

Legal Perspective

Day 1

The Occupational Health & Safety Act, 1993

“this Act” includes any regulation

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The Construction Regulations, 2014

What is Law?

- Legal Systems
- Sources of Law
 - The Constitution
 - Legislation
 - Common Law
 - Roman-Dutch
 - Judicial Precedent
 - Custom
 - Persuasive Sources



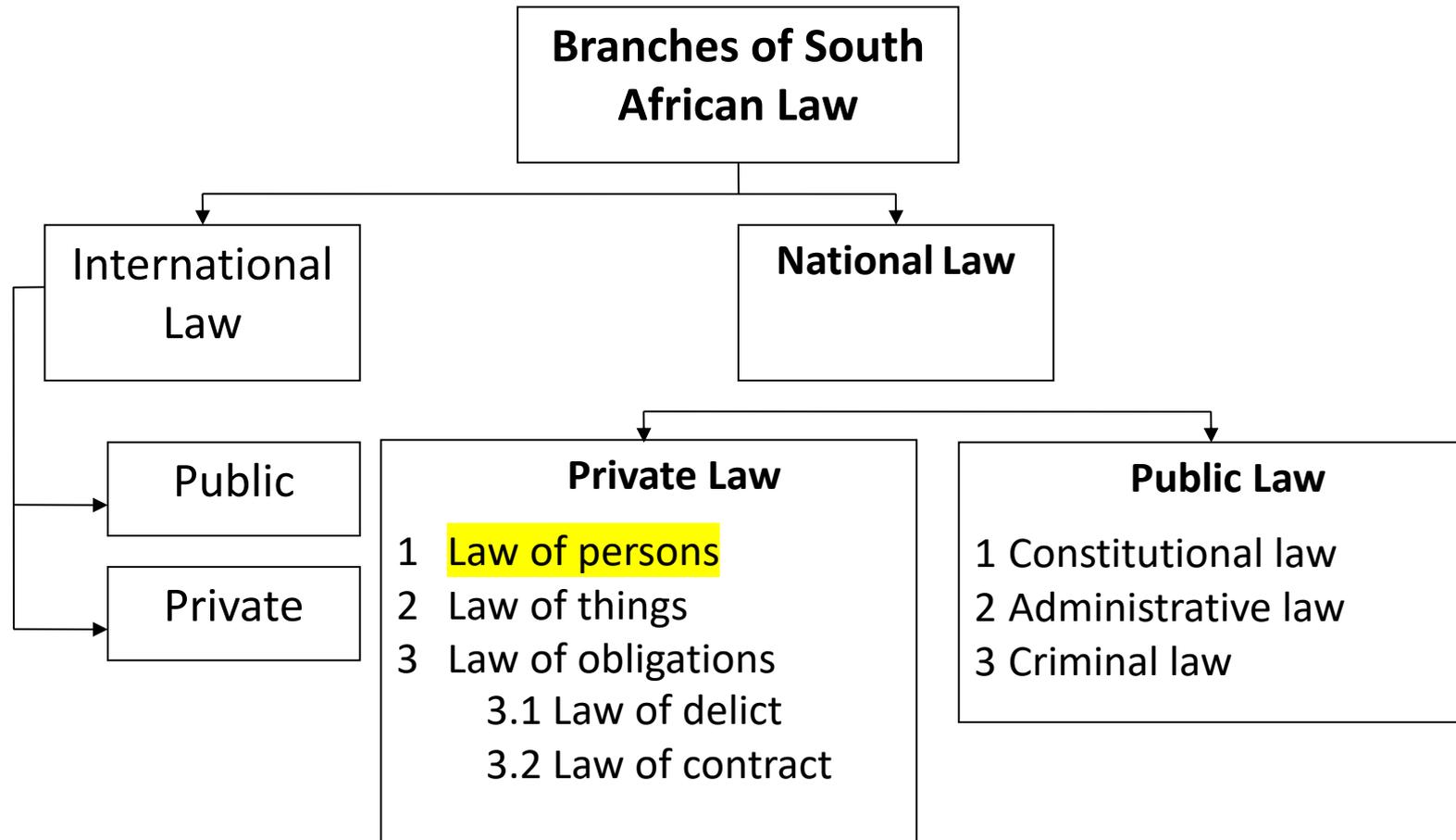
Act

To provide for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work; to establish an advisory council for occupational health and safety; and to provide for matters connected therewith

The self regulation principle

OSHA is based on the principle of self-regulation which involves the agreement between workers and employers on the management of occupational health and safety in the work place. It's purpose is to ensure a working environment that is without health and safety risks for workers, as well as persons other than workers who might be affected by worker's activities

What law is relevant to OHS&A?



What is the Law of Persons?

- Natural / Juristic
- Birth / Death
- Legal Capacity
- Status
- Age <7, >7 & <18, 18>
- Single / Married
- Solvent / Insolvent
- Sane / Insane
- Free / Unfree
- Domicile
- Specific Legal Capacities
 - Capacity to Act
 - Contractual Capacity
 - