **initiating** or attempting to **initiate** the **explosive** charges, disconnects both leads of the **blasting** cable from the **initiating** device and then-
    - (i). removes the operating handle or key of the **initiating** device; or
    - (ii). secures the locking arrangement of the **initiating** device and removes the key;
  - (g) in the case of a remotely operated centralised electric **blasting** system, does not connect the **blasting** cable to the terminals of the **blasting** box until immediately before leaving such **competent person's working place** at the end of the shift; and
  - (h) in the case of a remotely operated centralised electric **blasting** system, disconnects immediately at the commencement of the shift any **blasting** cable from the terminals of the **blasting** box;
- (3) The **employer** at any **mine** must take reasonable measures to ensure that, after the **explosive** charges have been **initiated** by means of electricity, the competent person referred to in regulation 4.4(1):
- (a) carefully examines for **misfired holes** where the charges have been **initiated**, before permitting any person to work there;
  - (b) instructs any person engaged in clearing the broken rock, **mineral** or ground to report immediately to such **competent person** the finding of any wires that may lead to a **misfired hole**; and
  - (c) carefully traces any such wires to determine whether or not a **misfired hole** has occurred.
- (4) The **employer** at any **mine** must take **reasonably practicable** measures to ensure that where the **initiation** of **explosives** takes place by means of electricity and where there is a **risk** of an **explosive** charge being **initiated** by lightning, operations in connection with the preparation or **initiation** of **explosive** charges are not started or continued on the approach of or during a thunderstorm and that no person remains, or is caused or permitted by any other person to remain, within an area where any person may be injured by the accidental **initiation of explosives**.

#### 4.11 Precautions for misfires, sockets and old explosives

The **employer** at any **mine** must take reasonable measures to ensure that a written procedure is prepared and implemented, after consultation with the **explosive manufacturer** or supplier, to prevent persons from being exposed to the significant risk associated with **misfires, sockets and old explosives**. Such procedure must include measures to ensure that:

- (1) no person gains inadvertent access to any **misfired hole** which is not immediately dealt with, and which measures should include clearly marking the **misfired hole** or barricading it off and requiring reporting of the **misfired hole** to all subsequent shifts, at the start of each such shift, until the **misfired hole** has been dealt with;
- (2) in any shaft in the course of being sunk, in addition to the requirements of regulation 4.9:
  - (a) the **competent person** referred to in regulation 4.4(1) makes a sketch showing the position of every **misfired hole** and **sockets**;
  - (b) every sketch referred to in regulation 4.11 (2) is kept at the **mine** for a period of at least seven days unless directed otherwise in writing by the Principal Inspector of **Mines**; and
  - (c) the washing or blowing over and the preparation of the sketch required in terms of regulation 4.11 (2) is done at least once a day under the immediate supervision of the **competent person** referred to in regulation 4.4(1) to do so, and this **competent person** ensures that the washing or blowing over has been effectively done and the sketch properly prepared by means of personal inspection;
- (3) **explosives** are only extracted from any **misfired hole** by a means determined for this purpose after consultation with the **explosives manufacturer** or supplier;
- (4) the person extracting **explosives** from a **misfired hole**:
  - (a) ensures as far as **reasonably practicable** that all the **explosives** in the **misfired hole** are extracted; and
  - (b) recovers all **explosives** that have been extracted from the **misfired hole**;
- (5) no person removes or causes any other person to remove the plugs that are used to plug **sockets** or **misfired holes** unless such plugs are removed by the **competent person** referred to in regulation 4.4(1) for the purpose of inspection or are removed at the end of the shift prior the **initiating** of **explosive** charges;

- (6) At any surface **mine** the **competent person** referred to in regulation 4.4(1):
  - (a) re- **initiates** the **misfired hole**; or
  - (b) drills or causes to be drilled in the presence of such **competent person**, a relieving hole not less than 150 millimetres deeper than the **misfired hole** and which relieving hole is parallel to and not nearer than a distance determined by **risk** assessment to the **misfired hole** and that such **competent person** charges and **initiates** this relieving **shot hole** and recovers the **explosives** liberated from the **misfired hole**. The **risk** assessment must consider the following:
    - (i). hole diameter;
    - (ii). hole depth;
    - (iii). burden and spacing; and
    - (iv). geology. or
  - (c) extracts the **explosives** from the **misfired hole** in accordance with the provisions of regulation 4.11 (3).
- (7) At any underground **mine**, except underground coal **mines**, the **competent person** referred to in regulation 4.4(1):
  - (a) examines every **socket** and **misfired hole** to ascertain its depth, direction and whether it contains any **explosives**, by a means determined by the **employer** after consultation with the **explosives manufacturer** or supplier; and
  - (b) extracts **explosives** from the **misfired hole** in accordance with the provisions of regulation 4.11 (3) and plugs the **socket** with a plug supplied for that purpose by the **employer**; or
  - (c) re-primes and **blasts**; or
  - (d) charges up the **misfired holes** with **explosives** and **initiates** the **explosive** charges; or
  - (e) **blasts** the **misfires** at the end of the shift;
- (8) At any underground coal **mine** the **competent person** referred to in regulation 4.4(1):
  - (a) where a **misfired hole** is in stone, extracts the **explosives** from the **misfired hole** in accordance with the provisions of regulation 4.11 (3) and charges up the **misfired holes** with **explosives** and **blasts** the **misfires** before or at the end of the shift;
  - (b) where a **misfired hole** is in a coal, drills or causes to be drilled in the presence of such **competent person**, a relieving **shot hole** parallel to and not nearer than 300 millimetres to the **misfired hole** and that such **competent person** charges and **initiates** the **explosives** charge contained in the relieving **shot hole** before or at the end of the shift.

### Precautionary measures for marking, drilling and blasting

**4.12** The **employer** at any **mine** must take reasonable measures ensure that a written procedure is prepared and implemented, after consultation with the **explosive manufacturer** or supplier, to prevent persons from being exposed to the significant **risk** associated with marking, drilling and **blasting** of **shot holes**. Such procedure must include measures to ensure that:

- (1) At any underground **mine** before the **competent person** referred to in regulation 4.4(1) points out or marks any **shot hole** for drilling, such **competent person**:
  - (i). removes or causes to be removed all loose or loosened rock, **mineral** or ground to a safe distance from the **shot hole** determined by a **risk assessment**;
  - (ii). searches for any **misfired hole** or **socket** within a distance of at least the length of the drill steel used in all directions from the proposed position or mark; and
  - (iii). ensure that no person drills or causes or permits to be drilled any **shot hole** unless the position and direction of the **shot hole** has clearly been marked by such **competent person** with a paint or other suitably visible material, or, if such marking is impracticable, has pointed out the exact position and direction of the **shot hole**;
- (2) At any underground **mine** other than coal **mine**:
  - (a) no person drills or causes or permits to be drilled any **shot hole** unless it-
    - (i). is placed more than 150 millimeters from any **socket** and is drilled in such a direction that it will nowhere come nearer than 150 millimeters from any **socket**;
    - (ii). is placed more than two metres from any **misfire** and is drilled in such a direction that it will nowhere come nearer than two metres from any **misfired hole**; and
    - (iii). deviates from the position and direction indicated as contemplated in paragraph (i) above;
  - (b) no person drills or causes or permits to be drilled any **shot hole** in any shaft, drive, crosscut, winze, raise, bord, stall or other similar confined space underground where there is known to be a **misfired hole** until the **misfired hole** has been dealt with in accordance with the provisions of regulation 4.11 (3);
  - (c) no person deepens or causes or permits any other person to deepen any hole which has been left standing or which is not completed at the end of a shift, unless:

- (i). it has not been charged with **explosives** and it has been clearly described by the **competent person** referred to in regulation 4.4(1) in charge of the shift leaving work to the **competent person** referred to in regulation 4.4(1) in charge of the shift about to commence; or
  - (ii). the **competent person** referred to in regulation 4.4(1) examines such hole and finds it not to contain any **explosives**.
- (3) At any surface **mine**:
- (a) before any **competent person** referred to in regulation 4.4(1) points out or marks any **shot hole** for drilling or authorises any other person to point out or mark the position and direction of any **shot hole** for drilling, such **competent person** searches for any **misfired hole** or **socket** within a distance referred to in regulation 4.11 (6)(b).
  - (b) no person drills or causes or permits to be drilled any **shot hole**, unless:
    - (i). it is placed at a distance as referred to in regulation 4.11 (6)(b) from any **socket** and is drilled in such a direction that it will nowhere come nearer than such determined distance from the socket;
    - (ii). it is a **shot hole** that deviated from the position and direction indicated in paragraph (a) above; and
    - (iii). no person deepens or causes or permits any other person to deepen any **shot hole** that has been left standing or which has not been completed at the end of a shift, unless it has not been charged with **explosives** and has been clearly described by the **competent person** referred to in regulation 4.4(1) in charge of the shift leaving work to the **competent person** referred to in regulation 4.4(1) in charge of the shift about to commence.

#### **Prevention of flammable gas and/or coal dust explosions**

**4.13** The **employer** at any underground **mine** must take reasonable measures to ensure that:

- (1) a blow out, ignition of flammable gas or **initiation** of a coal dust explosion does not occur due to the design and positioning of the **shot holes** or due to the type of **explosives** that are used;
- (2) **initiating** devices or systems used in **blasting** operations are designed not to cause a methane or coal dust explosion;
- (3) testing for flammable gas is done in accordance with a written procedure prepared and implemented for this purpose; and

- (4) no **explosives** are initiated where flammable gas or coal dust may be present in sufficient quantities to cause a flammable gas or coal dust explosion or to cause flammable gas to burn.

#### **Shot holes to be stemmed and tamped**

**4.14** The **employer** at any **mine** must take reasonable measures to ensure that:

- (1) no **explosives** contained in a **shot hole** are initiated unless a portion of the **shot hole** between the **explosive** charge and the collar of the **shot hole** is **stemmed** and **tamped** by means of a material determined for that purpose by the **employer** in consultation with the **explosives manufacturer** or supplier and **stemming** manufacturer or supplier, to prevent persons from being exposed from the significant **risks** associated with **explosives** detonating outside the **shot hole**, blow outs, fly rocks and harmful **explosives** gases escaping from the **shot hole**.
- (2) the length of **stemming** and **tamping** of a portion of a **shot hole** between the **explosive** charge and the collar of a **shot hole** is determined by means of a **risk** assessment conducted by the **employer** in consultation with the **explosives manufacturer** or supplier, **stemming** manufacturer or supplier and the **competent person** contemplated in regulation 14.1 (8). The **risk** assessment must consider at least the following:
  - (a) coupling ratio of **explosives**;
  - (b) energy released to protect in situ rock;
  - (c) containment of fly rock and air blast;
  - (d) blast design and type of explosives;
  - (e) geology and type of rock; and
  - (f) safety in dealing with misfired holes.
- (3) the material used for **stemming** and **tamping** complies with SANS 120:2009, Edition 2 "Stemming for use in **blasting**";

#### **Amount or mass of explosives in a shot hole**

**4.15** The **employer** at any **mine** must take **reasonably practicable** measures to ensure that the maximum amount or mass of **explosives** used per **shot hole** is according to the **manufacturer's** or supplier's recommendations.

## General precautions

**4.16** The employer must take reasonable measures to ensure that:

- (1) at any **mine** other than a coal **mine**, no **explosive** charges are initiated during the shift unless-
  - (a) such **explosive** charges are necessary for the purpose of **secondary blasting** or reinitiating the **misfired holes** in development faces;
  - (b) written approval for such **initiation** has been granted by a person authorised to do so by the **employer**; and
  - (c) reasonable precautions have been taken to prevent, as far as possible, any person from being exposed to smoke, fumes or fly rocks from such **initiation of explosive** charges;
- (2) no **blasting** operations are carried out within a horizontal distance of 500 meters of any public building, public thoroughfare, railway line, power line, any place where people congregate or any other structure, which it may be necessary to protect in order to prevent any significant **risk**, unless:
  - (a) a **risk** assessment has identified a lesser safe distance and any restrictions and conditions to be complied with;
  - (b) a written application is submitted to the **Principal Inspector of Mines** accompanied by the following documents for approval-
    - (i). a sketch plan indicating the distance from the **blasting** area to the affected structures;
    - (ii). the **risk** assessment;
    - (iii). a proof of consultation with the owners of the affected structures; and
    - (iv). restrictions and conditions.
  - (c) a written approval has been granted by the **Principal Inspector of Mines**; and
  - (d) any restrictions and conditions determined by the **Principal Inspector of Mines** are complied with.
- (3) at any **mine**, no person smokes, lights a fire or brings a naked light or flame, within a distance of 10 meters of where **explosives** are being loaded, transported, off loaded, handled or **explosive** charges are being prepared;
- (4) at any **mine**, **blasting** takes place only at a time determined in writing by the **employer**;
- (5) at any surface **mine**, a written procedure is prepared and implemented, after consultation with the **explosive** manufacturer or supplier, to prevent persons from being exposed to the significant **risks** associated with **hot holes**. Such procedure must include:

- (a) where there is a significant **risk of hot holes** occurring, that the **competent person** referred to in regulation 4.4(1) measures the temperature of the **shot hole**; and
  - (b) that the temperatures of the **shot holes** are measured at any point throughout the length of the **shot hole** and recorded prior and during charging up operations.
- (6) at any **mine**, a written procedure is prepared and implemented after consultation with **explosives** manufacturer or supplier to ensure that **sleep-over blasts** are carried out safely;
- (7) at any **mine**, a written procedure is prepared and implemented, after consultation with the **explosive** manufacturer or supplier, to prevent persons from being exposed to significant **risks** associated with **secondary blasting**. The written procedure must include measures to ensure that:
- (a) all persons are moved to a safe area prior to **secondary blasting** taking place;
  - (b) guards are placed at all entrances at a safe distance determined by **a risk assessment**, to the area where **secondary blasting** is to take place; and
  - (c) written approval from a person authorised by the **employer** to do so, is granted before **secondary blasting** is carried out.
- (8) **the competent person** referred to in regulation 4.4(1):
- (a) takes all reasonable precautions to safeguard every person assisting such **competent person** in the preparation of **explosive** charges against injury;
  - (b) only charges **shot holes** with **explosives** within a reasonable time of **initiation** and after all persons not required to assist in the charging have been removed to a safe distance determined by **risk assessment**;
  - (c) charges only the **shot holes** or prepare only the **explosive** charges that are intended to be **initiated** at the next blast and, while **explosives** charges are awaiting **initiation**, ensures that they are not interfered with;
  - (d) except as may be necessary to **re-initiate** a **misfired hole** or specialised blast design for holes more than 4 meters in length; does not insert more than one detonator into an **explosive** charge, provided that in wet workings two detonators may be used only if they are both inserted into the same cartridge and securely fastened to it;
  - (e) only uses a means, appliance or material supplied by the **employer** for the purpose of **initiating** of **explosive** charges or testing of a **blasting circuit**; and
  - (f) before any charge is **initiated**, takes adequate measures to prevent injury to persons or damage to property caused by **blasting** operations.

**4.17** No person:

- (1) may drill or cause to be drilled or **blast** any **shot hole** in a subterranean tunnel intended to be used for purposes other than extracting **minerals**, unless-
  - (a) a **risk assessment** has identified a safe distance to blast such a **shot hole** and any restrictions and conditions to be complied with;
  - (b) a written application accompanied by the following documents is submitted to the **Principal Inspector of Mines** for approval-
    - (i). a sketch plan,
    - (ii). the **risk assessment**,
    - (iii). restrictions and conditions;
  - (c) a written approval has been granted by the **Principal Inspector of Mines**; and
  - (d) any restrictions and conditions determined by the **Principal Inspector of Mines** are complied with;
- (2) who is engaged in handling **explosives** or who is travelling in a vehicle in which **explosives** are being transported may carry matches or any other means of producing a flame or a spark;
- (3) warned of the **initiation of explosive** charges as contemplated in regulation 4.6(5)(d) may remain in or enter the unsafe area surrounding the place where the **initiation of explosives** is to take place.

**4.18** Every person at any **mine** must report, in a manner prescribed by the **employer**, without delay any case of gassing, however slight, to ensure that such case receives prompt medical attention.

## CHAPTER 5

### FIRES AND EXPLOSIONS

[Chapter 5 promulgated by GN R904 of 2002 and amended by GNR 1237 of 2003.]

**5.1 Report to Employer**

- (1) The **employer** must ensure that a competent person reports to the **employer**, at appropriate intervals determined in accordance with the mine's **risk assessment**, on-
  - (a) the effectiveness of the precautionary measures taken to prevent or suppress explosions of coal dust or flammable gas; and
  - (b) the adequacy of measures in place to prevent, detect and combat the start and spread of **mine fires**.

- (2) Where at any area at a mine, a fire could pose a significant risk to the health and safety of persons, the *employer* must take reasonable measures to ensure that flammable liquids, gases and materials in use, are transported, stored, deposited, used and disposed of in such a way as to prevent the starting or spreading of a fire.
- (3) The *employer* at any mine at which a fire occurs must, as soon as practicable, notify the *employer* of any other *mine* at which the spread of such fire could constitute a *hazard* should such fire not be immediately extinguishable, of the existence of that fire.
- (4) The *employer* must take *reasonably practicable* measures to ensure that any coal, coal debris or bituminous rock is deposited so that it does not pose a significant *risk* to the *health* or *safety* of any person.
- (5) The *employer*, at any mine where the risk assessment indicates a risk of the presence of flammable gas, must ensure that all flammable gas measuring instruments and flammable gas warning devices used at the mine for the detection of methane or hydrogen or a mixture of both, comply with the South African National Standard Specification SANS 1515-1: 2006, Edition 2.1 'Gas measuring equipment primarily for use in mines: Part 1: Battery operated portable, flammable gas measuring instruments and warning devices'.

[Sub-reg. 5.1(5) added by GNR. 92 of 2008.]

- (6) Annex A: '**Assessment of Compliance with this part of the Specification**' contained in South African National Standard Specification SANS 1515-1: 2006, Edition 2.1 shall, for the purpose of regulation 5.1(5), be deemed to be normative.

[Sub-reg. 5.1(6) added by GNR. 92 of 2008.]

Reference is made to the following Guidelines issued by the **Chief Inspector of Mines** in terms of section 9(2) of this Act.

- (i). Guideline for the Compilation of a Mandatory Code of Practice for the Prevention of Coal Dust and Flammable Gas Explosions: Ref.: DME 16/3/2/1A1.
- (ii). Guideline for the Compilation of a Mandatory Code of Practice for the Prevention of Flammable Gas Explosions in Mines Other than Coal DME 16/3/2/1A2.

## CHAPTER 6

### HEALTH AND SAFETY REPRESENTATIVES AND COMMITTEES

[Chapter 6 promulgated by GN R93 of 1997 and substituted by GN R846 of 1997.]

#### 6.1 Prescribed period for negotiations and consultations

- (1) The *owner* of a *mine* required to enter into negotiations in terms of sections 26(1) and 33(1), must commence negotiations within one month of the obligation to do so arising.
- (2) The *manager* of a *mine* required to enter into consultations in terms of section 26(6) or (7) and 33(6) or (7), must commence consultations within one month of the obligations to do so arising.
- (3) If no collective agreement is concluded on the number of full-time *health and safety representatives* within three months of negotiations commencing in terms of regulation 6.1(1), any party to a dispute in terms of section 26(8)(a) may refer the dispute to the *Commission*.
- (4) If no agreement is concluded on the number of full-time *health and safety representatives* within three months of consultations commencing in terms of regulation 6.1(2), any party to a dispute in terms of section 26(8)(b) may refer the dispute to the *Commission*.

#### 6.2 Application of regulations

If a collective agreement dealing with the election of *health and safety representatives*, full-time *health and safety representatives* or *employee representatives* on *health and safety committees* is concluded in terms of Chapter 3 of *this Act*, the regulations in this Chapter dealing with such election do not apply.

#### 6.3 Establishment of election committee

- (1) The *manager* must establish an election committee.
- (2) The election committee-
  - (a) must include an appropriate number of *employee representatives*; and
  - (b) may include a number of management representatives.
- (3) If the election committee includes management representatives, their number must be equal to or less than the number of *employee representatives*.
- (4) The *employee representatives* on the election committee must be appointed-

- (a) by the representative trade union at the mine;
- (b) if there is no representative trade union at the mine, by the registered trade unions with members at the mine; or
- (c) if there is no registered trade union with members at the mine, by the employees at the mine.

#### **6.4 Duties of election committee**

The election committee must-

- (a) determine fair and reasonable procedures for the nomination and election of *health and safety representatives*;
- (b) ensure that elections are conducted in terms of such procedures;
- (c) appoint an election officer and one or more counting officers for each election; and
- (d) after consulting the manager, determine the date, time and place of each election.

#### **6.5 Duties of manager**

(1) The manager must-

- (a) as far as practicable, ensure that every *employee* is made familiar with the nomination and election procedures;
- (b) give reasonable and understandable notice to the employees of the date, time and place of each election;
- (c) provide the facilities and assistance reasonably necessary for the election committee to perform its functions;
- (d) provide the facilities reasonably necessary for-
  - (i). the election of *health and safety representatives*; and
  - (ii). the appointment of *employee* representatives on any *health and safety committee*; and
- (e) provide reasonable time off from work, without loss of remuneration, for employees to participate in the elections of *health and safety representatives*.

(2) The *Chief Inspector* may issue guidelines regarding the facilities and assistance to be provided in terms of regulation 6.5(1).

#### **6.6 Nomination of health and safety representatives**

- (1) Every candidate for election as a *health and safety representative* for a shift and designated *working place* must be nominated for election by an *employee* who works on the same shift at the designated *working place*.
- (2) Every candidate for election as full-time *health and safety representative* for a mine must be nominated for election by an *employee*.

### **6.7 Procedures for the election of health and safety representatives**

- (1)
  - (a) If only one candidate is nominated for election as a *health and safety representative* for a shift at a designated *working place*, the election officer must declare the candidate elected.
  - (b) If two or more candidates are nominated for election as a *health and safety representative* for a shift at a designated *working place*, the election officer must hold an election.
- (2) Every election for a *health and safety representative*-
  - (a) must be under the control of the election officer; and
  - (b) is only valid if 50% or more of the employees who work on the same shift at the designated *working place* concerned vote in the election.
- (3)
  - (a) If less than 50% of the employees who work on the same shift at the designated *working place* concerned vote in an election, the election officer must, after consulting the manager, determine a date, time and place for a subsequent election.
  - (b) Regulation 6.7(2)(b) does not apply to such subsequent election.
- (4) Every *employee* on a shift at a designated *working place* has one vote in the election of every *health and safety representative* for that shift and designated *working place*.
- (5) The counting officers must, under the supervision of the election officer, count all valid votes.
- (6) The election officer must announce the results of the count to the employees concerned.
- (7) If an election for an alternate *health and safety representative* is held, it must be conducted in the same manner as an election for a *health and safety representative*.

### **6.8 Procedures for the election of full-time health and safety representatives**

- (1) If the number of candidates nominated for election as full-time *health and safety representatives* at a mine is-
  - (a) not more than the number that must be elected, the election officer must declare the candidates elected; or
  - (b) more than the number that must be elected, the election officer must hold an election.

- (2) Every election for a full-time *health* and safety representative-
  - (a) must be under the control of the election officer; and
  - (b) is only valid if 50% or more of the employees vote in the election.
- (3)
  - (a) If less than 50% of the employees vote in an election, the election officer must after consulting the manager, determine a date, time and place for a subsequent election.
  - (b) Regulation 6.8(2)(b) does not apply to the subsequent election.
- (4) Every *employee* has one vote in the election of every full-time *health* and *safety representative*.
- (5) The counting officers must, under the supervision of the election officer, count all valid votes.
- (6) The election officer must announce the results of the count to the employees.

#### **6.9 Appointment of health and safety representatives**

The manager must-

- (a) within 7 days of election, appoint in writing every *employee* elected as a *health* and *safety representative*;
- (b) provide every *health* and *safety representative* with suitable means of identification as a *health* and *safety representative*; and
- (c) prominently and conspicuously display the photograph and name of the *health* and *safety representative* at an appropriate place at the mine.

#### **6.10 Appointment of employee representatives on health and safety committee**

Every *employee* representative on a *health* and *safety committee* at a mine must be appointed by a majority of the *health* and *safety representatives* at the mine.

