

Mine Health & Safety

1. Overview of MHS law

1.1 Purpose and scope of MHS law

Guidance Note	Forms & Precedents	Checklists	Other Resources
1.1.1 Regulation of MHS conditions			Guideline for the compilation of a mandatory code of practice on minimum standards of fitness to perform work at a mine GG No 40142 No R 839 of 15 July 2016 GG No 40142 No R 840 of 15 July 2016
1.1.2 The MHSA and related legislation			Explanation of the application of COIDA and ODMWA to compensation for occupational injuries and diseases

2. Institutional framework for the MHS regulations

2.1 Department of Mineral Resources

Guidance Note	Forms & Precedents	Checklists	Other Resources
2.1.1 Structure and functions of the Department			Structure of the Department of Mineral Resources Department of Mineral Resources Regional offices
2.1.2 The powers of the Minister of Mineral Resources			
2.1.3 The tripartite institutions			

2.2 The MHS Inspectorate

Guidance Note	Forms & Precedents	Checklists	Other Resources
2.2.1 Tiers and functions of the Inspectorate			DMR annual report 2013 – 2014 DMR annual report 2014 – 2015 DMR annual report 2015 – 2016
2.2.2 Functions and powers of the Chief Inspector of mines			Notice No. 92 in Government Gazette No. 17725 of 15 January 1997

2. Institutional framework for the MHS regulations

2.2 The MHS Inspectorate

Guidance Note	Forms & Precedents	Checklists	Other Resources
2.2.3 Functions and powers of an Inspector			Notice No. R.1088 in Government Gazette No. 18198 of 15 August 1997
2.2.4 Inspector's powers to deal with dangerous conditions			Case note of Bert's Bricks case Case note of AngloGold Ashanti Ltd case
2.2.5 Inspector's power to order compliance			
2.2.6 Inspector's power to recommend a fine			
2.2.7 Principal Inspector of mines may impose fines			
2.2.8 Instructions to be posted at a mine			

3. Scope of the MHSA application

3.1 MHS definitions and scope

Guidance Note	Forms & Precedents	Checklists	Other Resources
3.1.1 Defining a "mine" and "mining area"			
3.1.2 Definition of an accident			
3.1.3 Definition of dangerous occurrences			

3.2 Jurisdictional separation

Guidance Note	Forms & Precedents	Checklists	Other Resources
3.2.1 Scope of application and regulatory separation			

Mine Health & Safety

4. General duties for MHS

4.1 The fulfilment of legal duties

Guidance Note	Forms & Precedents	Checklists	Other Resources
4.1.1 Explaining the reasonably practicable standard			
4.1.2 Reasonableness criterion			
4.1.3 Negligence and unlawfulness			

4.2 Employers duties

Guidance Note	Forms & Precedents	Checklists	Other Resources
4.2.1 What is an Employer?			
4.2.2 Employer to ensure safety			
4.2.3 Employer to maintain healthy and safe mine environment			
4.2.4 Employer to ensure adequate supply of health and safety equipment			
4.2.5 Employer to staff mine with due regard to health and safety			
4.2.6 Employer must establish health and safety policy	Health and safety policy document		
4.2.7 Employer to provide health and safety training		Mine health and safety training checklist	
4.2.8 Employer to assess and respond to risk		Types of hazard identification and risk assessments (HIRA)	
4.2.9 Employer to conduct occupational hygiene measurements	Appointment letter for an Occupational Hygienist		
4.2.10 Employer to establish system of medical surveillance	Appointment letter for an Occupational Medical Practitioner	Minimum standards of fitness to perform work on a mine checklist	Guideline for the compilation of a mandatory code of practice on minimum standards of fitness to perform work at a mine

4. General duties for MHS

4.2 Employers duties

Guidance Note	Forms & Precedents	Checklists	Other Resources
4.2.11 Employer to keep records of hazardous work	Form DMR276 - Employee record of hazardous work		
4.2.12 Employer to keep records of medical surveillance			
4.2.13 Employer's duty to prepare and implement a code of practice	Draft code of practice		

4.3 Employees rights and duties

Guidance Note	Forms & Precedents	Checklists	Other Resources
4.3.1 What is an Employee?			
4.3.2 Employees duties for health and safety			
4.3.3 Employees right to leave a dangerous working place	Dangerous working places clauses		
4.3.4 Employee may dispute finding of unfitness to perform work			

4.4 The duties of manufacturers and suppliers

Guidance Note	Forms & Precedents	Checklists	Other Resources
4.4.1 What are manufacturers and suppliers?			
4.4.2 Manufacturers and suppliers duties for MHS	Material safety data sheet		

