

MHSA: DMR PUBLISHES MANDATORY CODES OF PRACTICE GUIDELINES

Hi there

On 28 July 2023 the Department of Mineral Resources published two (2) Guidelines for the Compilation of Mandatory Codes of Practices in terms of the Mine Health and Safety Act, Act 29 of 1996 in Government Gazette No.45903.

Legal Status of Code of Practice

In accordance with section 9(2) of the MHSA, an employer must prepare and implement a COP on any matter affecting the health or safety of employees and other persons who may be directly affected by activities at the mines if the CIOM requires it. These COPs must comply with any relevant guideline issued by the CIOM [section 9(3)]. Failure by the employer to prepare or implement a COP in compliance with this guideline is a breach of the MHSA.

GUIDELINES FOR THE COMPILATION OF MANDATORY CODES OF PRACTICES:

Gov. N 3733: Guideline for a mandatory Code of Practice for the management of medical incapacity due to ill-health and injury

Reference number: DMRE 16/3/2/4-B8

Last Revision Date: 2022-03-31

Date first issued: 2016-05-31

Effective Date: 2023-10-01

This guideline has been drafted to assist the OMPs, the safety health and environment personnel and the HR officers in managing employees with medical incapacity in the South African mining industry. It does not deal with individual medical conditions, but rather aims to formalise the basic principles of the management of employees with medical incapacity in order to ensure that a fair and consistent approach will be followed.

An employee's medical condition, and the programme required for the effective management of such an employee, should be interpreted in functional terms. It should also be interpreted in the context of the specific job requirements and/or the specific job requirements of the adjusted or alternative jobs considered during the management of such an employee. The outcome of the processes followed must pose no additional risk to the health and/or safety of such an employee or his/her co-workers, where relevant. In instances of reasonable accommodation or alternative jobs, the employer is always entitled to expect full productivity of the accommodated employee relating to the essential functions of the task.

The interpretation of this guideline should allow for the unique operational circumstances of all mining operations, e.g. small mines, open cast mines, underground operations, beneficiation plants, condensation plants or smelters. This guideline applies to all current employees.

The objective of this guideline is to ensure procedural and substantive fairness with employment decisions in respect of all current employees with medical incapacity, and those qualifying as persons with disabilities under the EEA.

The collateral objectives are to assist the OMP and HR officer tasked with preparing the COP and ensuring that the implementation thereof is appropriate, considering the health and safety of all employees at the mine which, if implemented and complied with, would:

- Be appropriate, considering the health and safety of all employees at the mine.
- Ensure that employees who suffer from ill-health or injury, would be returned to their normal, adjusted or alternative work, where possible, by making early return-to-work recommendations.
- Ensure that where employees who suffer from ill-health or injury cannot be accommodated in their normal, adjusted or alternative work, be managed in a consistent and fair manner.
- Ensure that employees who are unfit to continue performing productively and safely in normal, adjusted or alternative work at the mine, are medically incapacitated.
- Ensure that the affected employee will be able to perform work without an unacceptable health or safety risk to that employee or any other person.

Gov. N 3734: Guideline for a mandatory Code of Practice for the selection and provision of personal protective equipment for the women in the South African Mining Industry

Reference number: DMRE 16/3/2/5-A5

Last Revision Date: 2022-10-01

Date first issued: 2015-12-31

Effective Date: 2023-09-30

There is an increase of women being employed in the mining industry, particularly underground and in jobs previously exclusively performed by men. The increase of women in the previously male dominated environment has led to many challenges. One of the challenges that has confronted women is the use of the PPE that has not taken the female anthropometric characteristics into account.

As a result, many areas of the work environment within the South African mining industry are unsuitable for deploying female employees. However, there is an improvement in the provisioning of suitable PPE for WIM since PPE generally has been designed to suit the male physique. WIM have special health and safety needs resulting from their unique anatomical and physiological makeup. Additionally, there is scarcity of published data on the health and safety concerns and issues of WIM.

As indicated in the SIMRAC research project SIM 10 09 04, there is a possible association between the types of PPE used by women and the increased vulnerability to skin conditions such as contact dermatitis, chaffing and rashes including bacterial and fungal infections. The situation is further exacerbated by the unique coping mechanisms (e.g. the use of nylon tights and thick wool socks as undergarments), that WIM have been compelled to practice to adjust or correct the ill-fitting PPE. These unorthodox adjustments further increase the risk of infections, chaffing and rashes. Following the research project, a guideline on provision of PPE for WIM in the South African mining industry was developed. The current review of the guideline follows a 5-year implementation period and intends to address concerns raised during the implementation of the guideline.

The selection, provision and use of PPE in the workplace should not only be based on hazard identification and risk assessment processes but should incorporate ergonomic and comfort aspects of users to guarantee PPE efficiency for all workers. This approach will ensure that the specificities of female anthropometrics are accommodated. The hazards identified will determine the body part that is to be protected and therefore the PPE required.

The PPE could include, but is not limited to, head protection, eye or face protection, hand or arm protection, body (torso) protection, foot protection, respiratory protection, vibration and hearing protection as well as thermal protection.

The objective of this guideline is to provide guidance to the employer at every mine to compile a mandatory COP which would assist employers in providing suitable PPE for WIM where required, and to train all employees on issues relating to PPE for WIM.

Publication details:

Published under Government Notices 3733 and 3734, Government Gazette 49046, dated 28 February 2023

Where do I access this information?

<https://implex.co.za/wp-content/uploads/2023/08/MHS-COP-G49046-GoN3733-Jul2023.pdf>

<https://implex.co.za/wp-content/uploads/2023/08/MHS-COP-G49046-GoN3734-Jul2023.pdf>

We trust that this information will serve to be of some assistance to you and look forward to your positive feedback!

Implex regards,
Marlize



"Innovation comes only from readily and seamlessly sharing information rather than hoarding it." Tom Peters