#### **6.11 Period of office**

- (1) The period of office of any *health* and *safety representative* or *employee representative* on a *health* and *safety committee* is three years.
- (2) Despite regulation 6.11(1) the *health* and *safety committee* may determine shorter periods of office for-
  - (a) *health and safety representatives*;
  - (b) full-time *health and safety representatives*; and
  - (c) *employee representatives* on a *health and safety committee*.

- (3) Every *health* and safety representative and *employee* representative on a *health* and safety committee may be reappointed in accordance with the provisions of these Regulations after the expiry of their periods of office.

#### **6.12 Vacation of office and filling of vacancies**

- (1) A *health* and safety representative must vacate office on expiry of that representative's period of office or if-
- (a) the representative-
    - (i). no longer satisfies the qualifications contemplated in section 28(1); or
    - (ii). resigns as a *health* and safety representative; or
  - (b) so required in writing on the grounds that the representative has not properly performed the functions of a *health* and safety representative by-
    - (i). at least 50% of the *employee* representatives on the *health* and safety committee; or
    - (ii). at least 50% of the employees who work on the same shift at the designated *working place* as the *health* and safety representative.
- (2) A full-time *health* and safety representative must vacate office on expiry of that representative's period of office or if-
- (a) the representative-
    - (i). no longer satisfies the qualifications contemplated in section 28(2); or
    - (ii). resigns as full-time *health* and safety representative; or
  - (b) so required in writing on the grounds that the representative has not properly performed the functions of a full-time *health* and safety representative by-
    - (i). at least 50% of the *employee* representatives on the *health* and safety committee; or
    - (ii). at least 50% of the employees.
- (3) The manager must within 7 days from the time when a *health* and safety representative must vacate office in terms of regulation 6.12(1) or (2), terminate the *health* and safety representative's appointment and in writing notify the *health* and safety representative of it.
- (4) A vacancy contemplated in regulation 6.12(1) or (2) must be filled by a *health* and safety representative elected in a by-election held in terms of regulation 6.7 or 6.8, as the case may be.
- (5) An *employee* representative on a *health* and safety committee must vacate office on the committee on expiry of such representative's period of office of it [sic] that representative-

- (a) is removed from office by a majority vote of *employee* representatives on the *health* and safety committee on grounds that the representative has not properly performed the functions of an *employee* representative on the *health* and safety committee; or
  - (b) resigns as *employee* representative on the *health* and safety committee.
- (6) A vacancy contemplated in regulation 6.12(5) must be filled by an *employee* appointed in terms of regulation 6.10.

## CHAPTER 7

### INSPECTORATE OF MINE HEALTH AND SAFETY

[Chapter 7 promulgated by GN R93 of 1997 and substituted by GN R846 of 1997.]

#### 7.1 Qualifications of inspectors

An officer must comply with the appointment requirements of the Personnel Administration Standard for the Occupational Class: Inspector: Mines or the Occupational Class: Inspector: Mining Machinery approved by the Public Service Commission read in conjunction with the Public Service Staff Code K.II/I to be appointed as an inspector on the establishment of the Mine Health and Safety Inspectorate.

#### 7.2 Authorisation certificate

- (1)
  - (a) The *Chief Inspector* must issue each inspector appointed in terms of section 49(1) with a certificate DME 34 signed by the *Chief Inspector*.
  - (b) The certificate which must include the names, identification number and a photograph of the Inspector, must indicate-
    - (i). the position in which the inspector is employed; and
    - (ii). that the inspector may, in terms of section 50(1), enter any mine for the purposes of monitoring or enforcing compliance with *this Act*.
- (2)
  - (a) The *Chief Inspector* must issue each person authorised under section 49(4)(b) with a letter of authorisation and a certificate DME 35 signed by the *Chief Inspector*.
  - (b) The letter of authorisation must include-
    - (i). the names of the person;
    - (ii). the functions to be performed by the person;
    - (iii). the area in which the functions will be performed; and
    - (iv). the period for which the person is authorised.

- (c) The certificate, which must include the names, identification number and a photograph of the authorised person, must indicate that the person-
  - (i). is appointed to perform the functions of an inspector as indicated in the letter of authorisation; and
  - (ii). may in terms of section 50, enter any mine to perform such functions.
- (3) Every inspector appointed or person authorised under section 49(1) or 49(4) as the case may be, must at all times when entering, or performing any function at any mine-
  - (a) carry on their person, certificates DME 34 and 35 and the letter of authorisation issued in terms of regulation 7.2(2), as the case may be; and
  - (b) must show such certificate and letter to the manager of the mine or the person in charge of any *working place* at the mine, if requested to do so.
- (4)
  - (a) Despite regulations 7.2(1) to (3) the **Principal Inspector of Mines** may issue a letter signed by the **Principal Inspector of Mines** to any inspector appointed or person authorised under section 49(1) or 49(4), as the case may be, who for any reason is not in possession of a certificate DME 34 or 35.
  - (b) The letter issued under regulation 7.2(4)(a) must include the names of the inspector or person and the official stamp of the office of the Principal Inspector of Mines and must state that the inspector or person is duly appointed or authorised under section 49(1) or 49(4), as the case may be.
  - (c) Regulation 7.2(3) is applicable to a letter issued under regulation 7.2(4).
- (5) A certificate DME 34 or 35 or a letter contemplated in regulation 7.2(4) is deemed to be adequate proof of an appointment or authorisation under section 49(1) or 49(4), as the case may be.

## CHAPTER 8

### MACHINERY AND EQUIPMENT

[Chapter 8 amended by GNR.896 of 25 August 2017.]

#### 8.1 Air Compressors

- (1) The *employer* must ensure, in the case of air compressors with a free delivery in excess of 0,15 cubic metres per second and where compression takes place in the presence of lubricating oil, that the compressor is fitted with automatic means of limiting the operating temperature and pressure of the compressor to a safe level.

[Regulation 8.1.1 inserted by GNR.1579 of 2002.]

## **8.2 Underground Railbound Transport**

The *employer* must take reasonable measures to ensure that:

- (1) the braking system of every locomotive or train is capable of stopping the locomotive or train within a safe distance under all operating conditions;
- (2) the braking system of every locomotive has passed a dynamic type test under full load conditions, before being used for the first time and after any brake design modifications;
- (3) the braking system of every locomotive has passed a static test before the locomotive is put into use at the commencement of each shift, after repairs and after adjustments;
- (4) a system is in place to alert persons to the presence and direction of travel of any locomotive or train;
- (5) a system is in place to assist the driver or operator of a locomotive or train to travel at a safe speed;
- (6) any rolling stock used for the transportation of persons is approved, by a competent person and is operated and maintained safely;
- (7) a system is in place that is capable of preventing any **locomotive or train** from inadvertently being set in motion.

[Regulation 8.2 inserted GNR.583 of 2004. The regulations shall not be applicable to underground endless rope haulage installations, monorail installations, chairlift installations, overhead cranes and crawls, railbound equipment used in shafts, winders and raises, lifting machines, stackers and reclaimers.]

## **8.3 No person may board or alight from a **locomotive or train** while it is in motion.**

[Regulation 8.2 inserted GNR.583 of 2004. The regulations shall not be applicable to underground endless rope haulage installations, monorail installations, chairlift installations, overhead cranes and crawls, railbound equipment used in shafts, winders and raises, lifting machines, stackers and reclaimers.]

#### **8.4 Scraper Winch and Mono-Rope Installation**

- (1) The *employer*, at every *mine* where scraper-winches or mono-rope winches are operated, must take reasonable measures to prevent persons from being injured as a result of-
  - (a) any person coming into contact with any moving part of a scraper winch or mono-rope winch installation or any equipment attached thereto; and
  - (b) the scraper winch or mono-rope winch installation being unsafe.
- (2) The measures to be taken by the *employer* in terms of regulation 8.4(1) must include measures to ensure that-
  - (a) scraper-winches and mono-rope winches are only operated by competent persons authorised by the *employer* to do so;
  - (b) the scraper winch or mono-rope winch is not operated until it is examined and declared safe to operate by a person authorised to do so by the *employer*;
  - (c) means are provided to forewarn persons of the intention to commence operating any scraper-winch or mono-rope winch;
  - (d) means are provided for persons to signal to the operator, from any access point to the installation, to shut down the operation of the scraper winch or mono-rope winch installation;
  - (e) scraper winch and mono-rope winch ropes, scraper attachments and rope splicing are regularly inspected;
  - (f) the scraper winch ropes are always underlay;
  - (g) a written procedure is prepared and implemented for the installation of the winch system, covering at least-
    - (i). the requirements of scraper and mono-winches foundations and installations;
    - (ii). the crossover and anti-fouling arrangements of ropes from two or more winches;
    - (iii). illumination of the moving parts of any winch so that they can be identified by persons;
    - (iv). appropriate sheave and return pulley anchor and rigging arrangements, including the use of safety slings;
    - (v). measures to ensure that winch ropes are used within the design capacity;
    - (vi). winch starter box location to ensure ease of operation by the operator; and
    - (vii). the moving and transport of winches from one location to another.

[Reg. 8.4 inserted by GNR.1225 of 2005.]

## 8.5 Lifting Equipment Regulations

### Definitions

For purposes of regulation 8.5, unless the context otherwise indicates-

**'Lifting equipment,'** means any equipment or machine or arrangement of equipment or machines intended or used for the lifting, lowering, suspension, or moving in suspension of any person or load.

**'Lifting tackle,'** means any attachment, including anchoring points, used to secure lifting equipment or a load to lifting equipment.

- (1) The *employer* must take reasonable measures to ensure that no person is injured due to the failure of any lifting equipment or lifting tackle as a result of:
  - (a) incorrect design for the intended application;
  - (b) incorrect installation; or
  - (c) insufficient maintenance.
- (2) The *employer* must take reasonable measures to ensure that the installation, use (including the transport of persons), maintenance, inspection, testing and keeping of records of lifting equipment and lifting tackle are done in accordance with a written operating procedure prepared and implemented for that purpose.
- (3) The *employer* must take *reasonably practicable* measures to ensure that:
  - (a) only lifting equipment and lifting tackle with a minimum factor of safety of four (4) is used;
  - (b) lifting equipment and lifting tackle are not used beyond their design capacity; and
  - (c) the safe working load of any lifting equipment and lifting tackle is conspicuously and clearly marked or indicated thereon.
- (4) Notwithstanding regulation 8.5(2), the *employer* must take *reasonably practicable* measures to ensure that the following lifting tackle has a minimum factor of safety of:
  - (a) ten (10) for natural fibre ropes;
  - (b) six (6) for steel wire ropes, man-made fibre ropes and textile webbing; and
  - (c) four (4) for high tensile steel chains.
- (5) The *employer* must take reasonable measures to ensure that only persons authorised in writing by the *employer* to do so, operate lifting equipment and lifting tackle.

- (6) The *employer* must take *reasonably practicable* measures to ensure that the lifting equipment used at the mine is designed and manufactured in accordance with an appropriate standard.

[Reg. 8.5(6) amended by Reg. 1 of GNR.90 of 2008.]

- (7) The following regulations promulgated under Minerals Act, 1991 (Act 50 of 1991) in force in terms of item 4 of Schedule 4 of the Act, are hereby repealed-

<b>Chapter 6</b>	<b>Chapter 16</b>	<b>Chapter 19</b>
6.1.1	16.98	19.1
6.1.2	16.98.1	19.2.1
6.1.3	16.98.2	19.2.2
6.2.1	16.98.3	19.3.1
6.2.2	16.98.4	19.3.2
6.2.3	16.98.5	19.3.3
6.2.4.	16.99	19.3.4
6.2.5	16.100	19.4
6.3.1	16.101	19.5
6.3.2	16.102	19.6
6.3.2.1	16.103	
6.3.2.6	16.103.1	
6.3.2.7	16.103.2	
6.3.2.8	16.104	
6.3.2.12		
6.3.3.1		
6.3.3.2		
6.3.3.3		
6.3.3.4		
6.3.3.5		
6.3.3.6		
6.9		
6.11		

[Reg. 8.5 inserted by GNR.1225 of 2005 and Reg. 8.5(7) deleted and substituted by Reg. 2 of GNR.90 of 2008]

## 8.6 Fans

### Definitions

For purposes of regulation 8.6, unless the context otherwise indicates-

**'booster fan'** means a fan installed underground in the main air stream or in a split of the main air stream to assist the main fan to increase airflow and/or overcome resistance through a section of a mine.

**'main fan'** means a fan that controls the entire air flow of a mine, or the airflow of one or more of the major air circuits.

- (1) The *employer* must take reasonable measures to ensure that combustible materials, explosives or natural vegetation are not located so near to fan installations and its switch-gear used for underground ventilation, that if such combustible materials, explosives or natural vegetation catch fire, there is a significant risk to the supply of clean air to any underground *working place* as a result of-
  - (a) the fan installation or its switch-gear being damaged; or
  - (b) smoke or fumes being drawn into any *working place*.
- (2) The *employer* must ensure, where a significant risk of an explosion of flammable gas or coal dust exists, that measures are in place to ensure that there is always a supply of clean air to all underground working places. Such measures must include-
  - (a) installing the main fan on surface;
  - (b) providing an effective means of protecting the main fan against damage caused by explosion;
  - (c) ensuring the main fan is readily accessible to effect emergency repairs; and
  - (d) having a back up system in place to provide clean air should the main fan become inoperative.
- (3) The *employer* must ensure, as far as *reasonably practicable*, that every main fan is provided with-
  - (a) an automatic means of alerting a responsible person should it stop or cease to operate;
  - (b) an effective means of giving early warning of defective operation;
  - (c) a power supply from two different sources or networks, which can include an emergency supply alternator / generator, for power supply in the event of an interruption to the normal power supply; and
  - (d) an effective means for safe entrance to and exit (escape) from the main fan housing.

- (4) The *employer* must take reasonable measures to ensure that a competent person examines every main and booster fan for effective operation, internally and externally, together with all appurtenant components that are necessary for the operation of the fan, at intervals not exceeding three months, or any other lesser interval determined by the mine's hazard identification and risk assessment in terms of section 11.
- (5) The *employer* must keep records of all examinations conducted in terms of regulation 8.6(4), including remedial measures taken, for a period of at least the most recent ten years of the fan installation.
- (6) The *employer* must take reasonable measures to ensure that all main and booster fans are installed, operated and maintained in accordance with a written procedure prepared and implemented for that purpose.

[Reg. 8.6 inserted by GN.911 of 2006.]

## **8.7 Refrigeration and Air-Conditioning Installations**

- (1) The *employer* must take reasonable measures to ensure that all refrigeration or air-conditioning installations at the mine comply with the requirements of the South African Bureau of Standards Code of Practice - SANS 10147, 'Refrigerating systems including plants associated with air-condition systems' (2002: 4th ed) with respect to its safety, construction, erection, operation, inspection and testing.
- (2) The *employer* must take reasonable measures to ensure that a competent person examines and operationally tests the entire refrigeration system as contemplated in SANS 10147, excluding pressure relief devices, at least once every 3 (three) months.
- (3) Regulation 8.7(1) and 8.7(2) do not apply to any-
  - (a) household refrigerator;
  - (b) water cooler or similar equipment that contains less than 1 kg of refrigerant;
  - (c) unit type display counter or any commercial refrigerator that contains less than 15 kg of a group 1 refrigerant; and
  - (d) refrigeration plant that requires a prime mover of less than 10 kW or less.
- (4) Despite Regulation 8.7(3) the clauses in SANS 10147 that refer to the Montreal Protocol apply to all air-conditioning and refrigeration equipment.
- (5) The normative references in the above standard of SANS 10147 are not applicable to the *employer*.

- (6) The following regulations made under the Minerals Act, 1991 (Act No. 50 of 1991) in force in terms of Schedule 4 of the Act are hereby repealed-

<b>Chapter 10</b>	<b>Chapter 23</b>
10.13	23.15.1
10.13.1	23.15.2
10.13.2	23.15.3
10.13.3	23.15.4
10.13.4	23.15.5
10.14	23.15.6
10.14.1	23.15.7
10.14.2	23.15.8
10.14.3	23.15.9
	23.15.11
	23.15.12
	23.15.13
	23.15.14
	23.15.15
	23.15.16

[Reg. 8.7 inserted by GN.911 of 2006.]

## **8.8 General Machinery Regulations**

- (1) The employer must take *reasonably practicable* measures to prevent persons from being injured as a result of them, the clothes being worn by them or any equipment being held by them coming into contact with or being drawn into any moving part of any machine.
- (2) The employer must take *reasonably practicable* measures to prevent persons from being injured because of any machinery failing as a result of-
  - (a) incorrect design;
  - (b) incorrect installation;
  - (c) poor maintenance; or

- (d) incorrect use or non-compliance with proper operating or safety procedures.
- (3) The measures to be taken by the *employer* in terms of regulation 1 must include measures to ensure that-
- (a) only persons authorised by the *employer* to do so, start, operate and maintain any machine where such starting, operation or maintenance may pose a significant risk to any person;
  - (b) where the moving of machinery may pose a significant risk to any person, such machinery is only moved under the constant supervision of a competent person who is fully aware of the risks attached to such moving of the machinery;
  - (c) only persons authorised by the *employer* to do so enter any area where machinery is operated, where such operation may pose a significant risk to any person;
  - (d) machinery is only operated if all installed safety devices are operational and functional;
  - (e) persons in close proximity to moving parts of machinery do not wear or are not permitted to wear clothing or anything else that can be caught in such moving parts;
  - (f) where the unexpected moving of any machinery or any part of any machinery could pose a significant risk to any person, appropriate pre-start warning devices, such as audible warning devices, the delay time must be determined by risk assessment with a minimum of a ten second time delay, are fitted to such machinery and used to warn persons that such machinery is about to be set in motion;
  - (g) where there could be a significant risk to any person working on any machinery due to the release from such machine of any mechanical, electrical, hydraulic, chemical or other source of energy, a written lockout procedure is prepared and implemented to ensure that such source of energy is effectively locked out and de-energised before any person works on such machinery;
  - (h) access scaffolding is erected, used, maintained and dismantled safely and in accordance with SANS Standard 10085-1:2004 'The design, erection, use and inspection of access scaffolding';
  - (i) means are provided, on or in close proximity to any machine, to immediately remove the source of power to that machine in case of an emergency;
  - (j) where the starting of machines are interlocked, no unintended starting of any of those machines can take place;
  - (k) starting devices are so arranged that no accidental starting of machinery can take place; and

- (I) all electrical, pneumatic and hydraulic portable equipment are operated and maintained in a safe working order.
- (4) The measures to be taken by the *employer* to prevent any person from coming into contact with any moving part of machinery or any equipment attached thereto, must include-
- (a) effective physical barriers at the machinery such as screening, guarding or fencing; or
  - (b) failsafe electric or electronic barriers interlocked with the machinery in such a way that the machinery would be stopped before persons come into contact with moving machinery or parts thereof; or
  - (c) effective barriers at a safe distance away from any machinery.
- (5) The *employer* must take *reasonably practicable* measures to ensure that-
- (a) When a compression ignition engine system is found to have any defect which may cause a significant risk to the safety or *health* of persons, the use of such engine system is discontinued immediately;
  - (b) all services, maintenance and repairs to diesel-powered equipment are performed by a competent person;
  - (c) all areas where diesel fuel is stored and where fuelling is carried out are clearly marked and that measures are in place to prevent spillage, contamination and fire, including that-
    - (i). diesel engine fuel is delivered underground in such a way that no spillage takes place during delivery;
    - (ii). when fuel is piped underground fuel delivery pipes are drained each time after use;
    - (iii). fuel is stored underground only in non-flammable robust containers which do not leak; and
    - (iv). the quantity of fuel stored underground is limited to 3 (three) days' estimated consumption.
- (6) The *employer* must take *reasonably practicable* measures to ensure that every mobile diesel engine powered unit, when not in use, is kept at a location that is sufficiently ventilated to prevent a build up of diesel fumes in the air at that location sufficient to cause a significant risk when starting up that engine.
- (7) The *employer* must take *reasonably practicable* measures to ensure that all areas where diesel fuel is stored are clearly indicated on the mine's rescue plan contemplated in regulation 17(19).

[Reg. 8.8 inserted by GNR.93 of 2008.]

## 8.9 Conveyor belt

### Definitions

For purposes of regulation 8.9, unless the context otherwise indicates-

**'conveyor belt installation'** means a mechanical system used for the transportation of minerals, material, or persons on a belt;

**'designated sections'** means the drive section, take up tension section, snub pulley sections, transfer point sections and tail pulley sections;

[Definition of 'designated sections' inserted by GNR.622 of 2013.]

**'power supply'** means any energy source feeding the drive motor of a conveyor belt installation;

(1) In compliance with regulation 8.8(1) the *employer* must ensure that-

(a) the designated sections of a conveyor belt installation are to be guarded, as per regulation 8.8(4) and not cleaned when any of its parts are in motion; provided that washing with pressurised water from a safe distance outside the guarded area may be carried out, subject to regulation 8.9(1)(i);

[Para. 8.9(1)(a) substituted by GNR.622 of 2013.]

(b) the power supply and all sources of stored energy of a stationary conveyor belt installation are isolated, made safe and locked-out during either repairs, maintenance or cleaning of spillage in the designated sections; provided that the alignment and training of a conveyor belt installation may be carried out whilst the belt is in motion subject to it being carried out in accordance with a procedure prepared and implemented for this purpose;

[Para. 8.9(1)(b) substituted by GNR.622 of 2013.]

(c) the driving machinery of the conveyor belt installation can be stopped by any person from any point along its length where access to the belt is possible;

(d) the driving machinery of the conveyor belt installation is stopped should the belt break, jam or slip excessively;

(e) persons are prevented from entering any side of a conveyor belt installation, unless means have been provided to do so safely;

[Para. 8.9(1)(e) substituted by GNR.622 of 2013.]

- (f) one or more devices are fitted and used to give all persons at any point where access to the conveyer belt installation is possible sufficient prior warning for a period to be determined by the mines risk assessment with a minimum period of 10 seconds that any part of such a conveyer belt installation is about to be put into motion;
- (g) the take up or belt tensioning device will not move when repairs, routine cleaning, cleaning of spillage, maintenance at the belt tensioning device or belt splicing is carried out;

[Para. 8.9(1)(g) substituted by GNR.622 of 2013.]

- (h) where two or more conveyor belt installations are used in series, sequence interlocking is provided which automatically will, except when approved maintenance specific procedures are carried out that require an independent conveyor test run-
  - (aa) stop all conveyor belt installations feeding a conveyor belt installation that has stopped; and
  - (bb) prevent a conveyor belt installation from starting until the conveyor belt installation onto which it feeds is running;

[Para. 8.9(1)(h) substituted by GNR.622 of 2013.]

- (i) Only persons authorised to do so by the *employer* operate, maintain, clean and repair a conveyor belt installation; and provided that any routine cleaning outside the designated sections of the conveyor section of the belt is carried out in accordance with a procedure prepared and implemented for this purpose;

[Para. 8.9(1)(i) substituted by GNR.622 of 2013.]

- (j) the belt of any conveyor belt installation is installed in such a way that no uncontrolled run away can occur; and

[Para. 8.9(1)(j) substituted by GNR.622 of 2013.]

- (k) the overall structural design of every conveyor belt installation is approved by a competent person.

- (2) The *employer* must take *reasonably practicable* measures to prevent persons from being injured by material or mineral falling from a conveyor belt installation, which measures must include the fitting and use of one or more devices to prevent run-back or run-on when such conveyor belt installation is stopped.

[Sub-reg. (2) previously (3), renumbered and substituted by GNR.622 of 2013.]

- (3) The *employer* must take *reasonably practicable* measures to prevent persons from being exposed to flames, fumes or smoke arising from a conveyor belt installation catching fire, including instituting measures to prevent, detect and combat such fires.

[Sub-reg. (3) previously (4), renumbered and substituted by GNR.622 of 2013.]

- (4) The *employer* must take *reasonably practicable* measures to prevent persons from being injured as a result of the breaking, misalignment or damage of conveyor belting due to any mineral, material or coal dust accumulating on or around the moving parts of any conveyor belt installation.

