

32. For the purposes of these clauses, a hand sanitizer must be one that has at least 70% alcohol content and is in accordance with the recommendations of the Department of Health.
33. Every employer must, free of charge, ensure that –
  - 33.1 there are sufficient quantities of hand sanitizer based on the number of workers or other persons who access the workplace at the entrance of, and in, the workplace which the workers or other persons are required to use; and
  - 33.2 every employee who works away from the workplace, other than at home, must be provided with an adequate supply of hand sanitizer.
34. If a worker interacts with the public, the employer must provide the worker with sufficient supplies of hand-sanitizer at that worker's workstation for both the worker and the person with whom the worker is interacting.
35. Every employer must take measures to ensure that-
  - 35.1 all work surfaces and equipment are disinfected before work begins, regularly during the working period and after work ends;
  - 35.2 all areas such as toilets, common areas, door handles, shared electronic equipment are regularly cleaned and disinfected; and
  - 35.3 disable biometric systems or make them COVID-19-proof.
36. The employer must ensure that-
  - 36.1 there are adequate facilities for the washing of hands with soap and clean water;
  - 36.2 only paper towels are provided to dry hands after washing – the use of fabric toweling is prohibited;
  - 36.3 the workers are required to wash their hands and sanitize their hands regularly while at work;
  - 36.4 the workers interacting with the public are instructed to sanitize their hands between each interaction with a member of the public; and
  - 36.5 surfaces that workers and members of the public come into contact with are routinely cleaned and disinfected.

*Cloth masks*

37. The main benefit of everyone wearing a cloth mask is to reduce the amount of virus containing droplets being coughed up by those with the infection and transmitted to others and to surfaces that others may touch. Since some infected persons may not have symptoms or may not know they are infected, the Department of Health requires that all persons wear cloth masks when in a public place.

38. For the reasons underlying the Department of Health's requirement, every employer must –
  - 38.1 provide each of its employees, free of charge, with a minimum of two cloth masks, which comply with the requirements set out in the Department of Health's recommendations<sup>16</sup>, for the employee to wear while at work and while commuting to and from work; and
  - 38.2 require any other worker to wear masks in the workplace.
39. The number and replaceability of cloth masks that must be provided to an employee or required of other workers must be determined in accordance with any sectoral guideline and in the light of the employee or worker's conditions of work, in particular, where these may result in the mask becoming wet or soiled.
40. Every employer must ensure that workers are informed, trained, instructed and supervise as to the correct use of cloth masks.
41. The general requirement for workers to wear masks does not derogate from the fact that, where a risk assessment indicates that specific personal protective equipment is required, those categories of workers must be provided with the accredited personal protective equipment in accordance with Department of Health guidelines.

*Measures in respect of workplaces to which public have access*

42. The principal purpose of the measures contained in the following clause is to protect workers from being exposed to the virus through their interaction with the public and to protect members of the public from being exposed to virus through their interaction with workers or other persons present in such a workplace.
43. Depending on what is reasonably practicable given the nature of the workplace contemplated in clause 42, every employer must-
  - 43.1 determine the floor area of the workplace in square metres in order to determine the number of customers and workers that may be inside the workplace at any one time with adequate space available;
  - 43.2 arrange the workplace to ensure that there is a distance at least one and a half metres between workers and members of the public or between members of the public;
  - 43.3 put in place physical barriers at counters or provide workers with face shields or visors;
  - 43.4 if appropriate, undertake symptom screening measures of persons other than its employees entering the workplace with due regard to available technology and any guidelines issued by the Department of Health;

<sup>16</sup> Department of Health: *How to use mask cloth* – see the link in Annexure A.

- 43.5 if appropriate, display notices advising persons other than employees entering the workplace of the precautions they are required to observe while in the workplace;
- 43.6 require members of the public, including suppliers, to wear masks when inside their premises;
- 43.7 take steps to ensure that customers queuing inside or outside the workplace are able to maintain a distance of one and half metres from each other;
- 43.8 provide hand sanitizer for use by the public at the entrance to the workplace;
- 43.9 assign an employee as a compliance officer to ensure that these measures are complied with and that all directions in respect of hygienic conditions and limitation of exposure to persons with COVID-19 are adhered to.

