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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

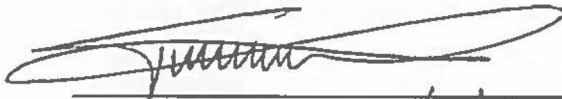
DEPARTMENT OF LABOUR

NO. R. 1589

06 DECEMBER 2019

DEPARTMENT OF EMPLOYMENT AND LABOUR**OCCUPATIONAL HEALTH AND SAFETY ACT, 1993****ERGONOMICS REGULATIONS, 2019**

The Minister of Employment and Labour has, under section 43 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), after consultation with the Advisory Council for Occupational Health and Safety, made the regulations in the Schedule.



TW NXESI, MP

20/11/2019

MINISTER OF EMPLOYMENT AND LABOUR

SCHEDULE

Definitions

1. In these Regulations "the Act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), and any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates—

"adverse health effect" means the causation, promotion, facilitation or exacerbation of a structural or functional abnormality, with the implication that the abnormality produced has the potential of lowering the quality of life, contributing to a disabling illness or leading to premature death;

"competent person" in relation to ergonomics, means a person who—

- (a) has in respect of the work or task to be performed the required knowledge, training and experience in ergonomics and, where applicable, qualifications specific to ergonomics: provided that where appropriate qualifications and training are registered in terms of the provisions of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), those qualifications and that training must be regarded as the required qualifications and training; and
- (b) is familiar with the Act and the applicable regulations made under the Act;

"chief director: provincial operations" means the provincial director as defined in regulation 1 of the General Administrative Regulations, 2003, as published in Government Notice No. R. 929 of 25 June 2003;

"design" in relation to objects, systems or measurable human interaction includes drawings, calculations, design details and specification;

"designer" means any person who—

- (a) prepares a design;
- (b) checks and approves a design;

- (c) arranges for a person at work under his or her supervision to prepare a design, including an employee of that person where he or she is the employer;
- (d) designs temporary work, including its components; or
- (e) contributes to, or has overall responsibility for machinery, plant or work systems design;

"ergonomic risk" means a characteristic or action in the workplace, workplace conditions, or a combination thereof that may impair overall system performance and human well-being;

"ergonomic risk assessment" means a programme, process or investigation to identify, analyse, evaluate and prioritise any risk from exposure to ergonomic risks associated with the workplace;

"ergonomics" means the scientific discipline concerned with the fundamental understanding of interactions among humans and other elements of a system, and the profession that applies theory, principles, data and methods to design in order to optimise human well-being and overall system performance;

"supplier" means a person who controls the supply, importation or resupply of machinery, plant or work systems;

"work system" means a system in which human participants or machines or human participants and machines perform work using information, technology and other resources to produce products or services for internal or external customers.

Scope of application

2. These Regulations will apply to—

- (a) any employer or self-employed person who carries out work at a workplace, which may expose any person to ergonomic risks in that workplace; and

- (b) a designer, manufacturer, importer or supplier of machinery, plant or work systems for use at a workplace.

Information, instruction and training

3. (1) An employer must, after consultation with the health and safety committee established in respect of a workplace under such employer's control or the health and safety representatives designated for that workplace or for different sections thereof, establish for all employees and mandatories or persons other than employees who may be affected or potentially exposed to ergonomic risks a training programme that incorporates the following:

- (a) the content and scope of these Regulations;
- (b) the potential sources of exposure to ergonomic risks;
- (c) the nature of ergonomic risks;
- (d) the potential risk to health associated with ergonomic risks;
- (e) the control measures that are in place to prevent exposure to ergonomic risks;
- (f) the procedure for reporting ergonomic risks to the health and safety representative or employer;
- (g) the precautions to be taken by an employee to protect himself or herself against ergonomic risks; and
- (h) the assessment of exposure, the necessity for medical surveillance and the long-term benefits of undergoing such surveillance.

(2) The employer must conduct the training contemplated in subregulation (1) prior to the placement of the relevant employee in the workplace.

(3) The employer must conduct refresher training at intervals that may be recommended by the health and safety committee or the health and safety representative.

Duties of persons who may be at risk of exposure to ergonomic risks

4. Any person who is exposed or may be exposed to ergonomic risks must obey any lawful instruction given to him or her by the employer or self-employed person or by anyone authorised by the employer or self-employed person, regarding—

- (a) the use of measures adopted to control ergonomic risks;
- (b) cooperation with the employer in determining the employee's exposure to ergonomic risks;
- (c) the reporting of potential ergonomic risks to the health and safety representative or the employer;
- (d) reporting for medical surveillance as required by regulation 8; and
- (e) information, instruction and training received as contemplated in regulation 3.

Duties of designers, manufacturers, importers and suppliers

5. Any designer, manufacturer, importer or supplier of machinery, plant or work systems for use at work must—

- (a) as far as is reasonably practicable, ensure that machinery, plant or work systems optimise human well-being and overall system performance;
- (b) as far as is reasonably practicable, supply machinery, plant or work systems that can be transported, received, stored and handled in a manner that optimises human well-being and overall system performance;
- (c) provide information, instruction and training as deemed necessary to allow potential users to achieve optimal human well-being and overall system performance during use of machinery, plant or work systems;

- (d) as far as is reasonably practicable, install machinery, plant or work systems to achieve optimal human well-being and overall system performance; and
- (e) provide information to potential users on the appropriate maintenance of machinery, plant or work systems to ensure safe operation and use.

Ergonomic risk assessment

6. (1) (a) An employer must, before the commencement of any work that may expose employees to ergonomic risks, have an ergonomic risk assessment performed by a competent person.
- (b) The ergonomic risk assessment contemplated in paragraph (a) must be performed after consultation with the health and safety committee established in respect of a workplace under the employer's control or the health and safety representatives designated for that workplace or for different sections thereof.
- (2) The ergonomic risk assessment contemplated in subregulation (1) must—
- (a) be conducted at intervals not exceeding two years; and
 - (b) include—
 - (i) a complete hazard identification;
 - (ii) the identification of all persons who may be affected by the ergonomic risks;
 - (iii) how employees may be affected by the ergonomic risks;
 - (iv) the analysis and evaluation of the ergonomic risks; and
 - (v) the prioritisation of ergonomic risks.
- (3) An employer must review the relevant ergonomic risk assessment made in accordance with subregulation (1) if—
- (a) such assessment is no longer valid;

- (b) control measures are no longer effective;
- (c) technological or scientific advances allow for more effective control methods;
- (d) there has been a change in–
 - (i) the work methods;
 - (ii) the type of work carried out; or
 - (iii) the type of equipment used to control the exposure; and
- (e) an incident occurs or medical surveillance reveals an adverse health effect, where ergonomic risks are identified as a contributing factor.

Risk control

7. (1) An employer or self-employed person must ensure that the exposure of a person to ergonomic risks is prevented or, where this is not reasonably practicable, adequately controlled.

(2) In order to comply with subregulation (1) an employer or self-employed person must, as far as is reasonably practicable, remove or reduce exposure to ergonomic risks by implementing control measures in accordance with the hierarchy of controls.

Medical surveillance

8. (1) An employer must ensure that an employee is placed under medical surveillance, which is overseen by an occupational medicine practitioner, if–

- (a) the ergonomic risk assessment referred to in regulation 6 indicates the need for the employee to be placed under medical surveillance; or
- (b) an occupational health practitioner recommends that relevant employees must be under medical surveillance, in which case the

employer may call upon an occupational medicine practitioner to ratify the appropriateness of such recommendation.

(2) An employer must ensure that the medical surveillance contemplated in subregulation (1) consists of–

- (a) in the case of a new employee, an initial health examination before the employee commences employment or within 30 days of commencement of such employment;
- (b) a periodic health examination informed by the ergonomic risk assessment, at intervals specified by an occupational medicine practitioner, but not exceeding two years; and
- (c) an exit health examination informed by the ergonomic risk assessment.

Maintenance of controls

9. Every employer or self-employed person must, as far as is reasonably practicable, ensure that any control provided for the benefit of employees–

- (a) complies with these Regulations;
- (b) is fully and appropriately implemented; and
- (c) is maintained in good working order.

Records

10. (1) An employer or self-employed person must–

- (a) keep records of documents contemplated in regulations 3, 6, 7, 8(2) and 9;
- (b) keep records for a minimum period of–
 - (i) 40 years for records contemplated in regulations 6 and 8(2);

- (ii) three years for records contemplated in regulations 7 and 9;
- (iii) the length of time the employee remains at the workplace for records contemplated in regulation 3;

(c) make available to—

- (i) the relevant health and safety representative, health and safety committee or to an inspector, the records contemplated in regulations 3, 6, 7 and 9;
- (ii) any person, the records contemplated in regulation 8(2), subject to formal written consent of the employee.