[Sub-reg. (4) previously (5), renumbered and substituted by GNR.622 of 2013.]

- (5) The *employer* must take *reasonably practicable* measures to prevent persons at or near conveyor belt installations from being injured due to lightning directly or indirectly striking the installation.

[Sub-reg. (5) previously (6), renumbered and substituted by GNR.622 of 2013.]

- (6) The *employer* must take *reasonably practicable* measures to ensure that the use, operation and inspection of man-riding conveyors comply with SANS 10266: 2006 - Edition 1 'The safe use, operation and inspection of man-riding belt conveyors in mines'.

[Sub-reg. (6) previously (7), renumbered and substituted by GNR.622 of 2013.]

- (7) The normative references in SANS 10266: 2006 are not applicable to the *employer*.

[Sub-reg. (7) previously (8), renumbered and substituted by GNR.622 of 2013.]

- (8) The *employer* must take reasonable measures to ensure that the functionality of the devices contemplated in regulation 8.9(1)(c) and (f) and of any other safety devices relating to the conveyor belt installation are tested-
- (a) once a week not exceeding ten days, where such devices are in the designated sections;
  - (b) every three months where such devices are outside of the designated sections; and
  - (c) immediately after any belt extension or shortening thereof has taken place.

[Sub-reg. (8) previously (9), renumbered and substituted by GNR.622 of 2013.]

- (9) The *employer* must ensure that a written procedure is prepared and implemented for conveyor belt splicing, joining and repairing and for the safe use of chemicals during such splicing, joining and repairing.

[Reg. 8.9 inserted by GNR.93 of 2008 and Sub-reg. (9) previously (10), renumbered and substituted by GNR.622 of 2013.]

[Chapter 8 inserted by GNR.1579 of 2002.]

## 8.10 Trackless Mobile Machinery

### Definitions

For purposes of regulation 8.10, unless the context otherwise indicates-

**'Braking System'** means a device or combination of devices capable of reducing the speed of a **trackless mobile machine** to a standstill;

**'Combined Braking Systems'** means a braking system consisting of a service brake and at least one of the following: either a park brake or an emergency brake;

**'Emergency Brake'** means an easily accessible device, which when applied, will bring the trackless mobile machine to a standstill under all operating and emergency conditions;

**'Fail to Safe'** means so designed as to activate and effectively perform its intended function without harm to persons and without human intervention;

**'Park Brake'** means a brake capable of holding fully loaded, parked trackless mobile machine stationary, at the maximum safe operating gradient, without the support of any other braking system;

**'Remote Controlled'** means the control and operation of a trackless mobile machine by an operator, by means of a wireless remote control device or a remote control device by means of a cable system, where the operator has direct physical sight of the trackless mobile machine;

**'Service Brake'** means the primary operating brake capable of retarding and stopping the fully loaded trackless mobile machine;

**'Static Test'** means a test carried out to determine the compliance of the brake holding power of a trackless mobile machine measured against the design specification or an appropriate safety standard;

**'Trackless Mobile Machine'** means any self-propelled mobile machine that is used for the purpose of performing mining, transport or associated operations underground or on surface at a mine and is mobile by virtue of its movement on wheels, skids, tracks, mechanical shoes or any other device fitted to the machine, but excludes rail bound equipment, scraper winches, mono rail installations, static winches, draglines, winding machinery installations, track mounted conveyors and any equipment attached thereto;

**'Trailer'** means any vehicle that is not self-propelled and needs to be towed by a trackless mobile machine by design.

## Regulations

### Collisions between trackless mobile machines and pedestrians

#### 8.10.

- (1) The *employer* must take *reasonably practicable* measures to ensure that pedestrians are prevented from being injured as a result of collisions between trackless mobile machines and pedestrians. At any mine where there is a significant risk of such collisions, such measures must include at least the following:
  - (1.1) All electrically or battery powered trackless mobile machines, excluding shovels, bucket wheel excavators and overburden drills, must be provided with means to automatically detect the presence of any pedestrian within its vicinity. Upon detecting the presence of a pedestrian, the operator of the trackless mobile machine and the pedestrian must be warned of each other's presence by means of an effective warning. In the event where no action is taken to prevent potential collision, further means must be provided to retard the trackless mobile machine to a safe speed whereafter the brakes of the trackless mobile machine are automatically applied without human intervention.
  - (1.2) All underground diesel powered trackless mobile machines must be provided with means:
    - (a) to automatically detect the presence of any pedestrian within its vicinity. Upon detecting the presence of a pedestrian, the operator of the diesel powered trackless mobile machine and the pedestrian shall be warned of each other's presence by means of an effective warning; and
    - (b) in the event where no action is taken to prevent potential collision, further means shall be provided to retard the diesel powered trackless mobile machine to a safe speed whereafter the brakes of the diesel powered trackless mobile machine are automatically applied. The prevent potential collision system on the diesel powered trackless mobile machine must fail to safe without human intervention.

[Reg. 8.10.1.2(b) added by GNR.125 of 2015.]

### Collisions between diesel powered trackless mobile machines

- (2) The *employer* must take *reasonably practicable* measures to ensure that persons are prevented from being injured as a result of collisions between diesel powered trackless mobile machines. At any opencast or open pit mine where there is a significant risk of such collisions, such measures must include:

- (2.1). Every diesel powered trackless mobile machine must be provided with means to automatically detect the presence of any other diesel powered trackless mobile machine within its vicinity; and
- (a) upon detecting the presence of another diesel powered trackless mobile machine, the operators of both diesel powered trackless mobile machines shall be warned of each other's presence by means of an effective warning; and
  - (b) in the event where no action is taken to prevent potential collision, further means shall be provided to retard the diesel powered trackless mobile machine to a safe speed where after the brakes of the diesel powered trackless mobile machine are automatically applied. The prevent potential collision system on the diesel powered trackless mobile machine must 'fail to safe' without human intervention.

[Reg. 8.10.2.1(b) added by GN R125 of 2015.]

#### **Collisions between trackless mobile machines and rail bound equipment**

- (2.2). The *employer* must take *reasonably practicable* measures to ensure that persons are prevented from being injured as a result of collisions between trackless mobile machines and rail bound equipment. At underground operations where there is a significant risk of such collisions, such measures must include warning the operators of the trackless mobile machine and the locomotive of each other's presence by means of an effective warning.

#### **Trackless mobile machines running uncontrolled**

- (3) The *employer* must take *reasonably practicable* measures to prevent trackless mobile machines running uncontrolled.

#### **Overturning of any trackless mobile machine**

- (4) The *employer* must take *reasonably practicable* measures to ensure that persons are prevented from being injured as a result of overturning of any trackless mobile machine. Roll overprotection structures must be fitted on trackless mobile machines if required in terms of the mine's risk assessment.

#### **Objects falling onto operators and/or passengers of trackless mobile machines**

- (5) The *employer* must take *reasonably practicable* measures to ensure that persons are prevented from being injured as a result of objects falling onto operators and/or passengers of trackless mobile machines. Trackless mobile machines must be fitted with falling object protection structures to protect operators and passengers from falling objects if required in terms of the mine's risk assessment.

**Persons inadvertently falling out of or being ejected from trackless mobile machines**

- (6) The *employer* must take *reasonably practicable* measures to ensure that persons are prevented from being injured as a result of operators and/or passengers inadvertently falling out of or being ejected from any trackless mobile machine in motion.

**Braking systems**

- (7) The *employer* must take *reasonably practicable* measures to ensure that persons are prevented from being injured as a result of brake failure. Such measures must include ensuring:
- (7.1). that trackless mobile machines are operated with adequate and effective braking systems;
  - (7.2). all braking systems are adequately and routinely tested for intended functionality;
  - (7.3). all braking systems are regularly maintained; and
  - (7.4). that where a combined braking system is used, the design of the braking system is such that it complies with the requirements for the separate systems and that it fails safe.

**Restricted operator visibility**

- (8) The *employer* must take *reasonably practicable* measures to ensure that persons are prevented from being injured as a result of restricted operator visibility.

**Fatigue while operating a trackless mobile machine**

- (9) The *employer* must take *reasonably practicable* measures to ensure that persons are prevented from being injured as a result of fatigue of operators. Such measures must include a fatigue management procedure for operators.

**Battery charging facilities**

- (10) The *employer* must take *reasonably practicable* measures to ensure that battery charging facilities are economically designed, constructed and equipped with the following:
- (i). Adequate through ventilation;
  - (ii). (Adequate fire suppression equipment;
  - (iii). (Effective provisions to treat persons in the event of acid spillage; and
  - (iv). Appropriate and adequate lighting.

### **Diesel refuelling facilities**

- (11) The *employer* must take *reasonably practicable* measures to ensure that diesel refuelling facilities are ergonomically designed, constructed and equipped with the following:
- (i). Adequate through ventilation;
  - (ii). Adequate fire suppression equipment;
  - (iii). Effective provisions to cater for oil and diesel spillages; and
  - (iv). Appropriate and adequate lighting.
  - (v). Surface diesel refuelling facilities are in accordance with:
    - (a) SANS 10089-1 (2008): The petroleum industry Part 1: Storage and distribution of petroleum products in above-ground bulk installations.
    - (b) SANS 10089-2 (2007): The petroleum industry Part 2: Electrical and other installations in the distribution and marketing sector.
    - (c) SANS 10089-3 (2010): The petroleum industry Part 3: The installation, modification, and decommissioning of underground storage tanks, pumps/dispensers and pipe work at service stations and consumer installations.

### **Wheels, tyres and rims**

- (12) The *employer* must take *reasonably practicable* measures to ensure that procedures are prepared and implemented to prevent persons from being injured as a result of the use, storage and handling of wheels, tyres and rims.

### **Access of persons to and from the trackless mobile machines**

- (13) The *employer* must take *reasonably practicable* measures to ensure that trackless mobile machines are designed, constructed and maintained such that persons getting on and off, or working on them can do so safely.

### **Visibility of trackless mobile machines, skid mounted machinery and trailers to persons**

- (14) The *employer* must take *reasonably practicable* measures to ensure that trackless mobile machines, skid mounted machinery and trailers are visible to persons in their vicinity.

### **Unauthorised access to or operation of trackless mobile machines**

- (15) The *employer* must take *reasonably practicable* measures to ensure that unauthorised persons do not ride on or operate trackless mobile machines.

### **Isolation and lock-out of trackless mobile machines**

- (16) The *employer* must take *reasonably practicable* measures to ensure that procedures are prepared and implemented for the safe isolation and lockout of trackless mobile machines.

### **Operating procedures**

- (17) The *employer* must take *reasonably practicable* measures to ensure that procedures are prepared and implemented for the safe operation of trackless mobile machines.

### **Maintenance standards and procedures**

- (18) The *employer* must take *reasonably practicable* measures to ensure that procedures and standards are prepared and implemented for maintaining trackless mobile machines in a safe operating condition.

### **Remote and remotely controlled trackless mobile machines**

- (19) The *employer* must take *reasonably practicable* measures to ensure that remote control devices for trackless mobile machines using a wireless remote control device comply with:
- (a) SANS 61000-4-2 (IEC 61000-4-2) Electrostatic immunity discharge test;
  - (b) SANS 61000-4-3 (IEC 61000-4-3) Radiated, radio frequency, electromagnetic field immunity test;
  - (c) SANS 61000-4-4 (IEC 61000-4-4) Electrical fast transient/burst immunity test;
  - (d) SANS 61000-4-5 (IEC 61000-4-5) Surge immunity test;
  - (e) SANS 61000-4-6 (IEC 61000-4-6) Immunity to conducted disturbances, induced by radio-frequency fields;
  - (f) SANS 61000-4-8 (IEC 61000-4-8) Power frequency magnetic field immunity test; and
  - (g) SANS 61000-4-11 (IEC 61000-4-11) Voltage dips, short interruptions and voltage variations immunity test.

### **Trailers**

- (20) The *employer* must take *reasonably practicable* measures to ensure that:
- (a) the design and construction of any trailer is in accordance with specifications approved by a competent person, which specifications must take into account the intended use of the trailer;
  - (b) the design and construction of trailer coupling and uncoupling mechanisms is such that coupling and uncoupling can be done safely and that no inadvertent uncoupling of the trailer can take place; and
  - (c) procedures are prepared and implemented for the safe operation of trailers.

### **Towing and recovery of trackless mobile machines**

- (21) The *employer* must take *reasonably practicable* measures to ensure that procedures are prepared and implemented for the safe recovery and towing of trackless mobile machines.

### Roadway conditions

(22) The *employer* must take *reasonably practicable* measures to ensure that the design, construction and maintenance of roadways are appropriate for the type and category of trackless mobile machine.

### Selection, training, appointment and licensing of trackless mobile machine operators

(23) The *employer* must take *reasonably practicable* measures to ensure that procedures are prepared and implemented for the selection, training, appointment and licensing of trackless mobile machine operators, which procedures must include:

(23.1) physical and psychological pre-selection criteria;

(23.2) a training programme for trackless mobile machine operators, covering:

- (i). theoretical training in a training Centre;
- (ii). practical training; and
- (iii). on the job training.

(23.3) assessment of the trainee, on successful completion of the training programme, by a competent person;

(23.4) that only operators, assessed to be competent are authorised in writing by the responsible engineer to operate trackless mobile machines;

(23.5) that operators of trackless mobile machines are authorised in writing by their supervisor to operate trackless mobile machines. Such authorisation must detail their duties, responsibilities, limitations and areas of operation;

(23.6) when an operator has not operated a trackless mobile machine for a period of two years, such operator is re-assessed to be competent by a competent person prior to being issued with a new licence.

(23.7) that every operator of trackless mobile machines is issued with a licence containing at least the following:

- (i). a photograph to positively identify the operator;
- (ii). the trackless mobile machine types which the operator may operate;
- (iii). date of issue and expiry date; and
- (iv). the operator's company identification number.

### **Pre-use inspection procedures**

- (24) The *employer* must take *reasonably practicable* measures to ensure that procedures are prepared and implemented for inspecting trackless mobile machines immediately prior to use, which procedures must include:
- (24.1). that the operator of the trackless mobile machines physically inspects and ensures that the brakes, lights and any other defined safety features and devices are functioning as intended prior to setting such trackless mobile machines in motion;
  - (24.2). pre-use check lists that have to be completed by all operators of trackless mobile machines at the beginning of their shift. Such check lists must clearly identify all the components, features and functionalities to be inspected by the operator. For each component, feature or functionality, the check list must clearly indicate the pre-established criteria under which the trackless mobile machines may or may not be put in motion.

### **Reversing over the edge of a stockpile**

- (25) The *employer* must take *reasonably practicable* measures to prevent any trackless mobile machine reversing over the edge of a stockpile or dump.

### **Inadvertent movement of the trackless mobile machine**

- (26) The *employer* must take *reasonably practicable* measures to prevent inadvertent movement of any trackless mobile machine whilst parked.

### **Mandatory carrying of licence**

- (27) All operators of trackless mobile machines must have their originally issued licence on their person whilst operating any trackless mobile machine.

### **Certain regulations not applicable**

- (28) Regulations 8.10.23 and 8.10.27 do not apply to trackless mobile machines licensed under the National Road Transportation Act 2000 and not used for primary mining activities.

[Regulation 8.10 inserted by GNR.125 in Government Gazette 38493]

[Regulation 8.10 has commenced on 27 May 2015, except sub-regulations 8.10.1.2(b) and 8.10.2.1(b)]

## 8.11 Lifts

### Definitions

For purposes of regulation 8.11, unless the context otherwise indicates-

**'Lift'** means any installation used or intended to be used for the conveyance of persons, material, explosives or minerals by means of a car fitted with safety catches running on fixed solid guides and serving defined levels, where the control system of the driving machine is not normally operated manually from the motor or engine room;

**'Material'** means whatever may be conveyed by means of a winding plant, lift or self-propelled mobile machine, excluding persons, minerals and explosives;

**'Explosive'** means-

- (a) a substance, or mixture of substances, in a solid or liquid state, which is capable of producing an explosion;
- (b) a pyrotechnic substance in a solid or liquid state, or a mixture of such substances, designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as the result of non detonative self-sustaining exothermic chemical reaction, including pyrotechnic substances which do not evolve gases;
- (c) any article or device containing one or more substances contemplated in paragraph (a); or
- (d) any other substance or article which the relevant Minister may from time to time by notice in the Gazette declare to be an explosive in terms of the Explosive Act, Act 15 of 2003;

**'Recoverable recordable system'** means any recordable system that will retain the data captured therein indefinitely and which-

- (a) captures the time and date of every entry, name and signature of every person making an entry;
- (b) allows for the retrieving of all data captured;
- (c) incorporates measures to prevent unauthorised changes to any captured data;
- (d) is auditable; and
- (e) in the case of an electronic system, is backed up at least weekly.

### Supervision by a competent person

- (1) The employer must take reasonable measures to ensure that lifts are installed, modified, operated and maintained under the supervision of a competent person.

**Lift particulars to be sent to the Principal Inspector**

- (2) The *employer* must take reasonable measures to ensure that the Principal Inspector of Mines is notified:
  - (a) on form DMR 298 lift particulars prescribed in Chapter 21, of the required particulars of the lift prior to the commencement of:
    - (i). its installation;
    - (ii). major modifications to the lift as defined in the relevant standard referred to in regulation 8.11.5; or
    - (iii). its decommissioning, either after having been extended, relocated or not being used for a continuous period of six (6) months.
  - (b) In writing within 30 days if any lift has been decommissioned or has not been used for more than six (6) consecutive months.

**Lift particulars to be available**

- (3) The *employer* must take reasonable measures to ensure that a copy of any notification contemplated in regulation 8.11.2 is kept readily available at the mine.

**Permit issued prior to the enactment of these Regulations to be kept**

- (4) Any *employer*, using a lift for which a permit was issued by the Principal Inspector of Mines prior to enactment of these Regulations, must take reasonable measures to ensure that such permit is kept readily available at the mine.

**Construction, installation and commissioning of lifts**

- (5) The *employer* must take reasonable measures to ensure that every lift is constructed, installed and commissioned in accordance with the following South African Bureau of Standards Specifications, where applicable:
  - (a) SANS 1545 - 1:2014 Safety rules for the construction and installation of lifts. Part 1 - Electric Lifts;
  - (b) SANS 1545 - 2:2009 Safety rules for the construction and installation of lifts. Part 2 - Hydraulic lifts;
  - (c) SANS 1545 - 5:2007 Safety rules for the construction and installation of lifts. Part 5 - Access goods only lifts;
  - (d) SANS 1545 - 6:2014 Safety rules for the construction and installation of lifts. Part 6 - Rack and Pinion lifts;
  - (e) SANS 4344:2004 Steel wire ropes for lifts-Minimum requirements;
  - (f) SANS 10360:2006 The maintenance and repair of electric and hydraulic powered lifts, escalators and passenger conveyors;
  - (g) SANS 50081-1:2004/EN 91-1:2004 Safety rules for the construction and installation of lifts Part 1: Electric lifts;
  - (h) SANS 50081-2:1998/EN 81-2:2000 Safety rules for the construction and installation of lifts Part 2: Hydraulic lifts;

- (i) SANS 50081-3:2005/EN 81-3:2000 Safety rules for the construction and installation of lifts Part 3: Electric and hydraulic service lifts; and
  - (j) SANS/ISO/TS 14798 2009 Lift (elevators), escalators and passenger conveyors- Risk analysis methodology.
- (6) The normative references in the SANS standards listed in 8.11.5 are not applicable to the **employer**.

#### **Examination and testing of lifts**

- (7) The **employer** must take reasonable measures to ensure that a written procedure is prepared by a competent person and implemented for the examination, testing, repair and maintenance of every lift. Such procedure must take into account:
  - (a) any original equipment manufacturer's recommendations;
  - (b) the relevant SANS standard; and
  - (c) the site specific risks identified in terms of the mine's risk assessment.
- (8) The procedure contemplated in regulation 8.11.7 must provide for at least the following:
  - (a) that a competent person examines and tests the entire lift installation at least once a month;
  - (b) that a competent person examines at least once a calendar week the lift installation, well, guides, ropes and rope attachments, the driving machinery, the drums, sheaves, all safety devices and appliances to identify any deterioration of the components;
  - (c) that records are kept readily available at the mine of the examinations carried out and of the competent persons who did the examinations; and
  - (d) that a recoverable recordable system is established and maintained at the mine in which is captured details of all maintenance, repairs, testing, inspections and examinations of the lift installation and of the findings, which must be captured by the competent person who undertook the maintenance, repairs, inspections or examinations within 24 hours from completion of such maintenance, repairs, inspections or examinations.
- (9) The **employer** must take reasonable measures to ensure:
  - (a) if as a result of examination, any weakness or defect is found which may pose a risk to the *health* or safety of any person, that the lift is not used until the defect has been rectified; and
  - (b) when a landing door or other gate is required to be open while a lift is being examined, serviced, or repaired or while any other work is being done in the hatchway, that an effective barrier is provided and used to prevent inadvertent access to the hatchway.

### **Operating procedure**

- (10) The **employer** must take reasonably practical measures to ensure that the simultaneous transportation of persons, equipment or material in a conveyance is carried out in accordance with an operating procedure prepared and implemented for that purpose.

### **Emergency preparedness**

- (11) The **employer** must take reasonable measures to ensure that an emergency preparedness procedure is drawn up, after consultation with the lift manufacturer, for the rescue of persons trapped in a car in a lift well.

### **Flooding of lift well**

- (12) The **employer** must take reasonable measures to ensure, where there is a risk of a lift well or shaft being flooded to a level that may pose a significant risk to persons travelling in the car, that measures are in place to prevent the car from entering any flooded area of the lift well or shaft.
- (13) The **employer** must take reasonable measures to ensure that any examination contemplated in regulation 8.11.8 is conducted in the presence of an Inspector if so requested in advance by the Principal Inspector of Mines.

[Reg. 8.11 substituted by GNR.1352 of 1998, repealed by GNR.1278 of 2006 and added by GNR.894 of 25 August 2017.]

## **8.12 Chairlifts**

### **Definitions**

For purposes of regulation 8.12, unless the context otherwise indicates-

- 'Chairlift'** means any appliance or combination of appliances, excluding endless rope haulages and monoropes, used or intended to be used for the conveyance of any load, including persons, by means of;
- (i). chairs or other means of conveyances suspended from an endless hauling rope; or
  - (ii). chairs or conveyances moved with a hauling rope or chain and running on a rope or in or on a rail circuit.

### **Supervision by a competent person**

- (1) The **employer** must take reasonable measures to ensure that the installation, modification, operation and maintenance of every chairlift is under the supervision of a competent person.

### **Chairlift Particulars to be sent to the Principal Inspector**

- (2) The **employer** must take reasonable measures to ensure that the Principal Inspector of Mines is notified:
  - (2.1). on Form DMR 299 Chairlift particulars prescribed in Chapter 21, of the required particulars of every chairlift prior to commencement of:
    - (a) its installation;
    - (b) major modifications (as defined in SANS 273:2007 Edition 1 'The design, construction, maintenance and safe operation of chairlifts in mines') to it; or
    - (c) its recommissioning, either after having been extended, relocated or not being used for a continuous period of six (6) months.
  - (2.2). in writing within 30 days if any chairlift has been decommissioned or has not been used for more than six (6) consecutive months.

### **Chairlift Particulars available**

- (3) The **employer** must take reasonable measures to ensure that a copy of the notification as contemplated in regulation 8.12.2.1 is kept readily available at the mine and is also displayed where it can be seen by users of the chairlift.

### **Permit issued prior to enactment of these Regulations to be kept and displayed**

- (4) Any **employer**, using a chairlift for which a permit was issued by the Principal Inspector of Mines prior to enactment of these Regulations, must take reasonable measures to ensure that such permit is kept readily available at the mine and that a copy of it is displayed where it can be seen by users of the chairlift.

### **Construction, installation and testing of chairlifts**

- (5) The **employer** must take reasonable measures to ensure that every chairlift is constructed, installed, maintained and tested in accordance with SANS 273:2007 Edition 1 'The design, construction, maintenance and safe operation of chairlifts in mines'.
- (6) Any **employer** intending to install a chairlift of a design not covered by the scope of SANS 273:2007 Edition 1 may only do so with permission of the Chief Inspector of Mines and subject to such conditions as may be specified.
- (7) The normative references in the SANS standards in 8.12.6 are not applicable to the **employer**.

