

5 October 2020

Dear valued RMI member,

Consolidated directions on Occupational Health & Safety measures in certain workplaces

This monitor serves to advise members of the contents of the latest consolidated directive/government notice, dated 28 September 2020, issued by the Department of Employment and Labour. This notice is applicable to all employers and employees in workplaces and is a reminder that employers are subject to conduct risk assessments.

Any risk assessments must include plans for protective measures and such plans must take into account the circumstances of the workplace in terms of Hazardous Biological Agents and how such plan will outline the protective measures in place. An employer must also in the process consult with a representative trade union and any health and safety committee or health and safety representative and such a plan must be made available to amongst others, an inspector. The plan itself must also comply with certain criteria such as, but not limited to, the date and times the workplace will be open for business; timetable for the phased return of staff; ways of managing the amount of staff at the workplace and identifying vulnerable staff. This plan must then be adhered to by the employer.

Administratively the employer (if more than 50 employees are employed) must submit a record of this plan to its health and safety committee and the Department of Employment of Labour. Staff are required to disclose any health issues and employees should also undertake special measures to mitigate the risk of COVID-19. Employees must be informed what to do when they experience COVID-19 symptoms. The plan further sets out the responsible person internally, a COVID-19 Compliance Officer whose duties will amongst others include the implementation of the plan; adherence to the plan; address concerns raised by employees or workplace representatives regarding health and safety. Measures should also be in place to minimise the amount of staff at work and minimize contact. The most important aspect is to inform staff of the dangers of COVID-19, minimise the risk of transmission and what to do if they have been diagnosed with COVID-19 related symptoms.

This government notice again reminds of the importance when employees are diagnosed with COVID-19:

- Inform the National Institute for Occupational Health
- Inform the Compensation Commissioner
- Determine the mode of exposure and review the initial risk assessment and how the control measures were breached
- Determine the need to temporarily close the affected workplace and decontaminate.
- Provide administrative support in contact-tracing measures.

The importance of social distancing in the workplace is also reiterated and ensure that contact between employees in the workplace is minimal and taking into account the circumstances of the workplace. It still sets out that the social distance be at least 1,5 metres. Where this distance is not practical, the employer should put up physical barriers. As such, it is the employer's duty to arrange any workplace in such a fashion that the staff are at least 1,5 metres apart. This would also be applicable to any employee or customer needing to queue at the workplace, to queue at least 1,5 meters apart from each other.

Added to the above, the plan should also set out the symptom screening. Every employer must screen workers as they report for work and ascertain if an employee has a sore throat, cough, shortness of breath and loss of smell and taste and further establish if an employee has a fever, redness of the eyes, nausea, vomiting, diarrhoea and fatigue. The employees are compelled to inform the employer if they experience any one of these symptoms. Such an employee will not be permitted to enter the workplace and if already at work, be isolated and be dealt with as per previous communication outlining this.

Any employee that shows symptoms is to be placed on paid sick leave in terms of Section 22 of the BCEA. Once such sick leave is exhausted an application may be made to an illness benefit established in terms of Clause 4 of the COVID-19 Temporary Relief Scheme promulgated in terms of Section 27(2) of the Disaster Management Act. Should evidence exist that an employee contracted the virus during the course of employment, lodge a claim in terms of the Compensation for Occupational Injuries and Diseases Act 1993. Such an employee may also not be discriminated against.

The government notice places further emphasis on any employee with COVID-19 symptoms to isolate for a mandatory 10 days. Such an employee is not required to undergo any viral test if his/her symptoms were mild or moderate or severe where the employee has already undergone a medical evaluation confirming his/her fitness for work. Any exposure to COVID-19 in the workplace must be assessed to determine the risk. Low risk exposure may result in the employee to continue working with a cloth mask and the employee must then be monitored for 10 days from the date of first exposure. In circumstances where the risk is high, any employee must remain in quarantine for 10 days. The rules regarding sick leave shall then apply to such an employee for the period of incapacitation.

The rules and directives regarding sanitizers, disinfectants and washing of hands still remain the same as per previous directives and communication. Sanitizers must have at least a 70% alcohol content. Both sanitizers and disinfectants used must comply with the recommendations of the Department of Health. These sanitisers and disinfectants must be supplied free of charge. Those employees who work away from their workstation at times, must be given sufficient hand sanitizer to accompany them on such endeavours. The supply of hand sanitizers is also still applicable to customers/public visiting the workplace. In the case where employer's make use of biometric systems, such systems must be either disabled or regularly cleaned and disinfected.

Adequate facilities for washing of hands should be available with sufficient soap and water. The use of fabric towels is prohibited and only paper towels are to be used. The washing of hands for employees while at work, is to be done regularly and those tasked with dealing with the public or customers are to sanitize their hands after each interaction. The wearing of cloth masks is required by the Department of Health while in a public place. Each employee is still to be supplied with at least two cloth masks; it remains the employer's responsibility to train staff how these cloth masks should be used.

The number of clients or members of the public that enters the workplace, given what is reasonably practical, may not exceed the number of customers allowed given the size of the area that are visited. Although this will give further effect to the distancing required, it also assist the employer with managing proper ventilation. The workplace still needs to be well ventilated regardless if the means are natural or mechanical. The government notice suggests that where the ventilation is mechanical, it should be fitted with High Efficiency Particulate Air Filters that is cleaned and maintained regularly and the air is not re-circulated.

In terms of Personal Protective Equipment (PPE), employer are still obligated to regularly check if current PPE complies with the requirements. The requirements can be viewed on the following websites:

- www.health.gov.za
- www.nicd.ac.za
- www.nioh.ac.za



The question that many employers face is if an employee can refuse to work? If such an employee, with reasonable justification, appears to be at risk of exposure, such employee may refuse to work. An employee in these circumstances must inform his/her employer of the reason for refusal as soon as reasonably practical. No employee may be taken action against for practising such right.

Measures and directives contained in this government notice, can be enforced by an Inspector appointed by the Minister of Employment and Labour or extending his/her authority to local authorities. When any non-compliance is observed regarding these directives, Section 29 and 30 of the Occupational Health and Safety Act which provides extra powers to Inspectors carrying out their functions. An inspector is however not limited to these two Sections, but could also invoke Section 38 of the Act. An inspector's role is however not only punitive in nature, an Inspector can also advise and inform employers and employees of the rights in accordance with Section 64 of the Basic Conditions of Employment Act.

Please feel free to make contact with your nearest RMI regional office should you have any further enquiries or require further information.