Mine Health & Safety

5. Appointments and management of MHS

5.1 Statutory appointments

Guidance Note	Forms & Precedents	Checklists	Other Resources
5.1.1 Duties of the Chief Executive Officer	Section 2A(3) appointment letter Letter to MHSC with regard to appointment of CEO		
5.1.2 Section 3(1) appointee: Mine Manager	Appointment letter for a mine manager		
5.1.3 Section 4(1) appointee: General Manager	Appointment letter for a General Manager Section 4(2) letter to MHSC		
5.1.4 Section 7(2) appointee: Employers functionary			
5.1.5 Section 7(4) appointee: Managers appointee	Appointment letter for a Chief safety officer Appointment letter for a safety officer Appointment letter for a sectional engineer Appointment letter for a shift overseer Appointment letter for a subordinate engineer Appointment letter for a subordinate manager Appointment letter for an engineering manager Appointment letter for an engineering supervisor Pro forma annexure "A"		

5. Appointments and management of MHS

5.2 Appointment letters

Guidance Note	Forms & Precedents	Checklists	Other Resources
5.2.1 Form, structure and content of appointment letters	Section 2A(3) appointment letter Appointment letter for a mine manager Appointment letter for a General Manager Appointment letter for a Chief safety officer Appointment letter for a safety officer Appointment letter for a sectional engineer Appointment letter for a shift overseer Appointment letter for a subordinate engineer Appointment letter for a subordinate manager Appointment letter for an engineering manager Appointment letter for an engineering supervisor Appointment letter for an Occupational Hygienist Pro forma annexure "A" Appointment letter for an Occupational Medical Practitioner		

Mine Health & Safety

6. MHS representatives and committees

6.1 Functions and processes

Guidance Note	Forms & Precedents	Checklists	Other Resources
6.1.1 Purpose of a health and safety representative and committee			
6.1.2 The importance of the health and safety agreement	Health and safety agreement		
6.1.3 Designation of working places	Working place clause		
6.1.4 Qualifications, election and appointment of representatives	Health and safety representative oriented clauses		
6.1.5 Rights and powers of health and safety representatives			
6.1.6 Considerations on the establishment of health and safety committees			
6.1.7 Rights and powers of a health and safety committee			DMR annual report 2013 – 2014 DMR annual report 2014 – 2015 DMR annual report 2015 – 2016
6.1.8 Disclosure of information			
6.1.9 Disputes concerning disclosure of information			

7. Reporting

7.1 Reportable events

Guidance Note	Forms & Precedents	Checklists	Other Resources
7.1.1 Accidents			
7.1.2 Dangerous occurrences and incidents			

7. Reporting

7.2 Steps in reporting

Guidance Note	Forms & Precedents	Checklists	Other Resources
7.2.1 Steps in reporting accidents			
7.2.2 Steps in reporting dangerous occurrences			
7.2.3 Steps in reporting breaches of the Act and regulations			

7.3 MHSA investigation and report

Guidance Note	Forms & Precedents	Checklists	Other Resources
7.3.1 Section 11(5) investigation			
7.3.2 Section 11(5) report	Section 11(5) MHSA: Internal investigation report		

8. Investigations

8.1 Compulsory investigations

Guidance Note	Forms & Precedents	Checklists	Other Resources
8.1.1 What is an Investigation?			
8.1.2 What is a compulsory investigation?			
8.1.3 Purpose of compulsory investigations			
8.1.4 Procedure of compulsory investigations			

8.2 Discretionary investigations

Guidance Note	Forms & Precedents	Checklists	Other Resources
8.2.1 What is a discretionary investigation?			
8.2.2 Purpose of discretionary investigations			
8.2.3 Procedure of discretionary investigations			

Mine Health & Safety

8. Investigations

8.3 Investigations by the NPA

Guidance Note	Forms & Precedents	Checklists	Other Resources
8.3.1 Investigations by the National Prosecuting Authority			
8.3.2 Purpose of NPA investigations			
8.3.3 Procedure of NPA investigations			