### **Examination and testing of chairlifts**

- (8) The **employer** must take reasonable measures to ensure that a written procedure is prepared by a competent person and implemented for the examination, testing and maintenance of every chairlift. Such procedure must take into account:
- (a) any original equipment manufacturer's recommendations;
  - (b) SANS 273:2007 Edition 1 'Standard for the design, construction, maintenance and safe operation of chairlifts in mines'; and
  - (c) the site specific risks identified in terms of the mine's risk assessment.
- (9) The procedure contemplated in regulation 8.12.8 must provide for at least the following:
- (a) that a competent person examines and tests the entire chairlift installation at least once a month;
  - (b) that the chairlift installation is functionally tested and examined at least once a week by a competent person(s);
  - (c) that if as a result of examination or test any weakness or defect is found which presents a significant risk to any person, the chairlift is not used until the defect has been rectified; and
  - (d) that a lock-out procedure is in place to remove the tension on the hauling rope before any repair or replacement on the drive system is undertaken.

### **Chairlift operation**

- (10) The **employer** must take reasonable measures to ensure that only a competent person(s) operates any chairlift and does so in accordance with a written procedure prepared and implemented for this purpose. Such procedure must cover at least the following:
- (a) loading and unloading of persons and other loads;
  - (b) stopping and starting;
  - (c) investigation and reporting of malfunctioning and corrective measures to be taken;
  - (d) initial examination before commissioning; and
  - (e) emergency procedures for persons to disembark in case of a trip out.

### **Chairlift installation where other traffic exists**

- (11) The **employer** must take reasonable measures to ensure that, where a chairlift operates in the same excavation or close proximity to other traffic or moving equipment, a procedure is prepared and implemented to prevent persons from being injured by such traffic or moving equipment.

[Regulation 8.12 added by GNR.894 of 25 August 2017.]

## CHAPTER 9

### MINE ENVIRONMENTAL ENGINEERING AND OCCUPATIONAL HYGIENE

[Chapter 9 promulgated by GNR.904 of 2002 and Heading amended by GNR.907 of 2002.]

#### 9.1 Environmental Engineering

##### Use of Compressed Air

- (1) No person may use, or permit any person to use, compressed air:
  - (a) in such a manner that it might endanger the *health* or safety of any person;  
or
  - (b) to clean the body of any person or clothes being worn by any person.

##### Early Warning Systems

- (2) Where the risk assessment at the mine indicates a significant risk of a fire and/or explosion and/or toxic release, that could lead to an irrespirable atmosphere or an atmosphere immediately dangerous to life or *health*, the *employer* must provide an early warning system or systems at all working places.

##### Ventilation Control Devices

- (3) The *employer* must ensure that polymer underground ventilation control devices or appliances, which have the potential for electrical static discharge:
  - (a) comply with the SABS standard specifications 1287: Part I and Part II; and
  - (b) are of anti-static characteristics when used in working places where there is a risk of igniting gas, dust or vapour.

##### Working places where work has ceased

- (4) The *employer* must take *reasonably practicable* measures to ensure that no *employee* is exposed to any *health* hazard at, or emanating from, any *working place* where work has ceased, either temporarily or permanently.

#### 9.2 Occupational Hygiene

##### Occupational exposure to health hazards

- (1) The *employer* must ensure that the occupational exposure to *health* hazards of employees is maintained below the limits set out in Schedule 22.9(2)(a) and (b).

### **System of Occupational Hygiene Measurements**

- (2) The *employer* must establish and maintain a system of occupational hygiene measurements, as contemplated in section 12, of all working places where the following hazard limits prevail:

(a) airborne pollutants	-	particulates $\geq 1/10$ of the occupational exposure limit;
	-	gases and vapours $\geq 1/2$ of the occupational exposure limit;
(b) thermal stress	-	heat $>25,0^{\circ}\text{C}$ wet bulb and/or $>32,0^{\circ}\text{C}$ dry bulb and/or $>32,0^{\circ}\text{C}$ mean radiant temperature;
	-	cold $<10^{\circ}\text{C}$ equivalent chill temperature; and
(c) noise	-	$\geq 82\text{dBLAeq,8h}$ .

[Reference is made to the following Guidelines issued by the Chief Inspector of Mines in terms of section 9(2) of this Act-

- (i). Guideline for the Compilation of a Mandatory Code of Practice for an Occupational Health Programme on Personal Exposure to Airborne Pollutants: Ref. No. DME 16/3/2/4-A1
- (ii). Guideline for the Compilation of a Mandatory Code of Practice for an Occupational Health Programme on Personal Exposure to Thermal Stress Ref. No. DME 16/3/2/4-A2]

### **Report to Employer**

- (3) The competent person engaged by the *employer* in terms of section 12(1) must, as part of the compliance with section 12(2)(b), report to the *employer* on-
- (a) the occupational hygiene risk assessment, with specific reference to planning, design, implementation and management of occupational hygiene at the mine;
  - (b) the occupational hygiene hazards that may cause illness or adverse *health* effects to persons, assess the results in terms of the implementation of control systems and the management thereof, and recommend remedial actions to the *employer*.

### **Provision of potable and palatable water**

- (4) The *employer* must ensure that sufficient potable and palatable water, which comply with the requirements set out in Schedule 22.9(2)(c), is readily available to all employees and clearly identified as drinkable.

### **Provision and maintenance of ablution and change house facilities**

- (5) The *employer* must provide and maintain suitable and adequate:

- (a) change houses to enable employees who perform work involving hazardous substances to change into working clothes at the start of their shift and to wash themselves and change their clothes at the end of their shift;
- (b) facilities to enable employees who perform work involving hazardous substances to wash their hands and faces before eating any meals at work; and
- (c) readily available latrine facilities, within a reasonable distance from each *working place*.

#### **Working Clothes**

- (6) No *employee* may remove clothes referred to in regulation 9.2(5)(a) from the mine unless such clothes have been decontaminated.

#### **Report to Regional Principal Inspector**

- (7) The *employer* must submit to the regional principal inspector of mines, on forms 21.9(2)(a), 21.9(2)(b), 21.9(2)(c), 21.9(2)(d), 21.9.2(e) and 21.9.2(f) prescribed in chapter 21, and within 60 days from the end of the relevant reporting period as indicated on each form, reports which contain information on the airborne pollutant, thermal stress and noise aspects of the system of occupational hygiene measurements, established and maintained in terms of regulation 9.2(2).

[Reg. 9.2(7) amended by GNR.1226 of 2005]

#### **Respiratory Protective Equipment**

- (8) The *employer* must ensure that all respiratory protective equipment used at a mine, other than body-worn self-contained self rescuers, comply with the South African bureau of Standards Code of Practice, Homologation of Respiratory equipment SABS 0338.

#### **Illumination of Working Places**

- (9) The *employer* must ensure that the illumination at all working places is sufficient to enable employees, who have conformed with the requirements of the vision tests conducted in terms of the Guideline for the Minimum Standards of Fitness to Perform work at a Mine, to perform their work safely.

#### **Repeal**

The following regulations made under the Minerals Act, 1991 (Act 50 of 1991) in force in terms of Schedule 4 of the Mine Health and Safety Act, 1996 (Act 29 of 1996) are hereby repealed.

Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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## CHAPTER 10

### MISCELLANEOUS AND GENERAL PROVISIONS

[Chapter 10 promulgated by GNR.134 of 2001.]

#### 10.1 Place of an accident to be left undisturbed

- (1) When an accident causes the immediate death of any *employee*, the place where the accident occurred must not, without the consent of the Principal Inspector of Mines, be disturbed or altered before such place has been inspected by an Inspector or any other person authorised under section 49(4) by the Chief Inspector of Mines.
- (2) Regulation 10.1(1) does not apply if-
  - (a) such disturbance or alteration is unavoidable to prevent further accidents, to remove fatalities and injured employees or to rescue employees from danger; or
  - (b) the discontinuance of work at such place would seriously impede the working of the mine.

- (3) Despite regulation 10.1(1), work may be resumed at the place where the accident occurred if such inspector or other person authorised by the Chief Inspector of Mines fails to inspect the place within three days after notice of the accident has been given

## **10.2 Right to attend inspection in loco**

Any *employee* having a material interest in an accident referred to in paragraph 10.1(1) as well as that employee's representative may attend any inspection in loco conducted by an inspector but such attendance is at their own risk. In case such *employee* is, by reason of death or the severity of his/her injuries, unable to appoint any representative to attend the inspection in loco, the relatives, or in their absence the fellow employees, of such *employee* may appoint such representative.

[Chapter 10 inserted by Notice No. R134 dated 9 February 2001 and by GNR94 of 2008.]

## **10.1 Hazardous Location**

### **Definitions**

For purposes of regulation 10.1, unless the context indicates otherwise-

**'certified'** means type tested, batch tested or produced under an approved product certification scheme, as described in South African National Standard ARP 0108 'Regulatory requirements for explosion protected apparatus';

**'double protected'** means a combination of any two independent types of explosion protection in such a way that in the event of failure of one of them, the other independent second means provides the required level of protection;

**'explosion protected apparatus'** means any apparatus used in a hazardous location and selected in accordance with the guidelines as defined in the South African National Standard SANS 10108-2005, 'The classification of hazardous locations and the selection of apparatus for use in such locations' and the Aanbevole/Recommended Praktyk/Practice ARP 0108, 'Regulatory requirements for explosion protected apparatus';

**'hazardous location'** means any location where there may be a significant risk of igniting gas, dust, mist or vapour, including the following-

- (a) for underground coal mines any location where, under normal operating conditions, there is a continuous presence of flammable gas, measured at a concentration of 0,5% or more by volume in the general body of the air, including:
- (i). a return airway; and
  - (ii). any location determined by risk assessment but not less than 180 m from any working face;

- (b) for underground mines other than coal mines any location where, under normal operating conditions, there is a continuous presence of flammable gas measured at a concentration of 0,5% or more by volume in the air.
- (c) for surface mines and surface locations at all mines including offshore installations any location as identified in accordance with South African National Standard SANS 10108: 2004 (Edition 5), 'The classification of hazardous locations and the selection of apparatus for use in such locations'.

**'Light-metal'** means-

- (a) aluminium;
- (b) magnesium;
- (c) titanium; and
- (d) any alloy containing more than-
  - (i). 15 per cent aluminium by mass of the alloy;
  - (ii). 15 per cent aluminium, magnesium and/or titanium, taken together by mass of the alloy; or
  - (iii). 6 per cent magnesium and/or titanium, taken together or separately, by mass of the alloy.

- (1) The *employer* must take reasonable measures to ensure that all electrical reticulation systems used in hazardous locations are designed and selected by a competent person or under the direct supervision of such a competent person.
- (2) The *employer* must take *reasonably practicable* measures to prevent persons from being injured in any hazardous location as a result of fire, explosion or the ignition of gas, dust, mist or vapour. Such measures must ensure that-
  - (a) all hazardous locations are identified, clearly marked and recorded on a plan or register, which must be kept updated and readily available at the mine;
  - (b) only explosion protected apparatus and systems certified for use in a hazardous location in accordance with the South African National Standard ARP 0108: 2005, 'Regulatory requirements for explosion protected apparatus', are used in any hazardous location;
  - (c) the selection of explosion protected apparatus used in any hazardous location is done in accordance with SANS 10108:2005 'The classification of hazardous locations and the selection of apparatus for use in such locations'. The normative references as listed in SANS 10108 are not applicable to the *employer*;

- (d) the installation, inspection and maintenance of explosion protected apparatus used in a hazardous location is carried out in accordance with SANS 10086-1 2005 'The installation, inspection and maintenance of equipment used in explosive atmospheres Part 1: Installations including surface installations on mines' and SANS 10086-2 2004 'The installation, inspection and maintenance of equipment used in explosive atmospheres Part 2: Electrical equipment installed underground in mines' as appropriate;
- (e) any repair, overhaul or modification to any explosion protected apparatus used in any hazardous location does not alter its design characteristics and is carried out in accordance with SANS 10086-3 2005'. The installation, inspection and maintenance of equipment used in explosive atmospheres Part 3: Repair and overhaul of apparatus used in explosive atmospheres';
- (f) explosion protected apparatus used in any hazardous location is installed, maintained, repaired, overhauled, inspected and tested by a competent person;
- (g) only double protected or intrinsically safe type Ex ia explosion protected apparatus remains energized where flammable gas is present in concentrations in excess of 1.4% by volume in the air. All other explosion protected apparatus must be de-energized at flammable gas concentrations in excess of 1.4% by volume in air;
- (h) every battery operated self propelled mobile machine used in any hazardous location complies with SANS 1654: 2005 'DC powered machines for use in hazardous areas in mines';
- (i) any trailing cable used in any hazardous location is-
  - (aa) provided with a pilot circuit of intrinsically safe voltage and current which will prevent power being supplied to the cable unless the earth conductor is continuous;
  - (bb) provided with a means (system) to prevent arcing of power contacts of any plug used in conjunction with the cable while such plug is being inserted or withdrawn;
  - (cc) provided with a supply of electricity of which the earth fault current is limited to a value so that there is no significant risk of electrocution;
  - (dd) individually screened on poly phase and collectively screened on single phase power conductors; and
  - (ee) designed for being dragged across the ground;
- (j) measures are in place to verify, as far as *reasonably practicable*, that electrical circuits and components of such circuits used for explosion protected apparatus have been correctly designed, selected, installed and repaired;

- (k) only internal compression ignition engine system and machines that comply with the South African National Standard SANS 868-1-1 2005: 'Compression-ignition engine systems and machines powered by such engine systems, for use in mines and plants with explosive gas atmospheres or explosive dust atmospheres or both', Parts 1-1 or 1-2, whichever is applicable, are used in a hazardous location;
- (l) all compression ignition engines used in a hazardous location have a valid Inspection (IA) certificate for the components and the complete machine and test reports issued by an accredited testing laboratory (ATL) that must be available at the mine;
- (m) when a compression ignition engine system has any defect which may contaminate the air and cause a significant risk to the safety or *health* of persons, the use of such engine system is discontinued immediately;
- (n) all maintenance and repairs to diesel-powered equipment is performed by a competent person;
- (o) no apparatus, component or machinery made of a light metal is used in a hazardous location unless such apparatus, component or machinery is-
  - (aa) covered by a housing, sheath, cover or coating (excluding paint) that will prevent such ignition; or
  - (bb) contained, situated or used in such a manner that does not create a significant risk of such ignition; or
- (cc) complies with South African National Standard SANS 10012: 2004 'The use of light metals in hazardous locations at mines'.

[Reg. 10.1 inserted by GNR.94 of 2008.]

## **10.2 Water storage and pumping regulations**

- (1) The *employer* must take reasonable measures to ensure that no person is injured as a result of the failure of any dam wall, plug or barricade keeping back water underground due to inappropriate design, sub-standard construction, or inadequate inspection and maintenance of such dam wall, plug or barricade.
- (2) The measures to be taken by the *employer* to comply with regulation 10.2(1) above, must include measures to ensure that-
  - (a) any dam wall, plug or other barricade keeping back water underground, where the product of the capacity in cubic metres and the hydraulic head in metres of the dam storing water underground and of which they form part, exceeds 50 000, is designed by and constructed under the supervision of a competent person<sup>1</sup>;

- (b) any dam wall, plug or barricade contemplated in subregulation (a) above is maintained by a competent person<sup>2</sup>;
- (c) any dam wall, plug or other barricade keeping back water underground, where the product of the capacity in cubic metres and the hydraulic head in metres of the dam storing water underground and of which they form part, does not exceed 50 000, is designed, constructed, inspected and maintained under the supervision of a competent person<sup>2</sup>; and
- (d) all design calculations and drawings of dam walls, plugs and barricades and mine plans indicating the exact position of such dam walls, plugs and barricades are stored safely for the life of such dam walls, plugs and barricades and are readily available.

<sup>1</sup> "competent person" defined in Regulation 22.10.2(2)(a)

<sup>2</sup> "competent person" defined in Regulation 22.10.4(2)(b)

(3) The *employer* must:

- (a) Take *reasonably practicable* measures to prevent persons from being injured by the unintentional release of water and hydraulic pressure from any dam storing water underground; and
- (b) prepare and implement a procedure to prevent injury to persons involved with the installation, construction, inspection, testing and maintenance of the following hydraulic pressure systems-
  - (i). high pressure water jetting systems;
  - (ii). shaft high pressure cement columns;
  - (iii). shaft water and sludge columns;
  - (iv). dam water and sludge systems;
  - (v). mine residue discharge pumps;
  - (vi). hydraulic water accumulator systems;
  - (vii). high pressure pumping installations; or
  - (viii). backfill columns and associated equipment.

[Reg. 10.2 inserted by GNR.94 of 2008.]

### **10.3 Draw points, tipping points, rock passes and box fronts**

#### **Definitions**

For purposes of regulation 10.3, unless the context indicates otherwise-

**'box front'** means a structure installed at an opening of a rock pass to control the flow of rock, and includes bulkheads, chutes, platforms, control mechanisms, cylinders and similar accessories;

**'draw point'** means a point where rock is loaded out or allowed to flow out from an excavation;

**'rock'** means any mineral, ore and waste in solid form and coal;

'rock pass' means any inclined excavation in which any rock is transported by the force of gravity; and

'tipping point' means the upper inlet into a rock pass.

- (1) The *employer* must take *reasonably practicable* measures to ensure that:
  - (a) The designs, and any modification thereto that can change the design criteria, of structures for draw points, tipping points, rock passes and box fronts are recorded and approved in writing by a competent person; and
  - (b) the approved designs and records of approval are kept readily available at the mine for the life of such installation.
- (2) The *employer* must take *reasonably practicable* measures to ensure that:
  - (a) A competent person in writing certifies that the construction, installation and modification of draw points, tipping points, rock passes and box front structures have been done in accordance with their design criteria before they are used; and
  - (b) the written certifications contemplated in regulation 10.3(2)(a) are kept readily available at the mine for the life of the particular structure.
- (3) The *employer* must take *reasonably practicable* measures to ensure that written procedures are prepared and implemented for:
  - (a) The removal of structures for draw points, tipping points and box fronts;
  - (b) persons entering a rock pass while it contains water, mud, rock or a combination thereof;
  - (c) clearing blocked rock passes; and
  - (d) the lock-out, maintenance and rehabilitation of draw points, tipping points, rock passes and box fronts.

[Reg. 10.3 inserted by GNR.94 of 2008.]

## CHAPTER 11

### OCCUPATIONAL HEALTH

[Heading amended by GNR.786 of 2002 and by GNR.621 of 2013.]

#### 11.1 Appeal regarding finding of unfitness to perform work

An appeal under section 20(1) must be lodged with the medical inspector-

- (a) within 30 days of a decision or finding that an *employee* is unfit to perform any particular category of work;
- (b) within 90 days of the date of issue of an exit medical certificate; or

- (c) within such period as the medical inspector may allow on good cause shown.

[Regulation 11.1 promulgated by GNR.721 of 1999.]

## **11.2 Annual Medical Report**

The annual medical report contemplated in section 16(1) must include details regarding at least the following:

- (a)
  - (i). Name of mine.
  - (ii). Name, address and telephone number of the occupational medical practitioner responsible for compiling the annual medical report.
- (b) Type of mine. Commodity or commodities being mined.
- (c) Total number of employees (including contract workers) who were subject to medical surveillance in terms of section 13 during the reporting period and the total number of hours worked by those employees.
- (d) The number of initial, periodical and exit examinations conducted as part of the medical surveillance system.
- (e) An analysis of the employees' health based on the employees' records of medical surveillance, without disclosing the names of the employees.
- (f) Comments on the future direction of the medical surveillance system.
- (g) The number of employees certified for compensation for occupational diseases.

[Reg. 11.2 promulgated by GNR.1486 of 1999.]

## **11.3 Exit certificate**

The exit certificate contemplated in section 17 must include details regarding at least the following:

### **11.3.1 Particulars of mine:**

- (a) Name of mine
- (b) Types of mine commodities being mined
- (c) Postal address
- (d) Telephone number
- (e) Fax number
- (f) Name of Occupational Medical Practitioner responsible for producing the exit certificates in terms of section 17(4).

### **11.3.2 Particulars of employees:**

- (a) Name
- (b) Date of birth
- (c) Identification details: Identity number, Passport number, Industry number and company number

- (d) Date of initial medical examination.

**11.3.3 Exit medical summary:**

- (a) Date of last medical examination
- (b) Clinical comments on chest x-ray (CXY)
- (c) International Labour Organization (ILO) classification of the chest x-ray (CXR) if applicable
- (d) Lung function Testing:
  - (i). Forced Expiratory Volume in 1 second (FEV1) - actual and predic[t]able percentages
  - (ii). Forced Vital Capacity (FVC) - actual and predic[t]able percentages
  - (iii). Ratio of forced Expiratory Volume in 1 second (FEV1)/Forced Vital Capacity (FVC) expressed as a percentage
- (e) Audiometry
  - (i). Baseline Audiogram readings (measurement in dB at 0.5, 1, 2, 3, 4 KHz) in terms of regulation 11.4
  - (ii). Baseline Percentage Loss of Hearing (PLH) as contemplated in instruction 171, issued by the Compensation Commissioner in terms of the Compensation for Occupational injuries and Diseases Act, 1993
  - (iii). Exit Audiogram readings (measurement is dB at 0.5, 1, 2, 3, 4 KHz)
  - (iv). Exit PLH as contemplated in instruction 171
- (f) Biological monitoring results of the *employee*, and provide comments on abnormal results
- (g) Occupational diseases previously incurred and current including severity
- (h) Any compensation claims submitted and/or compensation received
- (i) Name and signatures of Occupational Medical Practitioner
- (j) Signature of *employee*, witness and date of receipt by *employee* of a copy of the exit certificate.

[Regulation 11.3 amended by GNR.1486 of 1999, GNR.303 of 2000 and substituted by GNR.1053 of 2010 and by GNR.621 of 2013.]

**11.4 Noise**

**System of Medical Surveillance**

- (1) The *employer* must establish and maintain a system of medical surveillance, as contemplated in section 13, of all employees in any *working place* where the equivalent, continuous A-weighted sound pressure level, normalised to an eight hour working day or a forty hour working week, is equal to or exceeds 85 dB(A).

### **Types of Audiograms**

- (2) The system of medical surveillance contemplated in regulation 11.4(1) must consist of a baseline audiogram, periodic audiograms and an exit audiogram.
- (3) A competent person must perform all audiograms.

### **Baseline Audiogram**

- (4) A baseline audiogram must be recorded before an *employee* commences employment or within 30 days of commencement of employment in any *working place* contemplated in regulation 11.4(1).
- (5) Testing for the baseline audiogram must not be done within 16 hours from when an *employee* has been exposed to an environment in which the noise level was equal to or exceeded 85 dB(A). The use of hearing protection devices to effect this attenuation will not be acceptable.
- (6) The baseline audiogram is the better of the employee's two audiograms performed on the same day and that do not differ from each other by more than 10 dB for any of the following measured test frequencies, i.e. 0.5,1,2,3, and 4 kilohertz (kHz).
- (7) If it is impossible to obtain two audiograms that comply with the requirements of regulation 11.4(6), the employees must be referred to a competent person to establish baseline-hearing levels in accordance with regulation 11.4(6).
- (8) If it is impossible for the competent person to establish baseline-hearing levels as contemplated in regulation 11.4(7), the competent person may establish baseline-hearing levels by using other techniques, such as speech reception thresholds.

### **Periodic Audiograms**

- (9) The *employer* must ensure that a periodic audiogram is obtained at least annually for all employees subject to medical surveillance in terms of regulation 11.4(1).
- (10) The periodic audiogram contemplated in regulation 11.4(9) must be performed at least 16 hours after any exposure of the employees to a noise level equal to or exceeding 85 dB(A). Use of appropriate hearing protection devices to reduce exposure will be acceptable.

### **Exit Audiogram**

- (11) In addition to the exit medical examination for the purposes of section 17, the *employer* must arrange an audiogram for every employees subject to medical surveillance in terms of regulation 11.4(1) and who is permanently transferred to a *working place* in respect of which medical surveillance is not required under regulation 11.4(1).
- (12) An audiogram conducted within the preceding six months may be used as an exit audiogram for purposes of section 17 or regulation 11.4(1).

[Reg. 11.4 promulgated by GNR.786 of 2002.]

### **Regulations for Medical Surveillance for Asbestos Dust Exposure**

#### **11.5 Asbestos Dust**

##### **System of Medical Surveillance**

- (1) The *employer* must establish and maintain a system of medical surveillance as contemplated in section 13, for all employees who perform work in any *working place* where exposure to asbestos dust occurs in excess of 50% of the OEL for asbestos dust as set out in Schedule 22.9(2)(a) and (b).

##### **Types of Examinations to be Performed**

- (2) The system of medical surveillance contemplated in regulation 11.5(1) must consist of an initial examination, periodic examinations and an exit examination.

##### **Initial Examination**

- (3) The *employer* must ensure that an initial examination is performed before an *employee* commences employment, or within 30 days of commencement of employment, in any *working place* contemplated in regulation 11.5(1). The initial examination must consist of:
  - (a) the completion of an appropriate respiratory questionnaire aimed at establishing the employee's medical profile, including current and past cardio-respiratory problems and an occupational history detailing possible exposure to asbestos dust.
  - (b) a cardio-respiratory examination, including:
    - (i). a full size chest x-ray; and
    - (ii). a lung function test.

##### **Periodic Examinations**

- (4) The *employer* must ensure that the following periodic examinations are conducted on all employees required to undergo medical surveillance in terms of regulation 11.5(1):
  - (a) a cardio-respiratory examination, including a lung function test, but excluding a chest x-ray, one year after the initial examination contemplated in regulation 11.5(3); and thereafter

- (b) a cardio-respiratory examination, at three yearly intervals, which includes:
  - (i). a full size chest x-ray; and
  - (ii). a lung function test.

#### **Exit Examination**

- (5) In addition to the exit medical examination for the purposes of section 17, the *employer* must arrange a cardio-respiratory examination for every *employee* subject to medical surveillance in terms of regulation 11.5(1) and who is permanently transferred to a *working place* in respect of which medical surveillance is not required under regulation 11.5(1).
- (6) A full size chest x-ray conducted within the preceding twelve months may be used as the exit chest x-ray for the purposes of section 17 and regulation 11.5(5).
- (7) A lung function test conducted within the preceding twelve months may be used as the lung function test for the purposes of section 17 and regulation 11.5(5).

[Reg. 11.5 promulgated by GNR.1792 of 2003]

#### **Regulations for Medical Surveillance for Coal Dust Exposure**

##### **11.6 Coal Dust**

###### **System of Medical Surveillance**

- (1)
  - (a) The *employer* must establish and maintain a system of medical surveillance as contemplated in section 13, for all employees who perform work in any *working place* where exposure to coal dust occurs in excess of 50% of the OEL for coal dust with less than 5% crystalline silica content as set out in Schedule 22.9(2)(a) and (b).
  - (b) If the crystalline silica content of the coal dust is 5% or more, the *employer* must establish and maintain a system of medical surveillance as contemplated in regulations 11.7(1) to 11.7(7):

###### **Types of Examinations to be Performed**

- (2) The system of medical surveillance contemplated in regulation 11.6(1)(a) must consist of an initial examination, periodic examinations and an exit examination.

### **Initial Examination**

- (3) The *employer* must ensure that an initial examination is performed before an *employee* commences employment, or within 30 days of commencement of employment, in any *working place* contemplated in regulation 11.6(1)(a). The initial examination must consist of:
- (a) the completion of an appropriate respiratory questionnaire aimed at establishing the employee's medical profile, including current and past cardio-respiratory problems and an occupational history detailing possible exposure to coal dust;
  - (b) a cardio-respiratory examination, including:
    - (i). a full size chest x-ray; and
    - (ii). a lung function test.

### **Periodic Examinations**

- (4) The *employer* must ensure that the following periodic examinations are conducted on all employees required to undergo medical surveillance in terms of regulation 11.6(1)(a):
- (a) a cardio-respiratory examination, including a lung function test, but excluding a chest x-ray, one year after the initial examination contemplated in regulation 11.6(3); and thereafter
  - (b) a cardio-respiratory examination, at three yearly intervals, which includes:
    - (i). a full size chest x-ray; and
    - (ii). a lung function test.

### **Exit Examination**

- (5) In addition to the ex-medical examination for the purposes of section 17, the *employer* must arrange a cardio-respiratory examination for every *employee* subject to medical surveillance in terms of regulation 11.6(1)(a) and who is permanently transferred to a *working place* in respect of which medical surveillance is not required under regulation 11.6(1)(a).
- (6) A full size chest x-ray conducted within the preceding twelve months may be used as the exit chest x-ray for the purposes of section 17 and regulation 11.6(5).
- (7) A lung function test conducted within the preceding twelve months may be used as the lung function test for the purposes of section 17 and regulation 11.6(5).

[Reg. 11.6 promulgated by GNR.1792 of 2003.]

## **Regulations for Medical Surveillance for Silica Dust Exposure**

### **11.7 Crystalline Silica Dust**

#### **System of Medical Surveillance**

- (1) The *employer* must establish and maintain a system of medical surveillance as contemplated in section 13, for all employees who perform work in any *working place* where exposure to crystalline silica dust occurs in excess of 10% of the OEL for crystalline silica dust as set out in Schedule 22.9(2)(a) and (b).

#### **Types of Examinations to be Performed**

- (2) The system of medical surveillance contemplated in regulation 11.7(1) must consist of an initial examination, periodic examinations and an exit examination.

#### **Initial Examination**

- (3) The *employer* must ensure that an initial examination is performed before an *employee* commences employment, or within 30 days of commencement of employment, in any *working place* contemplated in regulation 11.7(1). The initial examination must consist of:
  - (a) the completion of an appropriate respiratory questionnaire aimed at establishing the employee's medical profile, including current and past cardio-respiratory problems and an occupational history detailing possible exposure to silica dust.
  - (b) a cardio-respiratory examination, including:
    - (i). a full size chest x-ray; and
    - (ii). a lung function test.

#### **Periodic Examinations**

- (4) The *employer* must ensure that the following periodic examinations are conducted on all employees required to undergo medical surveillance in terms of regulation 11.7(1):
  - (a) a cardio-respiratory examination, including a lung function test, but excluding a chest x-ray, one year after the initial examination contemplated in regulation 11.7(3); and thereafter
  - (b) a cardio-respiratory examination, at three yearly intervals, which includes:
    - (i). a full size chest x-ray; and
    - (ii). a lung function test.

### **Exit Examination**

- (5) In addition to the exit medical examination for the purposes of section 17, the *employer* must arrange a cardio-respiratory examination for every *employee* subject to medical surveillance in terms of regulation 11.7(1) and who is permanently transferred to a *working place* in respect of which medical surveillance is not required under regulation 11.7(1).
- (6) A full size chest x-ray conducted within the preceding twelve months may be used as the exit chest x-ray for the purposes of section 17 and regulation 11.7(5).
- (7) A lung function test conducted within the preceding twelve months may be used as the lung function test for the purposes of section 17 and regulation 11.7(5).

[Reg. 11.7 promulgated by GNR.1792 of 2003.]

### **11.8 Reporting of Occupational Diseases**

- (1) The *employer* must report to the Principal Inspector of mines any of the following occupational diseases within 30 days from the date of diagnosis as a result of working in the mines:
  - (a) Occupational lung diseases;
  - (b) Other occupational diseases as covered by the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993) as amended ('COIDA'), or Occupational Diseases in the Mines and Works Act, 1973 (Act 78 of 1973) as amended ('ODMWA');
  - (c) Noise Induced Hearing Loss (when Percentage Loss of Hearing (PLH) shift is 5% or more);
  - (d) Other illnesses that may impact on the *health* and safety of employees, as determined through instructions by the Chief Inspector of Mines.
- (2) In reporting the reportable occupational diseases listed in regulation 11.8(1) using the form DMR 231 Health Incident Report (HIR) Form, the following must be considered-
  - (a) Occupational lung diseases
    - (i). Silicosis and Coal Worker's Pneumoconiosis (CWP)  
A radiological diagnosis of silicosis or coal-workers' pneumoconiosis that takes into account:
      - (a) History of significant exposure to airborne silica or coal dust; and
      - (b) Chest X-ray consistent with silicosis or coal-workers' pneumoconiosis; or

- (c) Lung tissue pathology consistent with silica or coal-workers' pneumoconiosis exposure where history has been done at post mortem.
  - (ii). Cardio-respiratory Tuberculosis
    - Tuberculosis affecting the respiratory organs and/or the heart muscles:
    - (a) Where an *employee* was exposed and contracted the disease while performing risk work at a mine; or
    - (b) Within 12 months after leaving employment.
  - (b) Other Occupational Lung Diseases
    - These include other occupational lung diseases with significant correlation with the risk in that particular mine which are also compensable under 'ODMWA' or 'COIDA'.
  - (c) Noise Induced Hearing Loss
    - This includes an impairment of hearing as a result of exposure to excessive noise at a mine with;
    - (i). PLH shift of more than or equal to 5% from the baseline audiometry; and
    - (ii). PLH shift of more than 5% where baseline audiometry is unknown or regarded as zero.
  - (d) Other Illnesses
    - Other illnesses that may impact on the *health* and safety of employees, as determined through instructions by the Chief Inspector of Mines. These may include lifestyle diseases such as diabetes, hypertension etc.
- (3) Occupational diseases referred to in regulation 11.8(1)(a), (b) and (c) must be reported on a prescribed form to the Principal Inspector of Mines within 30 days from the date of diagnosis; and other illnesses referred to in regulation 11.8.1(d) based on an instruction from the Chief Inspector of Mines.

[Reg.11.8 inserted by GNR.701 of 12 September 2014.]

### **11.9 Record of Hazardous Work**

- (a) An up to date copy of the employee's Record of Hazardous Work recorded in prescribed form DMR 276 must be delivered to the Medical Inspector and also attached to the Exit Certificate as contemplated in terms of section 14 of the Act.

[Reg. 11.9 inserted by GNR621 of 2013]

## **EMPLOYEE'S RECORD OF HAZARDOUS WORK**

DMR 276

SIGNATURE OF HYGIENIST/LINE MANAGER:

SIGNATURE OF EMPLOYEE.

Note: Section 14 (i) & (ii) of the Mine Health and Safety Act states that:

"(i) The employer at every mine must keep a service record in the prescribed form, of employees at the mine who perform work in respect of which medical surveillance is conducted in terms of section 13. (ii) The employer must give to the Medical Inspector a copy of the relevant part of the record kept in terms of subsection (1) – (a) when an employee whose name appears in that record ceases to be employed at that mine; or (b) when required to do so by the Chief Inspector of Mines."

[Form DMR 276 added by GNR.621 of 2013.]

## CHAPTER 12

### OFFSHORE INSTALLATIONS

[Regulations not yet promulgated]

## CHAPTER 13

### OUTLETS

[Chapter 13 promulgated by GNR.1224 of 2005.]

#### 13.1

- (1) The *employer* must prevent employees from being trapped in any underground excavation by providing whenever practicable, from every underground *working place*, two exits, each of which is connected to separate means of egress to the surface.
- (2) Where it is not practicable to provide two exits as contemplated in regulation 13.1(1) above, the *employer* must implement other *reasonably practicable* measures, determined by the mine's risk assessment, to prevent employees from being trapped in any underground excavation.

[Reg. 13.1(2) amended by Reg. 3 of GNR.90 of 2008.]

- (3) Except in the case of emergency no person may enter or leave the underground workings of a mine except by means of ingress or egress especially provided or set apart for that purpose by the *employer* unless such person is authorised to do so by the *employer*.
- (4) The following regulations promulgated under Minerals Act, 1991 (Act 50 of 1991) in force in terms of item 4 of Schedule 4 of the Act, are hereby repealed-

Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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<b>Chapter 6</b>	<b>Chapter 16</b>
6.1.1	16.98.19.1
6.1.2	16.98.119.2.1
6.1.3	16.98.219.2.2
6.2.1	16.98.319.3.1
6.2.2	16.98.419.3.2
6.2.3	16.98.519.3.3
6.2.4.	16.9919.3.4
6.2.5	16.10019.4
6.3.1	16.10119.5
6.3.2	16.10219.6
6.3.2.1	16.103
6.3.2.6	16.103.1
6.3.2.7	16.103.2
6.3.2.8	16.104
6.3.2.12	
6.3.3.1	
6.3.3.2	
6.3.3.3	
6.3.3.4	
6.3.3.5	
6.3.3.6	
6.9	
6.11	

[Reg. 13.1(4) deleted and substituted by Reg. 4 of GNR.90 of 2008.]

## CHAPTER 14

### PROTECTION OF THE SURFACE AND THE WORKINGS

[Chapter 14 promulgated by GNR.959 of 2002. Heading amended by GNR.1573 of 2002.]

#### 14.1 Entering of working places

At every underground mine where a risk of rock bursts, rock falls or roof falls exists, and at every other mine where a significant risk of rock bursts, rock falls or roof falls exists, the *employer*—

- (1) may not permit any person, other than those persons examining and making safe, to enter any of the following areas at the mine until such areas are declared safe by competent persons:
  - (a) the area between the face and the nearest line of permanent support; and
  - (b) access ways, travelling ways or places where persons need to travel or work;
- (2) must ensure that the examinations for purposes of regulation 14.1(1) are carried out as often as may be required, in terms of the mine's risk assessment, to maintain a safe working environment;
- (3) must ensure that a record of declarations contemplated in regulations 14.1(1) and 14.1(5) is kept for a period of at least three months;
- (4) must ensure that where areas contemplated in regulation 14.1(1) have not been examined, made and declared safe, persons are prevented from inadvertently entering such areas;
- (5) must ensure, if at any time a *working place* or part thereof becomes unsafe during a shift, that all persons, other than those examining and making safe, are removed from such unsafe area and are not permitted to return thereto until declared safe by a competent person;
- (6) must ensure that a quality, assurance system is in place, which ensures that the support units used at the mine provide the required performance characteristics for the loading conditions expected;
- (7) must ensure that only competent persons install, maintain and remove any support unit;

- (8) must ensure that the input of a competent person is properly and timeously considered and integrated into mine design, planning and operations.

[Reg. 14.1 inserted by GNR.959 of 2002.]

- 14.2** No person, other than those persons examining and making safe, may enter any of the areas contemplated in regulation 14.1(1) until such areas have been declared safe as contemplated in regulations 14.1(1) and 14.1(5).

[Reg. 14.2 inserted by GNR.959 of 2002.]

- 14.3** The following regulations made under the Minerals Act, 1991 (Act 50 of 1991) in force in terms of Schedule 4 of the Mine Health and Safety Act, 1996 (Act 29 of 1996) are hereby repealed.

7.1	8.4.2(a), (b) and (d)
7.2.2	8.4.3
7.4.5	8.4.4.1
8.1.1	8.4.4.2
8.1.2	8.4.4.3
8.1.3	8.4.5
8.1.5	8.8
8.1.6	8.9.1, 8.9.2
8.2	8.9.6
8.3.1	8.10.11
8.3.2	

[Reg. 14.3 inserted by GNR.959 of 2002.]

- 14.4** The *employer* must take reasonable measures to ensure where the condition at any *working place* pose or might pose a significant risk to the *health* and safety of persons resulting from an ingress of water or other fluid material likely to cause drowning, asphyxiation, inundation, physical impact, chemical exposure or being trapped, that all working places are adequately protected against such ingress of water or other fluid material.

[Reg. 14.4 inserted by GNR.1323 of 2004.]

- 14.5** The *employer* must take reasonable measures to ensure that no person is endangered by any significant risks such as falling, drowning, slipping, asphyxiation or being struck by rock or other material associated with subsidences or cavities brought about by mining operations.

[Reg. 14.5 inserted by GNR.1323 of 2004.]

**14.6** The employer must take reasonable measures to ensure that no person is endangered by any significant risks such as the collapse of surface buildings and structures thereon associated with structural failure as a result of the removal of any type of support provided for the protection of the surface of a mine or structures or objects thereon.

[Reg. 14.6 inserted by GNR.1323 of 2004.]

**14.7** The following regulations made under the Minerals Act, 1991 (Act 50 of 1991), in force in terms of Schedule 4 of the Mine Health and Safety Act, 1996 (Act 29 of 1996) are hereby repealed:—

5.1.1	5.4.5	5.6.3
5.1.2	5.4.6	5.7
5.2	5.5	5.10
5.3.3	5.6.1	
5.3.4	5.6.2	

[Reg. 14.7 inserted by GNR.1323 of 2004.]

## CHAPTER 15

### QUALIFICATIONS AND COMPETENCIES

[Heading amended by GNR.907 of 2002.]

To be promulgated

## CHAPTER 16

### RESCUE, FIRST AID AND EMERGENCY PREPAREDNESS AND RESPONSE

[Heading amended by GNR.907 of 2002 and by GNR.906 of 21 November 2014. Chapter 16 promulgated by GNR.569 of 2002.]

#### 16.1 Report to Employer Relating to Explosions, Fires and Flooding

- (1) The *employer* must ensure that a competent person reports to the *employer*, at appropriate intervals determined in accordance with the mine's risk assessment, on the adequacy of escape and rescue procedures at the mine relating to explosions, fires and flooding.

[Reg. 16.1 promulgated by GNR.904 of 2002.]

#### 16.2 Issuing of Self-Contained Self-Rescuers

##### Coal Mines

- (1) The *employer* of every coal mine must ensure that no person goes underground at the mine without a body-worn self-contained self rescuer, which complies with the South African Bureau of Standards specification SABS 1737.

##### Mines other than Coal Mines

- (2) If at any mine other than a coal mine, the risk assessment in terms of section 11 shows that there is a significant risk that employee's may be exposed to irrespirable atmospheres at any area at the mine, the *employer* must ensure that no person goes into such area without a body-worn self-contained self-rescuer, which complies with the South African Bureau of Standards specification SABS 1737.

##### Sole Allocation of a Self-Contained Self-Rescuer

- (3) Any body-worn self-contained self-rescuer supplied to any *employee*, employed in a full time capacity at the mine, in terms of subregulations 16.2(1) and 16.2(2), must be allocated to the *employee* for that employee's sole use for the duration of the deployment of that self-contained self-rescuer at the mine or until that self-contained self rescuer becomes defective and the *employee* is issued with another self-contained self-rescuer as required by these regulations.

[Reg. 16.2 inserted by GNR.569 of 2002.]

### **16.3 No Defective Self-Contained Self-Rescuer is Issued**

#### **Employer to ensure no defective self-contained self-rescuer is issued**

- (1) The *employer* must ensure that no defective self-contained self-rescuer is issued for use to any *employee* at a mine.

[Reg. 16.3 inserted by GNR.569 of 2002.]

### **16.4 Monitoring Programme**

#### **Annual testing of a Self-Contained Self-Rescuer**

- (1) The *employer* must annually have a representative sample of the self-contained self-rescuers at the mine tested by an organisation accredited to do so in terms of the South African National Accreditation System for assessment of the structural integrity and functional performance.

Such representative sample must not be less than 1% of the self-contained self-rescuers at the mine and must be representative of the age and deployment of the self-contained self-rescuers.

#### **Record keeping**

- (2) The *employer* must keep the following information, on self-contained self-rescuers at the mine, covering the preceding 24 months-
  - (a) total number and makes of self-contained self-rescuers in service at the mine;
  - (b) number and make of self-contained self-rescuers purchased by the mine in that period;
  - (c) number and make of self-contained self-rescuers withdrawn from use by the mine in that period;
  - (d) the number of shifts worked per day (1, 2 or 3);
  - (e) number of self-contained self-rescuers in daily use (average for each month);
  - (f) number of employees underground (average per shift);
  - (g) number of spare self-contained self-rescuers available (average per month);
  - (h) a tabulation of the type of defects found;
  - (i) number of self-contained self-rescuers repaired/refurbished; and
  - (j) number of self-contained self-rescuers tested in terms of regulation 16.4(1).

[Reg. 16.4 inserted by GNR.569 of 2002.]

## 16.5 Emergency Preparedness and Response

### Definitions

For purposes of regulation 16.5, unless the context indicates otherwise-

**'emergency'** means a situation, event or set of circumstances at a mine that could threaten the *health* or safety of persons at or off the mine, and which requires immediate remedial action, such as the evacuation, rescue or recovery of persons, to prevent serious injury or harm, or further serious injury or harm, to persons;

**'breathing apparatus'** means an apparatus which renders the user independent from breathing from the atmosphere for a minimum of two (2) hours.

- (1) The *employer* at every underground mine must-
  - (a) provide and maintain, readily available at the mine, mine rescue teams, consisting of at least five competent persons, per mine rescue team, in the following minimum proportions determined by the maximum number of persons who could be underground at any one time-
    - (i). where there could be between 100 and 1100 persons underground, at least 1 mine rescue team;
    - (ii). where there could be between 1101 and 3600 persons underground, at least 2 mine rescue teams;
    - (iii). where there could be between 3601 and 8100 persons underground, at least 3 mine rescue teams; and
    - (iv). where there could be more than 8100 persons underground, at least 3 mine rescue teams and at least 1 additional mine rescue team for every additional 6300 persons who could be underground;
  - (b) have readily available, at the mine for use by the rescue team members contemplated in regulation 16.5(1)(a), sufficient breathing apparatus that may be required in any emergency and which breathing apparatus must continually comply with SANS 50145:1997/EN 145:1997 'Respiratory protective devices - Self-contained closed-circuit breathing apparatus - Compressed oxygen or compressed oxygen-nitrogen type-Requirements, testing, marking';
  - (c) enter into a contract with a mines rescue service provider to co-ordinate and facilitate the provision of mine rescue teams and other services, relating to an emergency, on a co-operative basis; and
  - (d) immediately notify such mines rescue service provider should any emergency occur at the mine that may require the use of rescue team members, contemplated in 16.5(1)(a), or the use of the services of such mines rescue service provider.

- (2) For the purposes of regulation 16.5(1)(c) and (d), a mines rescue service provider must-
  - (a) be an organisation/institution which has personnel with specialist knowledge and experience in mines rescue and emergencies and which has access to rescue equipment and training facilities, including facilities for Heat Tolerance Testing, Workload Testing and Simulated Training;
  - (b) render an emergency rescue service on a co-operative basis;
  - (c) provide mines rescue services with emphasis on mobilisation of mine rescue teams, quantity or access to rescue teams, emergency communication, additional emergency resources, back up facilities and transport;
  - (d) ensure that any breathing apparatus that may be used by mine rescue teams continually complies with SANS 50145:1997/EN 145:1997 'Respiratory protective devices - Self-contained closed-circuit breathing apparatus - Compressed oxygen or compressed oxygen-nitrogen type - Requirements, testing, marking';
  - (e) ensure that their personnel is competent to check and maintain any rescue equipment used by it in accordance with the Original Equipment Manufacturer's specifications;
  - (f) test and maintain the functional performance of any other rescue equipment used by it in accordance with the Original Equipment Manufacturer's specifications; and
  - (g) ensure that the rescue team members used by them to provide mines rescue services meet the qualification requirements as prescribed in Chapter 22.
- (3) Every mines rescue service provider, referred to in regulation 16.5(2), must-
  - (a) keep a register of all persons who have been found competent to practise as a rescue team member by that mines rescue service provider;
  - (b) implement and maintain a system to issue licences to practise to persons contemplated in 16.5(3)(a) and who meet such criteria as determined by the rescue service provider, which criteria must include at least the following-
    - (i). the person has not attained the age of 46 years;
    - (ii). the person has been declared medically fit in terms of the requirements of the mine's 'Code of Practice on Minimum Standards of Fitness to Perform Work at the Mine' as may be amended from time to time, prepared in accordance with the Guideline for the Compilation of a Mandatory Code of Practice on Minimum Standards of Fitness to Perform Work at a Mine;

- (iii). the person has undergone and passed the Heat Tolerance Test, conducted in terms of Chamber of Mines of South Africa Research Organization Research Report 29/87 - 'A guide to the selection and classification of rescue brigadesmen on the basis of Heat tolerance', initially and thereafter at intervals not exceeding 24 months;
  - (iv). the person has undergone refresher-training sessions as determined by the mines rescue service provider at intervals of not more than 3 months. At least 2 of these trainings per annum must be in a mine or simulated mine, in an atmosphere filled with smoke, whilst using a breathing apparatus; and
  - (v). the person has undergone and passed the Work Load Test, conducted in terms of the Chamber of Mines of South Africa S and TS Circular 39/93 dated 5 April 1993, initially and thereafter at intervals not exceeding 12 months.
- (c) monitor compliance by persons, issued with a licence to practice by it, with the requirements contemplated in regulation 16.5(3)(b) and suspend or revoke any such licence if the person no longer meets any of those requirements, and re-issue a licence when the person again meets the requirements.
- (4) Whenever an emergency occurs at a mine that requires the deployment of mine rescue teams, the *employer* and any mines rescue service provider notified in terms of regulation 16.5(1)(d) and whose assistance has been requested, must take reasonable measures to ensure that the required mine rescue teams are deployed as soon as possible.
- (5) No *employer* or mines rescue service provider may allow any rescue team member contemplated in regulation 16.5(1)(a) to be deployed as a member of a mine rescue team during an emergency unless such rescue team member is in possession of a valid licence to practice , as contemplated in regulation 16.5(3) and has passed a pre-operational medical examination, determined by the mines rescue service provider, to ensure that the rescue team member is medically fit at the time to be so deployed.

