

POLICIES AND PROCEDURES - THE EMPLOYER'S ARMOUR:

Your obligations in a COVID-19 World State of Emergency!

By Gilles van de Wall - Attorney

From social distancing, cancellation of sporting events and the limitation of the sale of alcohol, to the failing rand, business closure, remote working and the continuous downward trend of the South African all-share index, the COVID-19 worldwide crisis has and will most certainly in the future impact on every natural and corporate citizen, no matter how rich, poor, big or small.

How then do we best protect our business endeavours, not only against the current effects of COVID-19, but also against the potential future impediments which may be volleyed against our dwindling reserves?

The answer is found in compliance with legislative provisions, international standards and Governmental directives.

AN EMPLOYER'S CEVLAR VEST:

The Occupational Health and Safety Act, Act 85 of 1993 (hereinafter referred to as 'OHS'), imposes the following duties unto employers:[\[1\]](#)

1. Providing a safe and secure working environment and business premises to its employees and customers;
2. Implementing and taking steps to eliminate and/or mitigate any hazard or potential hazard to the health and wellbeing of its employees and customers;
3. Ensuring compliance with its policies and procedures which seeks to protect the health and safety of its employees and customers; and
4. Providing information, training, instructions and/or supervision to its employees and customers to ensure compliance with legislative provisions, directives and its policies and procedures.

The measures which employers will have to put into place to provide a safe and healthy environment, at the very least will include the provision of sanitary facilities; such as soap, hand sanitiser and gloves to employees visitors and customers, as well as, the development of company policies and procedures to effectively combat COVID-19, as per the Governmental and WHO directives and the Disaster Management Act 57 of 2002.

Employers will also need to:[\[2\]](#)

1. Cause every employee to be cognisant of the health and wellness risks associated with their employment, including the precautionary measures which have to be followed when performing the tasks and duties for which the employee is employed;
2. Inform any health and safety representatives' of any inspections, investigations and/or formal inquiries which may be conducted by an inspector; and
3. Inform the relevant health and safety representatives' of an occurrence of an incident at the business premises.

These obligations have, as never before, bring to the forefront the need to have practical and effective measures in place to curb the spread of the virus and provide the employees with a safe working environment. The development and implementation of effective policies and procedures, such as working from home (Teleporting), protection of personal information of ill employees- and data protection policies are a sure step in the right direction to protect the employer and to change the behaviour of the employees.

Policies must not only be communicated and brought to the attention of employees, but employees should also accept ownership in implementation thereof. Champions should be appointed and all employees should be involved in the enforcement of basic guidelines such as regular washing and sanitising of hands, keeping "distance" and avoiding groups of people at the workplace or at home.

Creating channels of distance communication for all employees to report, ask questions and obtain information should be created and the key here is transparency and clear and frequent communication to employees and other stake holders.

Implementation of team management systems such as a "notifications" dashboard and reporting of any COVID-19 related incidents to and by employees, customers and the relevant authorities, thereby implementing the principle of transparency, may just be the key to a more successful health practice in the workplace.

Although not directly required by legislation such as OHS, the Labour Relations Act, Act 66 of 1995 (hereinafter referred to as the 'LRA') and the Basic Conditions of Employment Act, 75 of 1997 (hereinafter referred to as the 'BCEA') it is advised and implied by the Disaster Management Act, Act 57 of 2002, as well as the national directives issued by the government. Such policies and procedures, and transparent and effective communication channels will result in more effective defence against the COVID-19 bombardment and panic.

THE EMPLOYEE'S OBLIGATION:

Employers are not the only ones who has obligations to secure and uphold the safety of their workplace, in that they have to:

1. Take reasonable care to ensure their own health and safety, that of their colleagues and the employers clients;
2. Follow proper, lawful and reasonable instructions received from their employers; and
3. Adhere to the safety measures contained in the policies, procedures and directives which the employer may hand down.

Employees are therefore required to give formal written notice to his or her employer if he or she has become infected, suspects that he or she is infected and should give notice of the disease in the prescribed manner to their employer. This is medical information and must be treated as confidential and private by the employer.

Employees should, furthermore, call the COVID 19 hotline for advice on how to report for testing, in manner as directed by the HPCSA[3], if they suspect themselves to be infected, avoid close contact with colleagues and/or the employers' clients, wash their hands regularly, work from home where possible, use hand sanitiser and refrain from abusing the goodwill and trust of the employer.

#STRONGERTOGETHER:

Survival during times of conflict is found on the mutually assured trust and this has never been more relevant in than in the current economic climate. The trust relationship, which is necessary for the existence of an employment relationship,[4] between the employer and employee is what will make sure that South Africa not only survive this attack unto our existence but might ensure that we continue to develop and progress.

We are stronger together and by working together each company will survive this time of crisis.

[COVID 19 - WORK FROM HOME POLICY AVAILABLE FOR PURCHASE](#)

Gilles van de Wall

In-house Council

Labour Smart (Pty) Ltd.

[1] Section 8 and Section 9 of the Occupational Health and Safety Act, Act 85 of 1993. Also see Section 10 of the Occupational Health and Safety Act, Act 85 of 1993, for the general duties of manufacturers and others regarding articles and substances for use at work.

[2] Section 13 of the Occupational Health and Safety Act, Act 85 of 1993.

[3] Health Profession Council of South Africa

[4] Schedule 8 of the Labour Relations Act, Act 66 of 1995.