#### *Ventilation*

#### 44. Every employer must –

- 44.1 keep the workplace well ventilated by natural or mechanical means to reduce the SARS-CoV-2 viral load;
- 44.2 where reasonably practicable, have an effective local extraction ventilation system with high-efficiency particulate air HEPA filters, which is regularly cleaned and maintained, and its vents do not feed back in through open windows;
- 44.3 ensure that filters are cleaned and replaced in accordance with the manufacturer's instructions by a competent person.

#### *Specific Personal Protective Equipment*

- 45. Every employer must check regularly on the websites of the National Department of Health<sup>17</sup>, National Institute of Communicable Diseases<sup>18</sup> and the National Institute for Occupational Health<sup>19</sup> whether any specialised personal protective equipment for COVID-19 is required or recommended in any guidelines given the nature of the workplace or the nature of a worker's duties and the associated level of risk.

#### **Small businesses**

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<sup>17</sup> <http://www.health.gov.za/>

<sup>18</sup> <https://www.nicd.ac.za/>

<sup>19</sup> <http://www.nioh.ac.za/>

46. Employers with 10 employees or less must take the following measures:
- 46.1 if the employer is permitted to recommence operations under the Regulations, it must develop a basic plan for the phasing in the return of its employees taking into account those that are able to work remotely and those over the age of 60 years or who have comorbidities;
  - 46.2 arrange the workplace to ensure that employees are at least one and half metres apart or, if not practicable, place physical barriers between them to prevent the possible transmission of the virus;
  - 46.3 ensure that employees that present with the symptoms set out in clause 25.1 are not permitted to work;
  - 46.4 immediately contact the COVID-19 hotline: 0800 02 9999 for instruction and direct the employee to act in accordance with those instructions;
  - 46.5 provide cloth masks or require an employee to wear some form of cloth covering over their mouth and nose while at work;
  - 46.6 provide each employee with hand sanitizers, soap and clean water to wash their hands and disinfectants to sanitize their workstations;
  - 46.7 ensure that each employee while at work washes with soap and sanitizes their hands; and
  - 46.8 ensure that their workstations are disinfected regularly; and
  - 46.9 take any other measures indicated by a risk assessment of the workplace including the such measures as are appropriate in clause 43 if the public have access to the workplace.

#### **Worker obligations**

47. In addition to the obligations of employees under the OHSA, every worker is obliged to comply with measures introduced by their employer as required by this Direction.

#### **Refusal to work due to exposure to COVID-19**

48. An employee may refuse to perform any work if circumstances arise which with reasonable justification appear to that employee or to a health and safety representative to pose an imminent and serious risk of their exposure to COVID-19.
49. An employee who has refused to perform work in terms of clause 48 must as soon as is reasonably practicable notify the employer either personally or through a health and safety representative of the refusal and the the reason for the refusal. Every employer must, after consultation with the compliance officer and

any health and safety committee, endeavour to resolve any issue that may arise from the exercise of the right in terms of clause 48.

50. Clause 48 applies whether or not the person refusing to work has used or exhausted any other applicable external or internal procedure.
51. No person may advantage or promise to advantage any person for not exercising his or her right in terms of clause 48.
52. No employer may make any deduction from an employee's remuneration, or require or permit an employee to make any payment to the employer or any other person, in respect of anything which the employer is obliged to provide or to do in terms of this Direction.
53. No person may threaten to take any action against a person because that person has exercised or intends to exercise the right in terms of clause 48.
54. No employee may be dismissed, disciplined, prejudiced or harassed for refusing to perform any work as contemplated in clause 48.
55. If there is a dispute as to whether clause 49 has been contravened, the employee may refer the dispute to the Commission for Conciliation, Mediation and Arbitration or an accredited bargaining council for conciliation and arbitration in accordance with the procedures contained in section 191 of the Labour Relations Act, 1995 (Act No. 66 of 1995).
56. If the arbitrator appointed in terms of section 191 of that Act to determine a dispute referred in terms of clause 56 finds that the employer has contravened clause 55, the arbitrator may make any appropriate order contemplated in section 193 read with 194(3) or (4) of that Act.

#### **Monitoring and enforcing the Direction**

57. If a person fails to comply with this direction, an inspector may perform any of the functions in section 29 of OHSA and exercise any of the powers listed in section 30 of OHSA in order to monitor compliance with this Direction.
58. In so far as any contravention of this Direction constitutes a contravention of an obligation or prohibition under OHSA, the offences and penalties provided for in section 38 of OHSA apply.
59. An inspector may for the purpose of promoting, monitoring and enforcing compliance with the OHSA, advise employees and employers of their rights and obligations in terms of this Direction in accordance with section 64 of the BCEA.