[Reg. 16.5 inserted by GN. 86 of 2008.]

## **16.6 Refuge bays**

- (1) The *employer* of every underground mine must ensure that:
- (a) readily accessible refuge bays are provided in the underground workings of the mine; and

- (b) where a mine is required to have self-contained self rescuers in terms of regulation 16.2 above, such refuge bays are located within the limits of protection afforded by the self-contained self-rescuers in use at the mine, when being used.
- (2) The *employer* must take *reasonably practicable* measures to ensure that, having regard to the number of persons likely to be present in the area served by the refuge bay, every refuge bay complies with at least the following-
  - (a) is of sufficient size;
  - (b) is equipped with means for the sufficient supply of respirable air;
  - (c) is equipped with a sufficient supply of potable water;
  - (d) is equipped with sufficient ablution facilities;
  - (e) is equipped with sufficient illumination;
  - (f) is equipped with sufficient first aid equipment;
  - (g) is equipped with efficient means to communicate verbally to surface;
  - (h) is situated, where practicable, in an area not being used for storage of combustible material or close to such an area;
  - (i) is constructed in such a way that air containing noxious smoke, fumes or gases will not enter the refuge bay;
  - (j) a plan of the escape route is displayed in the refuge bay, indicating the position of the refuge bay in relation to the shaft or any other egress or access way to the surface;
  - (k) a sign is displayed in the refuge bay, setting out the emergency procedures to be followed in the refuge bay and relevant emergency phone numbers; and
  - (l) has a means to facilitate clear identification of the location of the refuge bay from the outside in poor visibility.
- (3) The *employer* must take *reasonably practicable* measures to ensure that every refuge bay is examined to ensure compliance with 16.6(2)(a) to (l)-
  - (a) at least once every 30 days by a person appointed in terms of regulation 2.15.1 or 2.17.1 in force in terms of item 4 of Schedule 4 of the Act or any other *employee* of a higher ranking;
  - (b) at least once every 90 days by a person appointed in terms of section 12 of the Act, or by a person who holds the Intermediate Certificate in Mine Environmental Control, issued by the Chamber of Mines of South Africa, working under the control of a person appointed in terms of section 12 of the Act.
- (4) The *employer* must take *reasonably practicable* measures to ensure that a written report on the inspection contemplated in regulation 16.6(3)(b) is provided within 7 days to the manager appointed in terms of section 3(1)(a).

[Reg. 16.6 inserted by GNR.906 of 2014.]

## CHAPTER 17

### SURVEYING, MAPPING AND MINE PLANS

[Heading amended by GNR.907 of 2002. Chapter 17 promulgated by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

#### 17.1 Definitions

In this Chapter, unless the context indicates otherwise-

**'bedded mineral deposit'** means any reef, coal seam, lode, mineral bed or fissure, which occurs conformably within its country rock and is not of a massive nature;

**'chart datum'** means the Lowest Astronomical Tide in all ports of the Republic of South Africa and Namibia as determined from time to time by the hydrographer of the South African Navy;

**'competent person'** for purposes of regulation 17(2)(a) means:

- (a) in the case of an underground mine or a surface mine where blasting takes place, a person in possession of a Mine Surveyor's Certificate of Competency issued by the Department; or
- (b) in the case of a surface mine where blasting does not take place, a person in possession of a Mine Surveyor's Certificate of Competency issued by the Department; or a person who has passed the examination for mining legislation as is required for the Mine Surveyor's Certificate of Competency issued by the Department and who is in possession of either-
  - (i). an Advanced Certificate in Mine Surveying issued by the Chamber of Mines of South Africa and who has at least three (3) years practical experience in mine surveying; or
  - (ii). a National Diploma in Mine Surveying issued by a tertiary institution accredited by the Department of Education; or
  - (iii). a person who has been assessed competent against a qualification recognised by the Mining Qualification Authority for this purpose.
- (c) in the case of mining at sea, a person in possession of a Mine Surveyor's Certificate of Competency issued by the Department; or a person who has passed the examination for mining legislation as required for the Mine Surveyor's Certificate of Competency issued by the Department and who is in the possession of either;
  - (i). a qualification in Hydrographic Surveying recognised by the Council for Professional and Technical Surveyors of South Africa for registration in the category of Technician; or

(ii). a person who has been assessed competent against a qualification recognised by the Mining Qualifications Authority for this purpose.

**'Director: Mine Surveying'** means the person appointed as such by the Department in terms of the Public Service Act of 1994;

**'fixed position'** means any point other than a survey station which is fixed within the relevant accuracy requirements for the class of survey concerned, and which is used for the purpose of locating details to be shown on plans;

**'fluid material'** means any substance, excluding gas, that has a potential to flow, including water, slimes and mud;

**'hazardous service'** means any object, structure or installation rendering a service with a potential risk to *health* or safety;

**'plan(s)'** means any plan, section or projection required to be prepared by these Regulations;

**'professional geotechnical specialist'** means a person who is registered with-

(a) the Engineering Council of South Africa as a Professional Civil Engineer and is registered in the subcategory of Geotechnical Engineering; or

(b) the South African Council for Natural Scientific Professions as a Professional Scientist in the field of engineering geology;

**'reserve land'** means any piece of land over which a servitude is registered or reserved for possible registration of a servitude in respect of roads, railways, power lines, pipe lines, conveyor lines, canals, etc;

**'restricted area'** means any area where mining is restricted due to significant risk;

**'risk assessment'** means the hazard identification and risk assessment required in terms of section 11 of the Act;

**'safety pillar'** means every portion of a reef, mineral deposit or ground left in situ for the support and protection of the surface, objects thereon or underground workings;

**'sea'** means the sea as defined in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);

**'survey point'** means any easily identifiable point located by localised surveying, other than a survey station;

**'survey station'** means any point that has been surveyed within the prescribed standards of accuracy; and

**'workings'** means any excavation made or being made for the purpose of searching for or winning minerals or for any purpose connected therewith.

[Regulation 17.1 inserted by Government Notice R1304 of 12 November 2004 and substituted by GN R447 of 27 May 2011.]

## GENERAL REQUIREMENTS FOR MINING AT SEA AND ON LAND

### 17.2 Appointment of competent persons

- (a) The *employer* must appoint a competent person to be in charge of surveying, mapping and mine plans at the mine, and if the services of more than one competent person are engaged, ensure that their functions do not overlap. The Chief Inspector of Mines may require the appointment of more than one competent person where in his opinion such an appointment is necessary.
- (b) The *employer* must in writing inform the Chief Inspector of Mines of the appointment of any competent person in terms of regulation 17(2)(a), and of the termination of any such appointment, within 7 days of the date of such appointment or termination. In the case of an appointment, the notification must include-
  - (i). the name of the competent person;
  - (ii). certified copies of all relevant qualifications of the competent person; and
  - (iii). whether the appointment of the competent person is full time or part time.
- (c) In the case of an underground mine, one competent person appointed under regulation 17(2)(a) must be able to reach the mine in the case of those emergencies and within such time(s), as determined in terms of the mine's risk assessment. Such emergencies and time(s) must be included in the mine's mandatory Code of Practice for Emergency Preparedness and Response.

#### Appointment at two or more mines

- (d) The competent person appointed at any mine by the *employer* under regulation 17(2)(a) may not in addition be appointed under regulation 17(2)(a) as a competent person at any other mine, except with the written permission of the Chief Inspector of Mines and subject to such terms and conditions as the Chief Inspector of Mines may determine.

#### Period permitted without a Competent Person

- (e) The *employer* must take reasonable measures to ensure that no mine is worked without a competent person appointed under regulation 17(2)(a) for more than 60 days in any period of 6 consecutive months. The *employer* must in writing appoint a suitably qualified person to perform the functions of the competent person under this Chapter during such period of 60 days or portion thereof, as the case may be.

[Reg. 17.2 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

## DUTIES AND RESPONSIBILITIES

### 17.3

- (a) The competent person appointed under regulation 17(2)(a), and the suitably qualified person appointed under regulation 17(2)(e) are not responsible for the accuracy of the surveying done before their appointments.
- (b) No person may withhold from the *employer* any survey records or plans prepared in terms of these Regulations.

[Reg. 17.3 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### 17.4 The *employer* must take reasonable measures to ensure, in all surveying and mapping done and all plans prepared for purposes of these Regulations by the competent person, that:

#### Units of Measure

- (a) all units of measure conform to the metric system, except angular measurements which must conform to the sexagesimal system;

#### Survey System

- (b) all mine survey systems conform to the National Control Survey System as determined by the Chief Director: Surveys and Mapping as contemplated in the Land Survey Act, Act 8 of 1997. The projection origin may be changed to reduce the numerical values of the co-ordinates. Survey systems established on a mine prior to 1 January 1999 may be retained provided that a tabulation of the co-ordinates of at least 3 (three) survey stations, in both the existing mine survey system and the National Control Survey System, are shown on every sheet comprising a plan;

#### Datum Plane (Mining on land)

- (c) elevations determined above and below ground on mines established after 12 November 2004, refer to mean sea level, based on the South African Land Levelling Datum as determined by the Chief Director: Surveys and Mapping as contemplated in the Land Survey Act, Act 8 of 1997;

#### Datum Plane (Mining at sea)

- (d) bathymetric elevations determined at sea refer to chart datum;

#### Colours and Sign Conventions

- (e) all plans conform to the conventional signs and colours provided by the Director: Mine Surveying;

### **Back up and storage of data**

- (f) if any plans required in terms of this Chapter are kept electronically, they are adequately backed up; and
- (g) all survey records are securely stored in a dry and fire proof place when not in use.

[Reg. 17.4 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

## **SAFETY PRECAUTIONS**

### **Responsibilities regarding safety precautions**

**17.5** The *employer* must take reasonable measures to ensure that the competent person referred to in regulation 17(2)(a) is at all times aware of-

- (a) workings which are being advanced;
- (b) surface structures or objects which may be affected by mining;
- (c) workings which are being abandoned or closed down, in order to allow the final surveying thereof;
- (d) all workings or any place or [sic] surface where there is, or is likely to be, a dangerous accumulation of fluid material, noxious or flammable gas; and
- (e) safety pillars that are being, or have been, removed.

[Reg. 17.5 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

**17.6** The *employer* must take reasonable measures to ensure that the competent person referred to in regulation 17(2)(a) in writing notifies the *employer*, which notification must be dated, of any workings being advanced to come within:

- (a) a horizontal distance of 100 (one hundred) metres from reserve land, buildings, roads, railways, dams, waste dumps or any other structure whatsoever including structures beyond the mining boundaries, or from any surface, which it may be necessary to protect in order to prevent any significant risk.
- (b) 50 (fifty) metres from any excavation, workings, restricted area or any other place where there is, or is likely to be a dangerous accumulation of fluid material, noxious or flammable gas. Such notification must include a sketch plan giving the distance to such place from the nearest survey station.

[Reg. 17.6 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

**17.7** The *employer* must take reasonable measures to ensure that-

- (a) no mining operations are carried out within a horizontal distance of 100 (one hundred) metres from reserve land, buildings, roads, railways, dams, waste dumps, or any other structure whatsoever including such structures beyond the mining boundaries, or any surface, which it may be necessary to protect in order to prevent any significant risk, unless a lesser distance has been determined safe by risk assessment and all restrictions and conditions determined in terms of the risk assessment are complied with;
- (b) workings coming within 50 (fifty) metres, from any other excavation, workings, restricted area or any other place where there is, or is likely to be a dangerous accumulation of fluid material, noxious or flammable gas are mined subject to such restrictions and stopped at such positions as determined by risk assessment;
- (c) where ground movement, as a result of mining operations, poses significant risk, an effective ground movement monitoring system is in place.
- (d) survey records and plans relating to conditions described in paragraphs (a) and (b) above, are made available to the persons doing the risk assessment.

[Reg. 17.7 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

**17.8** No person may erect, establish or construct any buildings, roads, railways, dams, waste dumps, reserve land, excavations or any other structures whatsoever within a horizontal distance of 100 (one hundred) metres from workings, unless a lesser distance has been determined safe-

- (a) in the case of the *employer*, by risk assessment and all restrictions and conditions determined in terms of the risk assessment are complied with; or
- (b) in the case of any other person, by a professional geotechnical specialist and all restrictions and conditions determined by him or her or by the Chief Inspector of Mines are complied with.

[Reg. 17.8 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

**17.8** The person(s) responsible for activities in terms of regulations 17(7)(a) and 17(8) must-

- (a) in the case of an *employer*, provide the Chief Inspector of Mines with the distance and accompanying restrictions and conditions for comment, and;
- (b) in the case of other persons, provide the Chief Inspector of Mines with the distance and accompanying restrictions and conditions for approval.

[Reg. 17.9 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

**17.10** No mining operations, erecting, establishment, or construction, as contemplated in regulations 17(7)(a) and 17(8) respectively, may take place until such written comment or approval, as referred to in 17(9)(a) and 17(9)(b), has been obtained.

[Reg. 17.10 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### **Boundary Pillars**

**17.11** The *employer* must take reasonable measures to ensure that on the inside of every mine boundary, continuous pillars are left standing (*in situ*) the width of which, measured horizontally and at right angles to the boundary line, must not be less than-

- (a) for underground coal mines, 15 (fifteen) metres;
- (b) for all other mines, 9 (nine) metres.

[Reg. 17.11 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

**17.12** The *employer* must take reasonable measures to ensure that no boundary pillars are worked or cut through unless written permission has been obtained from all relevant adjacent *employers* and the Principal Inspector of Mines, provided that in the absence of any adjacent *employer*, permission need only be obtained from the Principal Inspector of Mines to work or cut through such boundary pillars.

[Reg. 17.12 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### **Check Survey**

**17.13** Should the Director: Mine Surveying be of the view that there may be errors in any survey or plans constructed there from or where they do not conform to the standards of accuracy required by these Regulations, he or she may cause a check survey to be carried out. The cost of such check survey must be borne by the *employer* if it is proved that there are errors in any survey or plans constructed therefrom, or that they do not conform to the standards of accuracy required by these Regulations.

[Reg. 17.13 inserted by GNR1304 of 2004 and substituted by GNR447 of 2011.]

## **SURVEY PRACTICE ON LAND (SURFACE AND UNDERGROUND) AND AT SEA**

**17.14** The employer must take reasonable measures to ensure in all surveying and mapping done and all plans prepared for purposes of these Regulations by the competent person, that:

### **Survey Stations**

- (a) sufficient survey stations are established, so that all surface objects and all workings can be accurately surveyed. Each survey station must be clearly marked with a unique number and recorded in a register;

### **Standards of Accuracy: Surface and Underground**

- (b) the minimum standard of accuracy and class of survey for the fixing of survey stations on both horizontal and vertical planes are in accordance with the following formula:

$$A = 0,015 + \frac{S}{30000}$$

where S is the distance in metres between the known and the unknown survey station; provided that in the case of a traverse, after a check survey has been completed, the error in direction of a line between any two consecutive survey stations must not exceed 2 (two) minutes of arc, provided that the horizontal and vertical displacement between the measured position and final position of a survey station does not exceed 0,1 (zero comma one) metres;

- (i). the allowable error for a Primary Survey (Class A) is not greater than A metres. Primary Survey means any survey carried out for the purpose of fixing shaft positions, shaft stations, underground connections, upgrading of secondary surveys to primary surveys and establishing primary surface survey control;
- (ii). the allowable error for a Secondary Survey (Class B) is not greater than 1,5A metres. Secondary Survey means any survey carried out for the purpose of fixing main or access development, mine boundaries and establishing secondary surface survey control;
- (iii). the allowable error for a Tertiary Survey (Class C) is not greater than 3A metres. Tertiary Survey includes survey stations established from secondary survey stations for localised survey purposes;

- (iv). the allowable error for a Localised Survey is not greater than 0,2 (zero comma two) metres in addition to the allowable error at the nearest survey station. Localised Survey means measurements taken from a survey network to locate surface or underground workings, structures and features. This includes normal tape triangulation for month-end measurements, plugging, offsetting and tachometric work;

#### **Accurate Representation on Plan**

- (v). errors in representation on plan do not exceed 0,1% (zero comma one per cent) of the denominator of the scale of the plan, in addition to the allowable survey error at the nearest survey station or fixed position. Where accurate surveying is not possible due to significant risks, the estimated position of affected workings or objects must be indicated on the plan by broken lines and with reasons why accurate measurements could not be made;

#### **Standards of Accuracy at Sea**

- (c) all fixed positions determined at sea for the purpose of locating detail to be shown on plans, comply with the standards as set out in column 1(b) of Table 1 in the Minimum Standards of the International Hydrography Organisation (IHO) Standards, 5th Edition, dated February 2008;

#### **Details required on Plans**

- (d) the following detail is depicted on all plans where applicable-
- (i). the name of the reef, lode or mineral bed;
  - (ii). planes of sections or planes of plans;
  - (iii). a subject heading indicating the name of the mine and the name of the plan;
  - (iv). the name and signature of the competent person for purposes of regulation 17(2)(a) against the relevant date of updating;
  - (v). the identification number allotted by authorities;
  - (vi). the survey system and co-ordinates of origin used;
  - (vii). a north point;
  - (viii). the scale of the plan;
  - (ix). a legend illustrating colours and conventional signs not provided for by the Director: Mine Surveying;
  - (x). co-ordinate lines sufficient in number for the scale of the plan to be verified;
  - (xi). in the case of mining at sea, also geographic co-ordinates of the centre point of the sheet (longitude and latitude);
  - (xii). in the case of mining at sea, also the relationship between the South African Land Levelling Datum and the latest chart datum determined;

### **Material and Size of the Plans**

- (e) all plans are drawn on durable transparent draughting material on sheets of a size not greater than AO as defined by the International Organisation for Standardisation. The Director: Mine Surveying may request in the case of plans produced by means of computer aided draughting (CAD), that such plans be produced on suitable draughting material;

### **Scale of Plans - Land**

- (f) all plans are drawn to a scale of 1:1 500 in the case of a coal mine, and 1:1000 in the case of any other mine, unless specifically provided otherwise in these Regulations;

### **Scale of Plans - Sea**

- (g) in the case of mining at sea, the general plan referred to in regulation 17(25) is drawn to a legible scale;

### **Plans to be Kept Up to Date**

- (h) plans are at all times correct to within 12 (twelve) months, except for the plans showing the workings which must at all times be correct to within 3 (three) months. In the case of offshore prospecting and mining, plans must at all times be correct to within 6 (six) months;

### **Inventory of Plans**

- (i) an inventory of all plans and all copies called for in terms of regulation 17(26) is kept, showing the following details-
  - (A) the name of the mine;
  - (B) the name and number of the plan;
  - (C) the date of the last updating of the plan and the name of the competent person for purposes of regulation 17(2)(a);
  - (D) the relevant details where a plan has been superseded; and

### **Superseded Plans**

- (j) when a plan or sheet is superseded by another plan or sheet, the old and the new plan are referenced accordingly.

[Reg. 17.14 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

## RESPONSIBILITY FOR MINE PLANS

- 17.15** The *employer* must take reasonable measures to ensure that the competent person referred to in regulation 17(2)(a)-
- (a) constructs accurate plans, as contemplated in regulations 17(16) to 17(25), which are readily available to the *employer*. Such plans must cover all restricted areas and the areas where the surface infrastructure and workings occur; and
  - (b) determines the accuracy of any plan or drawing which was not prepared by him or her, where any inaccuracy on any such plan or drawing may create a risk of endangering the *health* or safety of any persons.

[Reg. 17.15 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

## PLANS TO BE KEPT

### Index Key Plan

- 17.16** A legible index key plan, showing the areas covered by the relevant plan sheets, the mine boundaries and the farm names and boundaries within and adjacent to the mine, or this detail may be shown on every plan sheet as an inset key plan drawn to a legible scale.

[Reg. 17.16 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### Surface Plan

- 17.17** A plan of the surface showing the boundaries of the mining area, names of adjacent mining areas, the primary surface survey stations, outcrops and dips of the mineral deposits, perimeters of all surface mining, shafts, openings, rescue boreholes, subsidence or cavities, areas of restricted mining affecting the surface, any hazardous services whether on surface or buried and every surface object, structure or reserve land which requires protection against mining.

[Reg. 17.17 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### Surface Contour Plan

- 17.18** A surface contour plan showing relevant mine and farm boundaries, original surface contours, boreholes and watercourses.

[Reg. 17.18 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### **Mine Ventilation and Rescue Plan**

- 17.19** At every underground mine, a ventilation and rescue plan of the workings, taking into consideration the requirements of regulation 17(22), drawn to a legible scale and depicting the ventilation districts, the direction of air currents, the quantity of air circulating in such ventilation district, the position of each permanent fan, door, regulator, crossing, stopping, telephone, refuge bay, rope-aided or normal escape route, safe place, first aid room, main water valve, fire fighting equipment site, emergency power source and any area sealed off for fire or spontaneous combustion.
- (a) A square grid, lettered horizontally and numbered vertically, drawn to a suitable scale must be shown on the plan contemplated in regulation 17(19).
  - (b) The information relating to the ventilation aspects of the plan in subregulation (19) must be provided by the person authorised by the *employer* to do so and must be certified as accurate on the plan by that person.
  - (c) An updated hard copy of the plan contemplated in regulation 17(19) must be immediately available at the mine for rescue operation purposes. In the case of a coal mine, an updated hard copy must be submitted to the Principal Inspector of Mines at intervals not exceeding 3 (three) months.

[Reg. 17.19 inserted by GNR.1304 of 2004 and substituted by G NR.447 of 2011.]

### **Mine Residue Deposit Plans**

- 17.20** Plans (including sections) showing mine residue deposits containing fluid material.

[Reg. 17.20 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### **Geological Plan**

- 17.21** A plan, drawn to a legible scale, depicting geological features that could affect mining, or these features may be shown on the plan(s) referred to in regulation 17(22).

[Reg. 17.21 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### **Plans of the Workings**

**17.22** Plans of the workings showing the following: boundaries of the mining area; names of adjacent mining areas; outlines and dips of the workings, date of measurement on the excavated side of the outline of the workings, heights representative of workings, survey stations; relevant survey points; areas in which mining has been restricted or prohibited; dams; explosives magazines; lines indicating the planes of sections; faults; dykes and any containment wall or any explosion proof seal, showing the designed static pressure in Kilo Pascal (kPa) of such walls and seals.

- (a) In the case of underground mines:
  - (i). Where a bedded mineral deposit has an average inclination to the horizontal of more than 60° (sixty degrees), a plan showing the projection of the workings onto a vertical plane parallel to the average strike.
  - (ii). Where multiple bedded mineral deposits overlie each other, the workings thereof must be shown on separate plans.
  - (iii). Where a massive or irregular ore body is worked, level plans and vertical sections through the workings must be kept.
- (b) In the case of surface mines:
  - (i). Where bedded mineral deposits are worked by surface mining methods, there must be shown on the surface plan sufficient data regarding the thickness and elevation of every mineral deposit worked in a suitable grid pattern. As an alternative to the grid pattern data, vertical sections may be kept, the lines of which must be indicated on the surface plan.
  - (ii). Where massive or irregular deposits are worked, level plans or vertical sections or a composite plan showing all the bench outlines, must be kept.

[Reg. 17.22 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### **Level Plans**

**17.23** Level plans must show the outline of all workings at suitably chosen elevations.

In the case of underground mines, the detail required in regulation 17(22) must be shown.

[Reg. 17.23 inserted by GNR.1304 of 2004, amended by GNR.89 of 2008 and substituted by GNR.447 of 2011.]

### **General Plan - Mining on Land**

**17.24** A general plan, showing the detail required in regulations 17(17), 17(18) and 17(22)(a) on one plan instead of on three separate plans, or a general surface plan showing the detail required in regulations 17(17) and 17(18) on one plan instead of two separate plans, may be constructed.

[Reg. 17.24 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### **General Plan - Mining at Sea**

**17.25** A general plan showing the boundaries of the mining area, the names of adjacent mining areas, bathymetric contours, dates of mining and the locality of semi-permanent production rigs and platforms.

[Reg. 17.25 inserted by GNR1304 of 2004 and substituted by GNR.447 of 2011.]

### **Departmental copies of plans**

**17.26** The employer must provide the Principal Inspector of Mines annually with updated copies of the plans. In the case of computer aided draughting (CAD), legible plans in book form (approximately A3 size) or a copy of the index key plan referred to in regulation 17(16), indicating additionally the outlines of the workings as well as the surface infrastructure, and a copy of the back-up referred to in regulation 17(4)(f) must be provided.

[Reg. 17.26 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

### **Unsatisfactory Plans**

**17.27** Where in the opinion of the Director: Mine Surveying plans are deficient, he or she may have the mine surveyed and new plans prepared at the expense of the employer.

[Reg.17.27 inserted by GNR1304 of 2004 and substituted by GNR.447 of 2011.]

### **Plans Confidential**

**17.28** The Principal Inspector of Mines and the Director: Mine Surveying must keep information contained in any plan confidential and may only release such information in accordance with the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

[Reg.17.28 inserted by GNR1304 of 2004 and substituted by GNR.447 of 2011.]

## **MINE CLOSURE**

### **Plans brought Up to Date**

**17.29** The employer must take reasonable measures to ensure that, before a mine is abandoned, closed or rendered inaccessible-

- (a) the plans and departmental copies thereof referred to in regulation 17(26) are brought up to date by the competent person referred to in regulation 17(2)(a) and that the Director: Mine Surveying is notified to inspect such plans and the copies thereof for approval; and

- (b) where the surface has been disturbed by mining, a rehabilitation plan is drawn, to a legible scale, showing the final surface contours and established water courses and that the Director: Mine Surveying is notified to inspect such plan for approval.

[Reg.17.29 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

#### **Plans and Books to be handed in**

- 17.30** The *employer* must take reasonable measures to ensure that updated hard copies of the plans, copies referred to in regulation 17(26) and inventories thereof on durable draughting material, together with the survey station register are handed in at the office of the Director: Mine Surveying, following the inspection and approval of the plans as contemplated in regulation 17(29).

[Reg. 17.30 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

#### **Updating of Surface Plans**

- 17.31** The *employer* must take reasonable measures to ensure, where rehabilitation is completed after cessation of mining, that the surface and rehabilitation plans contemplated in regulations 17(17) or (24) and (29)(b) are updated upon such completion.

[Reg. 17.31 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

#### **Certificate of Compliance**

- 17.32** The Director: Mine Surveying must issue a certificate of compliance with the requirements of regulations 17(29) to 17(31) to the *employer* within 60 (sixty) calendar days of compliance in respect of the said regulations.

[Reg. 17.32 inserted by GNR.1304 of 2004 and substituted by GNR.447 of 2011.]

## **CHAPTER 18**

### **TRIPARTITE INSTITUTIONS**

[Chapter 18 promulgated by GNR.93 of 1997.]

#### **18.1 Nomination of members to represent employees and owners [18]**

- (1) Nominations for the appointment of members of every tripartite institution are invited by notice in the Gazette from-
- every registered trade union with employees as members to represent employees; and
  - every employers' organisation with owners as members to represent owners.

[Section 98(1)(zC) empowers the Minister to make regulations for the appointment of members to the Council]

[Section 98(zD) empowers the Minister to make regulations for the appointment of members to the Mining Qualifications Authority]

- (2) Every nomination must be submitted in writing within 30 days of the notice referred to in subregulation (1) and must contain-
  - (a) the name, address and a short curriculum vitae of the nominee;
  - (b) the tripartite institution for which the person is nominated;
  - (c) if submitted by-
    - (i). a registered trade union, a statement of the number of employees who are members of the union; or
    - (ii). an employer's organisation, a statement of the number of employees employed by the members of the organisation; and
  - (d) any other information or documentation required in the notice.
- (3) Any registered trade union or *employer's* organisation that has submitted a nomination must, within 15 days of receiving a request from the Minister, provide such further information or documentation as the Minister may reasonably request regarding such nomination, including but not limited to information or documentation necessary to verify a statement contemplated in subregulation (2).
- (4) The nomination period referred to in subregulation (2) may be extended.

## **18.2 Appointment of members representing employees**

The Minister must appoint persons, nominated under regulation 18.1(2) to represent employees as members of tripartite institutions so that-

- (a) the members are all nominated by agreement between registered trade unions representing at least 75% of employees belonging to such trade unions in the mining industry; or
- (b) failing agreement in terms of paragraph (a)-
  - (i). at least half the members are persons nominated by a registered trade union or unions representing the majority of employees belonging to registered trade unions in the mining industry; and
  - (ii). the rest are persons nominated by registered trade unions with members employed in the mining industry and appointed in accordance with the significance in the mining industry of the trade unions concerned.

### **18.3 Appointment of members representing owners**

The Minister, must appoint persons, nominated under regulation 18.1(2) to represent owners in the mining industry, as members of tripartite institutions so that-

- (a) the members are all nominated by agreement between *employers'* organisations whose members employ at least 75% of employees in the mining industry; or
- (b) failing agreement in terms of paragraph (a)-
  - (i). at least half the members are persons nominated by an *employer's* organisation or organisations whose members employ the majority of the employees in the mining industry; and
  - (ii). the rest are persons nominated by *employers'* organisations and appointed in accordance with the significance in the mining industry of the organisations concerned.

### **18.4 Appointment of members representing departments of State**

The Minister, after consulting the *Chief Inspector*, must appoint the members representing department of the State on every tripartite institution.

### **18.5 Term of office of members**

- (1) A member of a tripartite institution is appointed for a period of three years.
- (2) Despite subregulation (1), a person appointed to replace a member of a tripartite institution who has vacated office before the expiry of such member's term of office, is appointed for the remainder of that member's term of office.
- (3) Every member of a tripartite institution is eligible for reappointment after the expiry of such member's term of office.
- (4) If for any reason a person to replace a member of a tripartite institution is not appointed at the expiry of the period of office of such member, the Minister may extend the period of office of such member for a period not exceeding six months.

### **18.6 Filling of casual vacancies**

- (1) If a member vacates office in terms of the Constitution of the tripartite institution before the expiry of such member's terms of office, subject to subregulation (2)-
  - (a) the party that nominated the member is invited to nominate a replacement; and
  - (b) the Minister must appoint the person nominated as a member of the tripartite institution concerned.

[Section 97(3) empowers the Minister, after consulting the Council to add to this Act, Schedule 5 containing the constitution of the Council and its permanent committees]

- (2) If the party contemplated in subregulation (1)(a) no longer satisfies the representative requirements of regulation 18.2 or 18.3-
  - (a) nominations of persons to fill the vacancy are invited in terms of regulation 18.1; and
  - (b) the Minister must appointed a person to fill the vacancy in terms of regulation 18.2 or 18.3.
- (3) If a member representing a department of the State on a tripartite institution vacates office before the expiry of such member's term of office, a person must be appointed to fill the vacancy in terms of regulation 18.4.

#### **18.7 Publication of names of members**

The names of persons appointed in terms of these Regulations, their period of office and the parties who they represent are published by notice in the Gazette.

### **CHAPTER 19**

#### **UNDERWATER MINING**

[Regulations not yet promulgated]

### **CHAPTER 20**

#### **DEFINITIONS**

[Chapter 20 promulgated by GNR.93 of 1997 and substituted by GNR.846 of 1997.]

#### **Definitions**

In these Regulations a word or phrase to which a meaning has been assigned in this Act has that meaning and, unless the context otherwise indicates-

**'audiogram'** means a chart, graph or table indicating the hearing threshold levels of an individual as a function of frequency (viz. 0.5, 1, 2, 3, 4, 6 and 8 kilohertz), as determined during a measurement of a person's hearing threshold levels by means of monaural, pure-tone, air-conduction threshold tests;

[Definition inserted by GNR.786 of 2002]

**'braking system'** means a device or combination of devices capable of reducing the speed of a locomotive or train to a standstill including emergency brake, park brake and service brake;

[Definition inserted by GNR.583 of 2004]

**'cardio-respiratory examination'** means a clinical examination of the cardio-respiratory system including a full size chest x-ray and a lung function test;

[Definition inserted by GNR.1792 of 2003]

**'dynamic type test'** means the test conducted on a train to determine the deceleration rate and braking efficiency;

[Definition inserted by GNR.583 of 2004]

**'full size chest x-ray'** means a chest x-ray using a photographic plate measuring 35 cm x 35 cm or 35 cm x 42 cm or the digital equivalent;

[Definition inserted by GNR.1792 of 2003]

**'locomotive'** means a self-propelled railbound machine which requires either a driver for manual operation or an operator for automatic operation;

[Definition inserted by GNR.583 of 2004]

**'lung function test'** means the measurement of the inspired and expired volume of air by means of a spirometry;

[Definition inserted by GNR1792 of 2003]

**'Principal Inspector of Mines'** means the officer appointed by the *Chief Inspector* to be in charge of *health* and safety in any region established by Government Notice R92 of 15 January 1997; and

**'rolling stock'** means any railbound equipment that is not self-propelled;

[Definition inserted by GNR.583 of 2004]

**'static test'** means the test carried out to determine the compliance of the brake holding power of a locomotive braking system measured against the design specification or an appropriate safety standard;

[Definition inserted by GNR.583 of 2004]

**'train'** means one or more locomotives and rolling stock, all attached;

[Definition inserted by GNR.583 of 2004]

**'tripartite institution'** means the Council and its permanent committees and the Mining Qualifications Authority.

## CHAPTER 21 FORMS

[Chapter 21 promulgated by GNR134 of 2001.]

*Form DME 132 (SAMRASS 1)*  
ACCIDENT AND DANGEROUS OCCURRENCE REPORT

SCHEDULE  
CHAPTER 21

DME 132  
(SAMRASS 1)

DEPARTMENT: MINERALS AND ENERGY ACCIDENT AND DANGEROUS OCCURRENCE REPORT													
This form must be completed for reportable accidents in terms of regulations 23.1(a) (b) (c) and (d) and Dangerous Occurrences in terms of regulation 23.4, sections E and F, need not be completed in the event of a Dangerous Occurrence. Attach forms SAMRASS 2, 3, 5, 6, 7 and 8, where applicable.													
<b>SECTION A: EMPLOYER DETAILS</b>													
1	NAME OF MINE												
2	DME MINE CODE												
3	MAIN COMMODITY												
<b>SECTION B: ACCIDENT OR DANGEROUS OCCURRENCE DETAILS</b>													
1	Mine Accident or Dangerous Occurrence Number	YEAR				ACC/DO REF NO				SHAFT			
		Y	Y	Y	Y	N	N	N	N	S	S		
2	Number of persons killed												
3	Number of persons totally disabled												
4	Number of persons injured												
5	Date of accident or dangerous occurrence (use YYYY/MM/DD format)	Y	Y	Y	Y	M	M	D	D				
6	Time of accident or dangerous occurrence					H	H	M	M				
7	Location of accident or dangerous occurrence												
8	Name of working place												
9	Depth below surface (in metres)												
10	Section												
11	Description of accident or dangerous occurrence in words												
12	Accident classification code												
13	Dangerous Occurrence Classification code												
14	Did accident or dangerous occurrence occur during normal working hours or overtime?	Normal				O/Time							
15	Did accident or dangerous occurrence happen at normal workplace?	Y				N							
16	Average number of persons at work during the previous month	SURF OPS	U/G	O/CAST	SURF MIN	MARINE							

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SECTION C: RESPONSIBLE PERSONS																
NAME	IDENTITY NUMBER/PASSPORT NUMBER				CERTIFICATE No.				OCCUPATION							
1st LEVEL SUPERVISOR																
2nd LEVEL SUPERVISOR																
3rd LEVEL SUPERVISOR																
4th LEVEL SUPERVISOR																
Name of Manager	Designation				Signature				Date							
									Y	Y	Y	Y	M	M	D	D
SECTION D: FOR USE BY THE DEPARTMENT OF MINERALS AND ENERGY																
1. Regional accident or dangerous occurrence number									Y	Y	Y	Y	R	N	N	N
2. Date report									Y	Y	Y	Y	R	N	N	N
3. Type of accident or dangerous occurrence																
4. Accident or dangerous occurrence register by					Date	Y	Y	Y	Y	M	M	D	D			
5. Inquiry type																
6. Probable cause of accident or dangerous occurrence																
7. Contravention in inspector's opinion													YES	NO		
8. If yes, act/regulation contravened																
9. Administrative fine recommended?													YES	NO		
10. Date evaluation form completed									Y	Y	Y	Y	R	N	N	N
INSPECTORATE DETAILS			NAME (IN BLOCK LETTERS)			DATE			SIGNATURE							
11. Inspector of mines																
12. Senior inspector of mines (mining)																
13. Senior inspector of mines (mining equipment)																
14. Are criminal proceedings envisaged?									Yes				No			

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DEPARTMENT: MINERALS AND ENERGY  
ROCKBURST AND FALL OF GROUND ACCIDENT

DME 136  
(SAMRASS 3)

A. DETAILS OF MINE													
MINE NAME													
MINE'S ACCIDENT NUMBER		Y	Y	Y	Y	N	N	N	N	Shaft No.			
ACTIVITY													
DATE OF ACCIDENT						Y	Y	/	M	M	/	D	D
CAUSE OF ACCIDENT													
DEPTH BELOW SURFACE (m)													
MINING METHOD													
B. DETAILS OF ACCIDENT													
B.1. LOCATION													
DESCRIPTION OF WORKING PLACE													
DISTANCE FROM FACE (m)													
DISTANCE FROM PANEL BOTTOM STRIKE GULLY (m)													
DIMENSIONS OF STOPE	STRIKE SPAN (m)			DIPSPAN (m)			STOPING (m)						
DIMENSIONS OF OTHER EXCAVATIONS		HEIGHT (m)			WIDTH (m)			LENGTH (m)					
DISTANCE FROM REEF (m)													
B.2. SITE DESCRIPTION													
QUALITY OF EXCAVATION:	.....												
B.3. TEMPORARY SUPPORT													
B.3.1. ACCORDING TO CODE OF PRACTICE													
TYPE OF SUPPORT													
SIZE OF SUPPORT (m)													
SPACING OF SUPPORT (m)													
ROWS OF SUPPORT													
DISTANCE FROM FACE (m)													
B.3.2. OBSERVED AFTER ACCIDENT													
TYPE OF SUPPORT													
SIZE OF SUPPORT (m)													
SPACING OF SUPPORT (m)													
ROWS OF SUPPORT													
DISTANCE FROM FACE (m)													

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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**DEPARTMENT: MINERALS AND ENERGY**  
**Form DME 200 (SAMRASS 2)**  
**INJURY REPORT FORM**

DME 200  
(SAMRASS 2)

This form must be completed for reportable accidents in terms of regulations 23.1(a) (b) (c) and (d). Sections E and F, need not be completed in the event of a Dangerous Occurrence. Attach forms SAMRASS 2, 3, 5, 6, 7 and 8, where applicable.

Name of mine

Mine Accident or Dangerous Occurrence Number

YEAR				ACC/DO REF NO				SHAFT	
Y	Y	Y	Y	N	N	N	N	S	S

Date of accident or dangerous occurrence (use YYYY/MM/DD format)

Y	Y	Y	Y	M	M	D	D

Regional accident or dangerous occurrence number

Y	Y	Y	R	N	N	N	I

**SECTION E: EMPLOYEE'S DETAILS**

**NOTE: THIS SECTION NEED NOT BE COMPLETED FOR A DANGEROUS OCCURRENCE ACCIDENT**

1. Surname

2. Full first names

3. Industry number

4. PI/company number

5. Identity/passport number

6. Date of birth (use YYYY/MM/DD format)

Y	Y	Y	Y	M	M	D	D

7. Country of origin

8. Population group

01	02	03	04
E	C	T	

9. Was the injured a permanent employee ("E"), a contractor ("C") or a casual ("T")?

10. Name of contracting company (if applicable)

11. Male or female

M	F

12. Normal occupation at time of accident

13. Total experience in current occupation

Y	Y	M	M

14. Was injured carrying out normal duties at time of accident?

15. Date first employed with current employer (use YYYY/MM/DD format)

Y	Y	Y	Y	M	M	D	D

16. Date last shift worked (use YYYY/MM/DD format)

Y	Y	Y	Y	M	M	D	D

17. Date resumed work (use YYYY/MM/DD format)

Y	Y	Y	Y	M	M	D	D

18. If fatal, date of death (use YYYY/MM/DD format)

Y	Y	Y	Y	M	M	D	D

**SECTION F: INJURY DETAILS**

**THIS SECTION NEED NOT BE COMPLETED FOR A DANGEROUS OCCURRENCE ACCIDENT**

1. Task: (person injured or killed while performing


2. Activity: (injured or killed while.....)


3. Nature of injury


4. Part of body injured


5. Type of accident of individual fatal (F), totally disabling (T), injury (I)

F	T	I

6. Allocated days lost (to be completed by DME)


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<b>B.4. PERMANENT SUPPORT</b>						
<b>B.4.1. ACCORDING TO CODE OF PRACTICE</b>						
TYPE OF SUPPORT						
SIZE OF SUPPORT (m)						
SPACING OF SUPPORT (m)						
DISTANCE FROM FACE (m)						
<b>B.4.2. OBSERVED AFTER ACCIDENT</b>						
TYPE OF SUPPORT						
SIZE OF SUPPORT (m)						
SPACING OF SUPPORT (m)						
DISTANCE FROM FACE (m)						
<b>B.5. REGIONAL SUPPORT</b>						
<b>B.5.1. ACCORDING TO CODE OF PRACTICE</b>						
TYPE OF SUPPORT						
SIZE OF SUPPORT (m)						
SPACING OF SUPPORT (m)						
<b>B.5.2. OBSERVED AFTER ACCIDENT</b>						
TYPE OF SUPPORT						
SIZE OF SUPPORT (m)						
SPACING OF SUPPORT (m)						
COMMENTS ON SUPPORT:	.....					
COMMENTS ON EFFECTIVE USE:	.....					
<b>B.6. INSTRUMENTATION</b>						
INSTRUMENT	CODE	WARNING SIGNAL				
		YES	NO			
		YES	NO			
		YES	NO			
		YES	NO			
		YES	NO			

Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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B.7. GEOLOGICAL DETAILS										
REEF BEING MINED	CODE:				DESCRIPTION:					
					ROCK TYP	COD		U.C.S. STRENGTH		
IMMEDIATE HANGING WALL					MPs					
IMMEDIATE FOOT WALL					MPs					
REEF/ORE					MPs					
RELEVANT GEOLOGICAL STRUCTURE										
SHORTEST DISTANCE FROM SCENE TO DISTURBENCE (m)										
COMMENT ON DISTANCE:										
MEASURED OR ESTIMATED FIELD STRESS STATE										
INDUCED FRACTURES										
B.8. FALL OF GROUND										
DIMENSIONS OF FALL	HEIGHT (m)				WIDTH (m)			LENGTH (m)		
BOUNDARIES OF FALL										
B.9. ROCKBURST										
TOTAL SIZE OF AFFECTED AREA (m <sup>2</sup> )					ESTIMATED MAXIMUM CLOSURE					
B.9.1 EXTENT OF DAMAGE										
HANGING WALL DAMAGE (m <sup>2</sup> )										
FOOTWALL DAMAGE (m <sup>2</sup> )										
SIDEWALL DAMAGE (m <sup>2</sup> )										
ROOF SUPPORT UNITS DAMAGED										
SUSPECTED BURSTING MECHANISM										
SUSPECTED MECHANISM BASED ON										
DISTANCE BETWEEN HYPOCENTRE AND ROCKBURST DAMAGE (m)										
B.10. GENERAL MINE LAYOUT										
MINE LAYOUT							CODE	CONTRIBUT		
								YES	NO	
								YES	NO	
								YES	NO	
								YES	NO	
								YES	NO	
C. SEISMIC EVENT DETAIL										
REFERENCE NUMBER										
HYPOCENTRE (m)	X	Y	Z							
LOCATION ERROR (m)										
TIME	H	H	M	M	LOCATION MAGNITUDE					
ENERGY RADIATED: P-WAVE (J)					ENERGY RADIATED: S-WAVE					
SOURCE RADIUS (m)					CORNER FREQUENCY (Hz)					
STATIC STRESS DROP (MPa)			DYNAMIC STRESS DROP (M pa)							
PEAK ACCELERATION (g)			PEAK VELOCITY (cm/sec)							
DISPLACEMENT (cm)			DURATION (sec)							
C.1. SEISMIC MOMENT RELEASED			1 WEEK			1 MONTH			AVERAGE	
PER 1m OF FACE ADVANCE (Nm/m)										
PER 1t OF ROCK OUTPUT WITHIN 300m RADIUS										

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**D. SEISMIC HISTORY**

WITHIN 300M RADIUS OF SENE OF THE ACCIDENT

	HISTORY DETAIL	MAGNITUDE				
		< 0	0-1	1-2	> 2	TOTAL
1 DAY BEFORE ACCIDENT	1. NUMBER OF SEISMIC EVENTS					
	2. ENERGY RELEASED: P-WAVE (J)					
	3. S-WAVE (J)					
	4. SEISMIC MOMENT RELEASED (Nm)					
	5. STATIC STRESS DROP (Mpa)					
	6. MAX. ENERGY INDEX (E-obs/E-expec)					
1 Week before Accident	1. NUMBER OF SEISMIC EVENTS					
	2. ENERGY RELEASED: P-WAVE (J)					
	3. S-WAVE (J)					
	4. SEISMIC MOMENT RELEASED (Nm)					
	5. STATIC STRESS DROP (Mpa)					
	6. MAX. ENERGY INDEX (E-obs/E-expec)					
6 Months before Accident	1. NUMBER OF SEISMIC EVENTS					
	2. ENERGY RELEASED: P-WAVE (J)					
	3. S-WAVE (J)					
	4. SEISMIC MOMENT RELEASED (Nm)					
	5. STATIC STRESS DROP (Mpa)					
	6. MAX. ENERGY INDEX (E-obs/E-expec)					
<b>D.1. BEFORE ACCIDENT</b>						
1 WEEK		1 MONTH			AVERAGE FOR LAST 6 MONTH	
<b>E. COMPLETED BY</b>						
NAME		SIGNATURE		DATE	/	
Designation		SIGNATURE		DATE	/	

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DME 201  
(SAMRASS 4)

This form must be completed for reportable accidents in terms of regulation 23.1(e).

This form must be completed for reportable accidents in terms of regulation 23.1(e)

1-13 DAY INJURIES

Name of Mine: .....