(2) (a) If the employer ceases activities, the employer must hand over or forward by registered post all records to the relevant chief director: provincial operations.

(b) The records referred to in paragraph (a) must contain at least the following information of the employee:

- (i) surname and forenames;
- (ii) gender;
- (iii) date of birth;
- (iv) name of spouse or closest relative; and
- (v) where available, permanent residential address and postal code.

Ergonomics health and safety technical committee

11. (1) The chief inspector must, after consultation with the Minister, establish an ergonomics health and safety technical committee which must consist of–

- (a) a chairperson;
- (b) two persons designated by the chief inspector from the employees of the Department of Employment and Labour;
- (c) three persons designated by employer's organisations to represent employers;
- (d) three persons designated by employees' organisations to represent the federation of unions;
- (e) one person to represent a professional body recognised by the chief inspector;
- (f) persons who are competent in respect of the matters to be dealt with by the ergonomics health and safety technical committee who have been co-opted by the committee with the authorisation of the chief inspector;
- (g) one person from the field of ergonomics representing a higher educational institution; and
- (h) one person representing occupational medicine.

(2) The chief inspector–

- (a) must appoint members of the ergonomics health and safety technical committee for a period that he or she may determine at the time of the appointment;
- (b) may, after having afforded a member a reasonable opportunity to respond, discharge such a member at any time, for reasons that are fair and just; and

- (c) may appoint a new member in the place of a member who is discharged in terms of paragraph (b).
- (3) The ergonomics health and safety technical committee must–
- (a) advise the chief inspector on ergonomics related matters, including, but not limited to, codes, standards and training requirements;
 - (b) make recommendations and submit reports to the chief inspector regarding any matter to which these Regulations apply;
 - (c) advise the chief inspector regarding any matter referred to the ergonomics health and safety technical committee by the chief inspector;
 - (d) perform any other function for the administration of a provision of these Regulations that may be requested by the chief inspector; and
 - (e) conduct its work in accordance with the instructions and rules of conduct framed by the chief inspector.

Offences and penalties

12. Any person who contravenes or fails to comply with any of the provisions of regulations 3, 4, 5, 6, 7, 8, 9 and 10 is guilty of an offence and liable, upon conviction, to a fine or to imprisonment for a maximum of 12 months and, in the case of a continuous offence, to an additional fine not exceeding R200,00 for each day on which the offence continues or to additional imprisonment of one day for each day the offence continues: provided that the period of such imprisonment will not exceed 90 days.

Short title and commencement

13. These Regulations will be called the Ergonomics Regulations, 2018, and will come into operation on the date of publication in the *Gazette*.



employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA

Annexure 1

Explanatory Notes to Ergonomics Regulations 2019

Chief Directorate: Occupational Health and Safety

NO: XXX

FOREWORD

The purpose of this document is to provide guidance to all employers, employees and the public alike, who are responsible for or concerned with the control and prevention of exposure to ergonomic risks in the workplace.

This guide does not replace the Ergonomics Regulations of 2019. It is intended to give practical insight into the application of the Regulations. It should always be read in conjunction with the Ergonomics Regulations and the Occupational Health and Safety Act of 1993.

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INTRODUCTION

Ergonomics (human factors will be considered the same as ergonomics in this document) takes a systems approach to understanding work acknowledging the interactions between the various elements within the work-system including tools/technology, tasks, environment, organisation and persons in the workplace. Ergonomics aims to balance these interactions through the design of the system using a human-centred approach. Applied comprehensively in a workplace, ergonomics can be as important a concept as strategic planning and quality control. It has a real and direct impact on health and safety, productivity and performance. Ergonomics can affect an entire work-system by enhancing the most important component - the ability to balance task demands with employee capabilities.

The practical benefits of ergonomics are, but not limited to:

- Labour – improved health, well-being and safety of employees
- Business – improved productivity, efficiency and prevention of occupational incidents and adverse health effects
- Government – a workplace that is safe and without risk to the health of employees

The regulations speak to an ergonomics programme approach which should be integrated into existing occupational health and safety programmes. An ergonomics programme is a systematic process for anticipating, identifying, analysing and controlling ergonomic risks, which should include but not be limited to, ergonomics hazards identification and risk assessment, risk controls, information and training, monitoring and evaluation and medical surveillance. It is important to acknowledge that ergonomics is not a stand alone hazard, but rather part of the broader approach to ensuring a workplace that is safe and without risk to the health of employees as well as productivity at work.