### **Sectoral protocols and guidelines**

60. Sectoral or industry associations must, in the event of high health risks, develop sector-specific health protocols in consultation with the Department of Health to limit the spread of COVID-19 in the sector including providing for those circumstances where a firm within the sector cannot stagger working hours or provide transport for its employees.
61. The Chief Inspector appointed in terms of section 27 the OHSA must facilitate the development of sector specific guidelines to supplement this Direction by engaging with the social partners through the offices of the National Economic Development and Labour Council.
62. The sector specific guidelines should include the matters referred to in Annexure B.

### **Changes to Annexure A**

63. The Minister may from time to time amend Annexure A and publish it online without issuing an amended direction in order to update the links to any new applicable guideline or recommendation.

### **Commencement of this Direction**

64. This Direction comes into effect on the date of its publication on the Department's website or the *Gazette*, whichever is the earlier.

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**Annexure A**

**DEPARTMENT OF HEALTH LINKS**

***Guidance on vulnerable employees and workplace accommodation in relation to COVID-19 (V4: 25 May 2020)***

[http://www.nioh.ac.za/wp-content/uploads/2020/05/20\\_2020-V4.-Guidance-on-vulnerable-employees-and-workplace-accommodation....pdf](http://www.nioh.ac.za/wp-content/uploads/2020/05/20_2020-V4.-Guidance-on-vulnerable-employees-and-workplace-accommodation....pdf)

***Guidance note for workplaces in the event of identification of a COVID-19 positive employee***

[http://www.nioh.ac.za/wp-content/uploads/2020/05/guidelines\\_positive\\_worker\\_19\\_May\\_20.pdf](http://www.nioh.ac.za/wp-content/uploads/2020/05/guidelines_positive_worker_19_May_20.pdf)

***Clinical management of suspected or confirmed COVID-19 disease Version 4 (18th May 2020)***

<https://www.nicd.ac.za/wp-content/uploads/2020/05/Clinical-management-of-suspected-or-confirmed-COVID-19-Version-4.pdf>

***Guidelines for symptom monitoring and management of essential workers for COVID-19 related infection***

[http://www.nioh.ac.za/wp-content/uploads/2020/05/guidelines\\_positive\\_worker\\_19\\_May\\_20.pdf](http://www.nioh.ac.za/wp-content/uploads/2020/05/guidelines_positive_worker_19_May_20.pdf)

***How to use mask cloth***

<http://www.health.gov.za/index.php/component/phocadownload/category/631#>

## **Annexure B**

### **SECTORAL GUIDELINES**

#### **1. Workplace Risk assessment**

- 1.1 Identify high-risk exposure work processes
- 1.2 Identify high-risk work practices

#### **2. Engineering controls**

- 2.1. Ventilation
- 2.2. Physical barriers
- 2.3. Adaptation of workstations to increase social distance

#### **3. Administrative controls**

- 3.1. Screening/ reporting of symptoms/ sick leave
- 3.2. Minimizing contact
- 3.3. Rotation and shift work
- 3.4. Work-at-home strategies
- 3.5. Communication and information strategies
- 3.6. Role of health and safety committees and representatives
- 3.7. Education and training
- 3.8. Reporting of incidents for regulatory purposes
- 3.9. Reporting for purposes of public health, contact tracing, screening, testing and surveillance
- 3.10 Management of COVID-19 positive employees and workplace contacts (symptomatic and asymptomatic)
- 3.11 Management of vulnerable employees and special measures for their protection, including protection against unfair discrimination or victimization

#### **4. Healthy and safe work practices**

- 4.1. Disinfectants, sanitisers and personal hygiene
- 4.2. Other

#### **5. PPE**

- 5.1. Masks
- 5.2. Gloves
- 5.3. Facial shields
- 5.4. Other

#### **6. Provision of safe transport for employees**

- 6.1. Personal hygiene
- 6.2. Social distancing
- 6.3. Arrangements to minimise exposure associated with commuting

- 6.4. Cloth masks (if commuter)
- 6.5. Employer provided transport
- 6.6. PPE (driver/conductor of employer-provided transport)