Codes to be used on this Form are specified in the Code Book

Minerals and Energy for Development and Prosperity

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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**DEPARTMENT: MINERALS AND ENERGY**

*Form DME 133 (SAMRASS 5)*

**EXPLOSIVES**

Complete a form for each accident involving explosives and attach this to form SAMRASS 1

DME 133  
(SAMRASS 5)

Regional Accident or Dangerous Occurrence No.	Y	Y	Y	Y	R	N	N	N	N	I
---	---	---	---	---	---	---	---	---	---	---

MINE NAME										
MINE'S ACCIDENT OR DANGEROUS OCCURRENCE NUMBER		Y	Y	Y	Y	N	N	N	N	Shaft NO.
TYPE OF EXPLOSIVES										
SUPPLIER OF EXPLOSIVES										
RELATIVE ENERGY										
DETINATION										
TYPE OF DETONATOR										
SUPPLIER OF DETONATOR										
TYPE OF FUSE										
SUPPLIER OF FUSE										
PRIMER CARTRIDGE										
LENGTH OF CARTRIDGE (MM)										
DIAMETER OF CARTRIDGE (MM)										
DIAMETER OF SHOTHOLE										
METHOD USED TO DETECT MISFIRES										
EXPERIENCE OF MINER		Y	Y	M	M					
CAUSE OF EXPLOSION										

Minerals and Energy for Development Prosperity

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**DEPARTMENT: MINERALS AND ENERGY**  
*Form DME 134 (SAMFRASS 6)*  
**FIRE**

DME 134  
(SAMFRASS 6)

Regional Accident or Dangerous Occurrence No.	Y	Y	Y	Y	R	N	N	N	N	I
---	---	---	---	---	---	---	---	---	---	---

MINE NAME										
MINE'S ACCIDENT OR DANGEROUS OCCURRENCE NUMBER	Y	Y	Y	Y	N	N	N	N	Shaft No.	
DATE FIRE DETECTED	Y	Y	Y	Y					M	M
TIME FIRE DETECTED	H	H	:	M	M					
BY WHOM DETECTED										
OCCUPATION OF PERSON										
WHAT BURNT?										
NUMBER OF PROTO TEAMS CALLED OUT										
NUMBER OF PROTOTEAMS SENT UNDERGROUND										
SEALED OFF									Yes	No
TIME TAKEN	D	D	:	H	H	:	M	M		
INDIRECT COST										
DIRECT COST										
LOSS IN PRODUCTION (Time)										
REPORTABLE CASUALTIES	KILLED				DISABLED				INJURED	
DID CODE OF PRACTICE CATER FOR PREVENTION OF FIRE?									Yes	No
WAS THERE ANY NEGLIGENCE?									Yes	No
WERE PERSONS ENDANGERED?									Yes	No
WERE SELF RESCUERS USED?									Yes	No
IS PROSECUTION ENVISAGED?									Yes	No
IOM SIGNATURE: ..... DATE: .....										

Minerals and Energy for Development and Prosperity

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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**DEPARTMENT: MINERALS AND ENERGY**

*Form DME 135 (SAMRASS 6)*

**SUBSIDENCE (COAL MINES)**

Complete a form for each subsidence andives and attach this to form to form SAMRASS 1 Form.

DME 135  
(SAMRASS 7)

MINE NAME													
MINE'S ACCIDENT OR DANGEROUS OCCURRENCE NUMBER		Y	Y	Y	Y	N	N	N	N	Shaft No.			
DATE DETECTED						Y	Y	Y	Y	M	M	D	D
MINING METHOD													
MAXIMUM DEPTH OF SUBSIDENCE (m)													
VENTILATION PLAN GRID REFERENCE													
INFLUENCE ON UNDERGROUND WORKINGS													
MINING PARAMETERS:	PLANNED MINING PARAMETERS:				ACTUAL MINING PARAMETERS:								
ROAD WIDTH:													
MINING HEIGHT (m)													
PILLAR CENTRES (m)													
PILLAR SIZE(m)													
BARRIER PILLAR (m)													
SAFETY FACTOR													
PANEL WIDTH (m)													
PANEL ROADS													
% OVERMINED													
GEOLOGY													
SEAM													
INFLUENCE ON STRUCTURES													
ACTION TO BE TAKEN													
IGM SIGNATURE: .....	DATE: .....												

Minerals and Energy for Development and Prosperity

Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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**DEPARTMENT: MINERALS AND ENERGY  
HEAT STROKE / HEAT EXHAUSTION QUESTIONNAIRE**

Complete a form for each person suffering from heat stroke/Heat exhaustion and attach this form to form SAMRASS 1

DME 137  
(SAMRASS 8)

REGIONAL ACCIDENT NO.	Y	Y	Y	Y	R	N	N	N	N	I
-----------------------	---	---	---	---	---	---	---	---	---	---

<b>A. PERSONAL DETAILS</b>														
NAME OF MINE														
MINE'S ACCIDENT OR DANGEROUS OCCURRENCE NUMBER					Y	Y	Y	Y	N	N	N	Shaft No.		
SURNAME				FIRST NAME										
OCCUPATION				LENGTH OF TIME WORKED IN AREA			H	H	:	M	M	:	S	S
<b>B. EXPERIENCE (OTHER MINES)</b>														
MINE	PERIOD WORKED				OCCUPATION									
	Y	Y	/	M	M									
	Y	Y	/	M	M									
	Y	Y	/	M	M									
	Y	Y	/	M	M									
<b>C. HEAT STRESS ACCLIMATIZATION</b>														
METHOD OF ACCLIMATIZATION ON MINE														
WAS ACCLIMATIZATION PERIOD EVADED IN ANY WAY?											YES	NO		
<b>ACCLIMATIZATION DETAILS</b>														
DETAILS REGARDING DATES, TEMPERATURE AND MASS RESPONSES DURING THE ACCLIMATIZATION PROCEDURE, TO BE OBTAINED FROM THE ACCLIMATIZATION CENTRE	TIME TAKEN					TEMPERATURE								
	H	H	:	M	M									
	H	H	:	M	M									
	H	H	:	M	M									
H	H	:	M	M										
<b>D. SYMPTOMS, ETC</b>														
SIGN OF ILLNESS											YES	NO		
LENGTH OF TIME WORKED BEFORE COLLAPSE								H	H	:	M	M		
APPEARANCE NORMAL											YES	NO		
SIGN OF FATIGUE											YES	NO		
DRINKING WATER AVAILABLE											YES	NO		
WATER DRUNK											YES	NO		
SIGN OF COLLAPSE											YES	NO		
SWEATING											YES	NO		

Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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DAY OF COLLAPSE (1 – MONDAY, 2 – TUESDAY, 3 – WEDNESDAY, 4 – THURSDAY, 5 – FRIDAY, 6 – SATURDAY, 7 – SUNDAY)													
<b>E. TREATMENT</b>													
DATE TAKEN						TIME TAKEN				TEMPERATURE			
Y	Y	/	M	M	/	D	D	H	H	:	M	M	
Y	Y	/	M	M	/	D	D	H	H	:	M	M	
Y	Y	/	M	M	/	D	D	H	H	:	M	M	
Y	Y	/	M	M	/	D	D	H	H	:	M	M	
Y	Y	/	M	M	/	D	D	H	H	:	M	M	
<b>F. WORKING AREA</b>													
WET KATA READING													
WET BULB READING													
DRY BULB READING													
AVERAGE WET BULB READING													
AVERAGE DRY BULB READING													
AIR QUANTITY													
AIR VELOCITY													
AVERAGE QUANTITY													
AVERAGE VELOCITY													
MEANS OF VENTILATION													

Minerals and Energy for Development and Prosperity

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

**DEPARTMENT: MINERALS AND ENERGY**

This form must be completed for reportable accidents in terms of regulation 23.2(3)

**REPORT ON DATE RESUMED WORK**

Name of Mine:

Codes to be used on this Form are specified in the Code Book

This form is to be completed monthly and forwarded to the regional office of the Inspectorate in respect of all injured persons who returned to work during that month.

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

**CHAPTER 21**  
**AIRBORNE POLLUTANTS — PARTICULATES PERSONAL EXPOSURE REPORT FORM 21.9(2)(a)**  
[Report Form 21.9(2)(a) added by GN R904 of 2 July 2002 and substituted by GN 1226 of 12 December 2005.]  
[in terms of regulation 9.2. (7)]

<b>General:</b>	
1. Reporting Period as per table below:	
HEG Category Classification Band	Airborne Particulates
<b>A</b>	Quarterly reports ending March, June, Sept. and December
<b>B</b>	Bi-annual reports ending June and December
<b>C</b>	Annual reports ending December
2. The monitoring frequency and number of samples to be used are specified in the SAMOHP	
3. Complete one form for each homogeneous exposure group	
4. Codes to be used in this form are specified in the SAMOHP	
5. Attach Operation Details — Report Form 21.9(2)(f) when submitting as required by regulation 9.2(7)	
6. The results of samples taken from randomly selected occupations within a HEG must be assigned to that specific occupation code;	
7. All sample concentrations within a HEG were not sampled the HEG mean pollutant concentration must be allocated to those occupations	

Main Commodity Code:									
Sample Area:									
Activity Area Code:									
HEG Classification Band (90th Percentile value of pollutant concentration):									
HEG	Pollutant Code	Sample Concentration per Occupation (TWA-8hr)	Analysis %	Mean Pollutant Concentration Dose Allocated to Medical Record (Tick appropriate box)	90th Percentile HEG Classification	Range of Pollutant Concentration	OEL (Tick appropriate box)	Pollutant Index	AQI
Occupations Codes in HEG	Number of persons per occupation	(A)	(B)	mg/m <sup>3</sup> <input type="checkbox"/> f/ml <input type="checkbox"/>	C = A* B%	Min	Max	mg/m <sup>3</sup> <input type="checkbox"/> f/ml <input type="checkbox"/> (D)	(E= C/D) (F = SUM E)
Total									

\* Note: Mean Pollutant Concentration needs to be calculated at 95% Confidence Interval (see explanation in SAMOHP Code Book)

Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

AIRBORNE POLLUTANTS — GASES AND VAPOURS PERSONAL EXPOSURE REPORT FORM 21.9(2)(b)  
(In terms of regulation 9.2-(7))

**General:**

1. Reporting Period as per table below:

HEG Category Classification Band	Gases and Vapours	
<b>A</b>	Quarterly reports ending March, June, Sept. and December	
<b>B</b>	Annual reports ending December	

2. The monitoring frequency and number of samples to be used are specified in the SAMOHP  
 3. Complete one form for each homogeneous exposure group  
 4. Codes to be used in this form are specified in the SAMOHP  
 5. Attach Operation Details — Report Form 21.9(2)(f) at the end of each reporting cycle  
 6. The results of samples taken from randomly selected occupations within a HEG must be assigned to that specific occupation code, where occupations within a HEG were not sampled the HEG mean pollutant concentration must be allocated to those occupations

Main Commodity Code:	DME Mine Code:						
Sample Area:	Sub Mine Code:						
Activity Area Code:	Reporting Period:						
HEG Classification Band (90th Percentile value of pollutant concentration):	Start _____ End _____						
HEG	Sample Concentration per Occupation (TWA-8hr) mg/m <sup>3</sup> <input type="checkbox"/> ppm <input type="checkbox"/>	Mean Pollutant Concentration Allocated to Medical Record (TWA-8hr) (A)	90th Percentile HEG Classification	Range of Pollutant Concentration	OEL (Tick appropriate box) mg/m <sup>3</sup> <input type="checkbox"/> ppm <input type="checkbox"/>	Pollutant Index	Air Quality Index
Occupations Codes in HEG	Number of Persons per occupation			Min	Max	(B)	(C = A(B)) (D = SUM C)
Total							

\* Note: Mean Pollutant Concentration needs to be calculated at 95% Confidence Interval (see explanation in SAMOHP Code Book)

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

[Report Form 21-9(2)(c) added by GN R1954 of 1 July 2002 and substituted by GN R1226 of 15 December 2005.]

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

**DEPARTMENT: MINERALS AND ENERGY**  
**PERSONAL NOISE EXPOSURE — REPORT FORM 21.9(2)(e)**

In terms of regulation 9.2.(7)

**General:**

1. Reporting Period as per table below:

<b>HEG Category Classification Band</b>	Noise
A	Annual reports ending December
B	
C	Two-yearly reports ending December

Information in shaded area not to be included in statutory report submitted to DME; see examples in SAMOHP Code Book

2. Complete one form for each homogeneous exposure group.
  3. Codes to be used in this form are specified in the SAMOHP.
  4. Attach Operation Details — Report Form 21.9(2)(f) at the end of each reporting cycle.
  5. The results of samples taken from randomly selected occupations within a HEG must be assigned to that specific occupation code.

<b>Main Commodity Code:</b>	
Sample Area:	
Activity Area Code:	
HEG Classification Band:	

<b>DME Mine Code:</b>	
<b>Sub Mine Code:</b>	
<b>Reporting Period:</b>	
<b>Start</b>	<b>End</b>

\* Note: Logarithmic Average Sound Pressure Level ( $L_{A_{avg}, \text{ref}}$ ) must be calculated as per formula on Pg 74 Para 3.6.2.2 of the Guideline for the Compilation of a Mandatory Code of Practice for an Occupational Health Programme for Noise: Ref. No. DME 16/3/2/4-A3.

[Report Form 21.9(2)(e) added by GN R1226 of 2005.]  
(In terms of regulation 9.2.(7))

Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

OPERATIONS DETAILS — REPORT FORM 21.9(2)(f)																
[Report Form 21.9(2)(f) added by GN R1226 of 15 December 2005.]																
Report on exposure levels	Airborne Pollutants	<input type="checkbox"/>	Pages/Report	For sampling period.....												
	Thermal Stress	<input type="checkbox"/>														
	Noise	<input type="checkbox"/>														
(Tick appropriate box)																
DME Mine Code:	DME Sub Mine Code:															
Mine:																
Address:					Control Group:											
Area Code:	Commodities:															
Manager:					Production Process:											
Telephone:																
Telefax:					E-Mail:											
Section 12.1	Engaged Occupational Hygienist			Part time	Full time	MEC Certificate No. or Intermediate Certificate and SAICH Registration No.										
Name																
Code																
Telephone:				Cell Phone:												
Code																
Telefax:				E-Mail:												
Directorate:																
<b>Summary</b>																
Airborne Particulates		No. of persons per category			Gases & Vapours		No. of persons per category			Noise	No. of persons per category		Thermal Stress	No. of persons per category		
Substance	Code	A	B	C	Substance	Code	A	B		A	B	C	A	B	C	D
Labour	Mine	Contractors		Total Labour												
..... Engaged Occupational Hygienist .....										Date	Manager		Date			

# Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

## Form DMR 231

### Health Incident Report (HIR)

[Form DMR 231 added by GN R702 of 12 September 2014.]



mineral resources  
Department:  
Mineral Resources  
REPUBLIC OF SOUTH AFRICA

#### HEALTH INCIDENT REPORT (HIR)

##### Instructions:

1. Please refer to the attached Annexure A, B, C, D and E when completing this form;
2. These Annexures serve as a guide and are not for submission to the Department of Mineral Resources.

##### PLEASE RETURN THE COMPLETED FORM TO:

The Medical Inspector; Occupational Health Chief Directorate, DMR, Trevenna Campus, Private Bag X59, ARCADIA, 0007; C/o Regional Inspectors of Medicine

#### A. DETAILS OF EMPLOYER

Name of Mine:

SAMRASS Code:

--	--	--	--	--	--	--	--	--	--	--	--

Mine Code:

--	--	--	--	--	--	--	--	--	--	--	--

Mine Address:

#### B. PERSONAL DETAILS OF THE AFFECTED EMPLOYEE

Surname:

Name(s):

Date of birth:

--	--	--	--	--	--	--	--	--	--	--	--

Gender:

Male:  Female:

South African ID number/

--	--	--	--	--	--	--	--	--	--	--	--

Passport number:

--	--	--	--	--	--	--	--	--	--	--	--

Industry number

--	--	--	--	--	--	--	--	--	--	--	--

Pension Fund number:

--	--	--	--	--	--	--	--	--	--	--	--

TEBA number:

--	--	--	--	--	--	--	--	--	--	--	--

COY number:

--	--	--	--	--	--	--	--	--	--	--	--

Occupation:

U/G	Surface
-----	---------

Date of death (If applicable):

--	--	--	--	--	--	--	--	--	--	--	--

#### D. DETAILS OF SUBMISSION FOR COMPENSATION (Mark with "X" whether applicable)

Is the disease compensable?

X	X
---	---

#### F. GENERAL DETAILS

##### Person submitting the form:

Surname:

Full Name(s):

--	--	--	--	--	--	--	--	--	--	--	--

Contact No.

--	--	--	--	--	--	--	--	--	--	--	--

Date:

--	--	--	--	--	--	--	--	--	--	--	--

Signature (person submitting)

##### Occupational Medical Practitioner:

Surname:

Full Name(s):

--	--	--	--	--	--	--	--	--	--	--	--

HPCSA No:

Contact No.

--	--	--	--	--	--	--	--	--	--	--	--

Date

D	D	M	M	Y	Y	Y	Y				
---	---	---	---	---	---	---	---	--	--	--	--



Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

#### **DRIVE SYSTEM:**

Drive motor: (kW) Volts (AC/DC) (r.p.m)  
Estimated maximum absorbed power: (kW)  
Drive sheave mean diameter: metres  
Gear reducer type and ratio (if used):  
Type of governor:

#### **BRAKES:**

#### Description of service brake system:

#### Description of back-up brake system:

## HATCHWAY:

Drawing number:  
Air - upcast or downcast:  
Velocity:  
Wet or dry:  
If wet, is water acidic, neutral or alkaline?

## COUNTERWEIGHT

Counterweight mass	(kg/MPa)
Diameter/specification of counter weight rope	
Estimated breaking strength of counterweight rope	(Newtons)
Counterweight movement allowed	(metres)

## **HEAD ROPES**

Number of ropes:  
Diameter/specification:  
Finish  
Maximum calculated dynamic rope tension (Newtons)  
Calculated minimum dynamic rope safety factor

#### **TAIL ROPES/CHAINS**

Number of ropes/chains  
Breaking force  
Estimated breaking stress

**OTHER DETAIL**

(Attach certified copies of OEM's lift calculations, specifications and general arrangement drawing of the lift installation.)  
Name of Inspection Authority that conducts the Commissioning Inspection:

I certify that the particulars and specifications given herein are correct.

Signature of employer .....

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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### Form DMR 299 Chairlifts

[Form DMR 299 added by GN R893 of 25 August 2017.]



The Chairlift Particulars  
In terms of regulation 8.12.2 Chapter 8 of the Mine Health and Safety Act, (Act 29 of 1996)

O E M:

Ref No:

The Principal Inspector of Mines

Region:

Date:

Please be advised that we wish to inform you of particulars of a chairlift as set out below:

Name of mine:

Address of mine:

The chairlift will be:

- (a) installed;
- (b) modified; or
- (c) recommissioned.  
(specify (a), (b) or (c))

Nature of loads to be transported:

Location of chairlift (including shaft and levels):

#### EXCAVATION:

Drawing number:

Air - upcast or downcast:

Velocity:

Indicate 'Wet or Dry':

If wet, is water acid, neutral or alkaline?

#### ILLUMINATION:

Are the stations and the traveling ways adequately illuminated?

#### COMMUNICATIONS ARRANGEMENTS:

Type:

#### DESCRIPTION OF CHAIRLIFT INSTALLATION

Does the chairlift design comply in all respects with SANS 273:2006 Edition 1 - 'Standard for the design, construction, maintenance and safe operation of chairlifts in mines'?

If not, describe variances

Chairlift type:	(fixed grip, detachable grip, other)
Centre to centre length:	(metres)
Vertical lift:	(metres)
Maximum angle to horizontal:	(degrees)
Number of intermediate stations:	
Chairlift capacity:	(persons per hour)

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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Rope speed: (metres per second)  
Minimum time interval between carriers: (seconds)  
Minimum equidistant carrier spacing: (metres)  
Carrier design – personnel:  
Carrier design – specified: (loads)  
Drive system:  
Drive motor: (kW) Volts (AC/DC): (r.p.m.)  
Estimated maximum absorbed power: (kW)  
Drive sheave mean diameter: (metres)  
Gear reducer type and ratio:

**LIFT TYPE:**  
(Electric, Hydraulic, Goods Only, other)

**BRAKES:**

Service brake system (description of):

Back-up brake system (description of):

**ROPE TENSIONING SYSTEM:**

Return sheave mean diameter: (metres)  
Method of applying tension:  
Counterweight mass of hydraulic pressure: (kg/MPa)  
Initial tension applied to the rope or sheave axle: (Newtons)  
Diameter/specification of tension rope:  
Estimated breaking strength of tension rope: (Newtons)  
Counterweight/hydraulic cylinder movement allowed: (metres)  
Tension carriage movement allowed: (metres)

**HAULING ROPE**

Diameter/specification:  
Finish:  
Manufacturer's lubrication:  
Estimated breaking strength:  
Ratio of minimum sheave diameter (drive, return or idler), to rope diameter  
Ratio of minimum sheave diameter (drive, return or idler), to rope outer wire diameter  
Maximum calculated dynamic rope tension: (Newtons)  
Calculated minimum dynamic rope safety factor:

(Attach certified copies of OEM's chairlift calculations, specifications and general arrangement drawing of the chairlift installation.)

I certify that the particulars and specifications given herein are correct.

Signature of employer .....



## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

**D. DETAILS OF SUBMISSION FOR COMPENSATION (Mark with "X" whether applicable)**

Is the disease compensable?

Yes

No

Date submitted:

--	--	--	--	--	--	--	--

Was death caused by the reported disease/s?

Yes

No

Employer  
state date:

: Yes

No

If yes,

--	--	--	--	--	--	--	--

Is the disease reportable  
to:

DoL Compensation  
Commissioner

MBOD

RMA

Compensation/claim number (If applicable):

**E. EMPLOYMENT HISTORY RECORD (start with recent employment history)**

Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

## **F. GENERAL DETAILS**

**Person submitting the form:**

Surname: \_\_\_\_\_ Full Name(s): \_\_\_\_\_

Contact No.

Date:

--	--	--	--	--	--	--	--

Signature (person submitting)

**Occupational Medical Practitioner:**

Surname:

Full Name(s):

HPCSA No:

Contact No.

Date:

D	D	M	M	Y	Y	Y	Y
---	---	---	---	---	---	---	---

## Annexure A

### INTRODUCTION

The Health Incident Report (HIR) has been developed from recommendations of GEN 501 to generate centralised database to record the occurrence of occupational diseases in the South African mining industry, together with the morbidity and mortality of such diseases.

The database is used by the Mine Health and Safety Inspectorate for research purposes. This research helps to identify and classify problem areas in occupational disease management, so that appropriate preventative measures can be implemented. The occupational diseases database has been designed with an attached user guideline/procedure and the data-input form for completion by Occupational Medical Practitioners (OMPs) in the mining industry in submitting details of disease occurrences.

The Health Incident Report occupational diseases system uses the same list of mines as SAMRASS, the intention being to standardise data on disease incidents for administrative simplicity, as well as for statistical purposes.

Normal medical ethics must apply to confidentiality of personal and medical data. An *employee* consent form is attached as an annexure (Annexure B). There is a legal obligation to notify certain diseases, such as tuberculosis, to the authorities for protection of the community. In such a case, the common good has to override personal interests. But, as mentioned, access to the detailed data must be restricted in order to prevent violation of personal privacy rights.

The system is not designed to record clinical details of a disease occurrence; the main purpose of the data is to address the lack of information on the prevalence of occupational diseases in the mining industry. The nature of the data is designed to facilitate subsequent statistical analysis of masses of cases, rather than an in-depth clinical analysis of any specific case. This is to enable corrective measures to be prioritised and monitored. The document was developed in consultation with representatives from State, Labour and *Employer*.

The following aspects were taken into account:

- **Simplification**

An important consideration in the revision process was to design the reporting system without adding to the workload for the mines. With this in mind, codes which are consistent with industry reporting to Rand Mutual Assurance have been incorporated with SAMRASS reporting.

- **Content**

The choice and definition of variables to be reported, statistical measures and categories and groups for which statistics are reported, were revisited.

The new system has also been designed to conform to international standards and to facilitate comparison with other statistics.

- **Accuracy and Consistency**

## Mine Health and Safety Act, 1996 (Act No. 29 of 1996) and Regulations

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Coding structures should be consistent with previous code sets so that history is not lost and should be readily understood by persons completing the prescribed forms.

- **Accessibility**

Statistics will be published in the Mine Health and Safety Inspectorate (MHSI) Annual Report and disseminated. Graphs, diagrams and explanatory notes will be used.

- **Uses**

Statistics will be presented, illustrating the situation and trends within the different mining sectors.

- **Common Vocabulary**

The intention of this document is to ensure that all mines make use of the same terminology regarding disease reporting.

[Annexure A of form DMR 231 inserted by GNR.702 of 2014]