Regulation 2: Scope of Application

These Regulations are intended to protect the health and safety of any person who may be exposed to ergonomic risks in the workplace.

Regulation 3: Information, Instruction and Training

The provision of information, instruction and training for any person who may be exposed to ergonomic risks is of paramount importance, in order to assist employers and employees in reducing the exposure to ergonomic risks. The employer must ensure they are familiar with basic ergonomic principles, as well as establish a training programme for all employees exposed to ergonomic risks.

The employer must ensure that he or she obtains suitable information in order to train employees effectively. Training of employees may be conducted either internally or externally.

Information and training must be planned carefully and presented on commencement of employment. The frequency of training thereafter should depend on the severity of the ergonomic risks and should be determined by the health and safety committee. It is of the utmost importance that health and safety committees and health and safety representatives are thoroughly trained and educated with regards to ergonomics. This is to ensure that the health and safety representatives or committees are able to make informed decisions relating to their discretionary powers.

An employer should verify that employees understand ergonomic risks, with health and safety committee members, health and safety representatives and employees contributing to developing and implementing training programmes in relation to ergonomics.

It is the duty of employers to ensure that all employees have thorough knowledge of the provisions of the Act and these regulations. The aspects of training included in the regulation is the minimum content of a training programme however, the employer should provide a suitable training programme that is understandable to all their employees.

Regulation 4: Duties of those who may be at risk of exposure to ergonomic risks

Employees or any other person exposed to ergonomic risks at the workplace, have a moral and legal duty to comply with any lawful instruction and procedure (written or oral) given by or on behalf of employers. In addition, employees must comply with the requirements laid down by the Act and other applicable regulations. These instructions and procedures may differ from one workplace to another because workplaces are not identical.

Regulation 5: Duties of Designers, Manufacturers, Importers and Suppliers

Effective use of ergonomics in the design process will result in a workplace that is safe and without risk to the health of employees. Ergonomics is design driven, therefore it does not stop with determining risk but with the resolution and implementation of new designs to mitigate the risks identified, whether these risks are for incidents, adverse health effects or poor productivity. Designing tasks, plant, machinery and work-systems to suit the employee can reduce human error, incidents and adverse health effects. Failure to observe ergonomic principles can have serious consequences for employees and for the employer.

The following should be taken into account by the designer, manufacturer, importer and supplier:

- Ergonomics needs to be taken into account in all steps of the life cycle of the plant, machinery or work systems. The design, installation, operation, maintenance and decommissioning should be considered
- Employee characteristics
- Foreseeable operating conditions including upsets and emergencies.
- The interface between the employee and the system
- Instructions, technical information, warning signs, safe operation for the employee must be provided
- Where possible, SANS standards must be taken into account

Regulation 6: Ergonomics Risk Assessment

It is the duty of the employer to conduct a risk assessment for all tasks where an employee is exposed to ergonomic risks. The risk assessment may be carried out by an employee who is familiar with the task, provided they have the competency to do so. Before an employee conducts the risk assessment, it is the responsibility of the employer to ensure that the individual has the adequate level of competence to conduct the risk assessment. The employer may require a health and safety professional who has to demonstrate appropriate competence to conduct the risk assessment when the task being carried out is complex. While one individual may be able to carry out a risk assessment, it may be beneficial to draw on the knowledge and competencies of others.

The risk assessment should include at least the following steps:

- Identifying the hazards employees are exposed to
- Identifying the employees who are exposed to the risks and how they may be affected
- Analysing and evaluating the risk
- Prioritising the risks

The risk assessment should be conducted and or reviewed at least every two years and recorded. Shorter review periods may be necessary if new information becomes available or there has been a change in task or control measures. The risk assessment should also be reviewed if a reportable incident occurs or if an employee suffers an adverse health effect as a result of exposure to ergonomic risks.

