

8 April 2022

Dear Valued Member,

TRANSITIONAL MEASURES FOR COVID-19 IN THE WORKPLACE

On 4 April 2022, President Cyril Ramaphosa terminated the National State of Disaster which was in effect to combat the spread of COVID-19. The termination of the National State of Disaster further terminated the regulations issued under the Disaster Management Act, which was primarily responsible for the implementation of measures for COVID-19 in the workplace.

Since our communication in this regard on 5 April 2022, we received several queries from members uncertain about which measures apply in the workplace until the regulations under the National Health Act have been promulgated.

The following transitional measures are effective until 4 May 2022:

1. It is compulsory to wear a **face mask in an indoor public space**. A mask is not required when outdoors.
2. The existing restrictions on gatherings will continue as a transitional measure. This means that **both indoor and outdoor venues can take up to 50 percent** of their capacity without any maximum limit, provided that proof of vaccination or a COVID test not older than 72 hours is required for entrance to the venue.
3. The existing **provisions concerning international travel remain in place**. This means that travellers entering South Africa will need to show proof of vaccination or a negative PCR test not older than 72 hours.
4. The directions that provide for the payment of the **special R350 Social Relief of Distress Grant will remain in place**. This will enable the Department of Social Development to finalise the regulations that will allow the payment of the grant to continue.

5. The directions that provide for the **extension of the validity of a learner's licence, driving licence card, licence disc, professional driving permit and registration of a motor vehicle** will remain in place.

In addition to the aforementioned, the measures for COVID-19 in the workplace are regulated by the **Code of Good Practice: Managing Exposure to SARS-COV2 in the workplace**. The Code is quite self-explanatory, but we wish to highlight some of the important obligations:

1. **Risk assessment and plan (Section 5)**

Every employer must undertake a risk assessment, and based thereon, develop or amend its existing plan to include any measures to be implemented in respect of the vaccination of its employees and, taking into account the intervals between vaccinations, the dates by which the employees must be fully vaccinated. This provision is not intended to introduce mandatory vaccination as a default workplace requirement, however Members who operate workplaces that represent a high risk for transmission of COVID-19, will be required to justify not implementing mandatory vaccination as a condition of employment, when inspected by the Department of Employment and Labour.

2. **Contents of risk assessment and plan (Section 6)**

The risk assessment must include the identification of the employees identified in the risk assessment; the reporting of symptoms by employees and the isolation of employees who are diagnosed with COVID-19 and are symptomatic; the workplace protective measures required to be taken in terms of the HBA (Hazardous Biological Agents) Regulations including personal protective equipment and ventilation; a procedure to resolve any issue that may arise from the HRA (Health Research Authority) by an employee of the right to refuse to work in the circumstances contemplated in section 15 (1) and the process by which the obligations under this Code will be complied with.

3. **Notification of workers (Section 7)**

An employer must notify workers on its premises of the contents of this Code and its risk assessment outcome and plan, and how it intends to implement it. Employers must also provide workers with information that raises awareness regarding COVID-19. This could include posters and leaflets creating awareness and advocating hygienic practices.

4. Symptom reporting by workers (Section 8)

Every employer must determine the vaccination status of their workers and workers must immediately inform their employer if they experience any of the symptoms associated with COVID-19. If an employee informs their employer that they experience COVID-19-related symptoms, the employer may require the employee to be tested for COVID-19 before permitting the employee to enter the workplace or report for work. This does not apply to workers who report the presence of COVID-19 symptoms between one to three days after vaccination.

5. Isolation of workers (Section 9)

Workers who have been diagnosed with COVID-19 and are symptomatic must inform their employer and isolate themselves for the period as recommended by the National Department of Health, unless a longer period is recommended by a medical practitioner. In those circumstances, the employer must place the employee on paid sick leave. Members whose employees participate in the MIBCO Sick-, Accident- and Maternity Pay Fund may claim such sick leave expenses / wages from the Fund, provided a medical certificate is submitted.

6. Vaccination of employees (Section 12)

Every employer must notify employees of the obligation to be vaccinated; give the employee paid time off to be vaccinated and provide transport for the employee to and from the nearest vaccination site. An employer may require its employees to disclose their vaccination status and to produce a vaccination certificate. Should an employee suffer a vaccine adverse event that renders them unable to work, the employer must on receipt of a medical certificate, give the employee paid time off to recover if the employee is no longer entitled to paid sick leave or sick leave benefits in terms of the MIBCO Sick-, Accident- and Maternity Pay Fund.

7. Small businesses (Section 13)

Employers with 20 employees or less need only to:

- undertake a risk assessment of the workplace and take any reasonably practical measure that may mitigate the risk of infection and transmission of the virus or the risk to employees of serious illness or death;

- comply with section 12 (vaccination of employees) if a measure, contemplated in section 5 (measures for vaccination of employees), is introduced;
- refuse to allow the employee to enter the workplace and comply with section 9 (isolation of workers) if an employee has COVID-19 related symptoms;
- ventilate occupied closed spaces in the workplace in accordance with section 10(1).

Please contact your regional IR Specialist for any queries in this regard.

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