9. Inquiries in terms of section 65 of the MHSA

9.1 Preparation for an inquiry

Guidance Note	Forms & Precedents	Checklists	Other Resources
9.1.1 What is an inquiry?			
9.1.2 Documentation required for an inquiry	Draft inquiry bundle index Draft schedule of attendees Draft document to be completed with details of deceased person		
9.1.3 Preparation of witnesses and witness statements for an inquiry	Witness statement for a mine manager Witness statement for a section 2A(3) MHSA appointee Witness statement for a section 7(4) MHSA appointee Witness statement for a health and safety representative Witness statement for a General manager Section 7(2) MHSA statement for an employers functionary		
9.1.4 Persons required to attend an inquiry	Draft subpoena Notification of inquiry to deceased's family Notification of inquiry to trade union		

9. Inquiries in terms of section 65 of the MHSA

9.2 Procedure during an inquiry

Guidance Note	Forms & Precedents	Checklists	Other Resources
9.2.1 Representation at an inquiry and the right to participate			
9.2.2 Powers of the Presiding Inspector			
9.2.3 Witnesses			
9.2.4 Expert witnesses			
9.2.5 Examination of all witnesses			
9.2.6 Evidentiary rules			

9.3 Outcome of inquiry

Guidance Note	Forms & Precedents	Checklists	Other Resources
9.3.1 Report in terms of section 72(1)(b) of the MHSA	Section 72(1)(b) MHSA report format		
9.3.2 Report on investigations in terms of section 64(1) of the MHSA	Section 64(1) MHSA report		
9.3.3 Chief Inspector may order further inquiry			

10. Inquests and joint inquiry and inquest

10.1 Inquests

Guidance Note	Forms & Precedents	Checklists	Other Resources
10.1.1 What is an Inquest?			
10.1.2 Investigation and decision to hold an inquest			
10.1.3 Procedure of inquests			
10.1.4 Possible outcomes of inquests			

Mine Health & Safety

10. Inquests and joint inquiry and inquest

10.2 Joint inquiry and inquest

Guidance Note	Forms & Precedents	Checklists	Other Resources
10.2.1 Circumstances giving rise to a joint inquiry and inquest			
10.2.2 Procedure of joint inquiry and Inquest			
10.2.3 Possible outcomes of joint inquiry and Inquest			

11. Offences and penalties

11.1 Offences and penalties under the MHSA

Guidance Note	Forms & Precedents	Checklists	Other Resources
11.1.1 Offences under the Act and Regulations			
11.1.2 Penalties under the Act and Regulations			

11.2 Criminal and common law offences and penalties

Guidance Note	Forms & Precedents	Checklists	Other Resources
11.2.1 Criminal Procedure Act and Common law offences			
11.2.2 Criminal law penalties			
11.2.3 The MHSA and criminal liability	Witness statement for a mine manager Witness statement for a section 2A(3) MHSA appointee Witness statement for a General manager		Corporate Criminal Liability for Deaths, Injuries and Illnesses: Is South Africa's Mining Sector Ready for Change?
11.2.4 Criminal prosecution	Letter to NPA regarding representations Representations to the directorate of public prosecutions		Prosecution policy

12. Appeals

12.1 Appealing the decisions of Inspectors

Guidance Note	Forms & Precedents	Checklists	Other Resources
12.1.1 Right to appeal Inspector's decision	Appeal in terms of s57(1) of the MHSA Act 29 of 1996		
12.1.2 Right to appeal Chief Inspector of mine's decision			
12.1.3 Appeal does not suspend decision			

13. Selected areas of industry concern

13.1 Types of work contributing to exposure

Guidance Note	Forms & Precedents	Checklists	Other Resources
13.1.1 Asbestos dust exposure			
13.1.2 Coal dust exposure			
13.1.3 Silica dust exposure			Occupational health in the South African mining industry Mining industry occupational safety and health
13.1.4 Noise Exposure			

13.2 Emergency response preparedness

Guidance Note	Forms & Precedents	Checklists	Other Resources
13.2.1 Report to employer relating to explosions, fires and flooding			
13.2.2 Issuing of self-contained self-rescuers			
13.2.3 Record keeping			
13.2.4 Emergency preparedness and response			Guideline for the compilation of a mandatory code of practice on minimum standards of fitness to perform work at a mine
13.2.5 Provision for refuge bays at underground mines			

Mine Health & Safety

14. Occupational diseases in the Mines and Works Act			
14.1 Claiming compensation			
Guidance Note	Forms & Precedents	Checklists	Other Resources
14.1.1 Purpose of the Act			
14.1.2 Compensatable diseases			
14.1.3 Determination of compensation			Thembekile Mankayi v AngloGold Ashanti Limited case study Bongani Nkala and others v Harmony Gold Mining Company Limited case study
14.1.4 Standard of fitness and medical examinations			
14.1.5 The Mines and Works Compensation Fund			