Regulation 7: Risk Control

The introduction of a sound ergonomics programme will go a long way towards controlling ergonomic risks. However, it is good practice to continually monitor adverse health effects at the workplace, in order to check that the risk control measures are working. There are many cases where problems are still occurring and further steps are needed to solve the problem. The following factors should be taken into account in controlling the risk:

Ergonomic risks should be reduced to the lowest reasonably practicable level through control and prevention measures in the order of priority below:

1. Elimination: The job should be redesigned so that the hazard is removed from the workplace
2. Substitution: The current task should be replaced with a less hazardous task. It is important to ensure that the new design is less hazardous than the original
3. Engineering controls: Use equipment or other measures to reduce the risks associated with tasks. Priority should be given to measures which protect collectively over individual measures
4. Administrative controls: Identify and implement new procedures that will allow work to be done safely
5. Personal protective equipment: Only once all the previous measures have been tried and shown to be ineffective in controlling risk to a reasonably

practicable level, personal protective equipment (PPE) should be considered. When PPEs are used it is important that employees are involved in the fitting and consulted in the selection of fit for purpose PPE

Regulation 8: Medical Surveillance

Medical surveillance in the workplace is an integral part of occupational health surveillance. Surveillance is the close observation of a person or group, especially those identified by the risk assessment. It refers to the detection of adverse health effects resulting from occupational exposures at as early a stage as possible, so that appropriate preventive measures can be instituted promptly. For this reason, medical surveillance is placed at a secondary level of prevention as the adverse health effect is still reversible or more easily treatable.

Medical surveillance should have a clearly defined objective for targeted employees and medical procedures, such as questionnaires and health examinations, must be available to achieve the objective. Medical surveillance must be risk based and tailored to a specific adverse health effect that is to be prevented. Medical surveillance for ergonomics should be either incorporated into existing medical surveillance, for employers who have already implemented such surveillance or establish ergonomics medical surveillance for the workplace.

Medical surveillance is performed at regular pre-determined intervals; at the beginning, termination of employment and throughout the employment period and/or as determined by the occupational medicine practitioner. Medical surveillance must be carried out by occupational medicine practitioners and occupational health practitioners.

Medical surveillance includes the following elements:

1. Identification of employees according to the ergonomics risk assessment, for which the medical surveillance activities will be appropriate;
2. An initial health examination and collection of clinical history;
3. Periodic health examinations at regularly scheduled intervals;
4. More frequent and scheduled health examinations, as indicated on the basis of findings from these examinations;
5. A written report of medical findings;
6. Employee training to recognise symptoms of exposures to ergonomic risks; and
7. Employer actions in response to the identified adverse health effects on employees with ongoing data analysis to evaluate collected information and institute control measures, including employee rehabilitation at the workplace.

Regulation 9: Maintenance of Controls

The employer should implement a planned maintenance programme for all plant, machinery and systems in order to reduce the ergonomic risks. The programme should include a system for reporting defects by employees and a corrective action plan.

Health and Safety Representative and employees must report any defects in plant, machinery or systems immediately to the employer.

Regulation 10: Records

Well-kept records may provide useful information in the risk assessment process. The analysis of records may provide a link between the exposure to ergonomic risks and adverse health effects caused by the exposure to ergonomic risks.

The employer must ensure that records are kept for; information and training provided to employees, ergonomics risk assessments conducted at the workplace, the results of health examinations conducted on employees; and action plans for the implementation of control measures and the maintenance of such control measures.

Due to the nature of ergonomics adverse health effects occurring over time, retention of records is needed to investigate any causal relationship, if any, between exposure to ergonomic risks and diagnoses. Records of incidents must also be kept in order to determine whether there was an exposure to ergonomic risks.

Regulation 11: Ergonomics Health and Safety Technical Committee

The chief inspector must establish a health and safety Technical Committee (TC) for ergonomics. The TC shall consist of a tripartite structure which includes; government, organised business and organised labour and specialists in the field of ergonomics. The specialists will include a person from a professional body recognised by the chief inspector, a person from a higher education institution and a person representing occupational medicine. The chief inspector may co-opt a person or persons to the TC, who have competence in a specific matter relating to ergonomics health and safety.

The duties of the ergonomics health and safety technical committee include;

- Advising the chief inspector on matters relating to codes, standards and training requirements in terms of ergonomics or any matter referred to the TC
- Making recommendations to the chief inspector on matters applying to the Ergonomics Regulations
- Performing any other function of administration for the Ergonomics Regulations

The TC must also work within the instructions and rules of conduct established by the chief inspector.

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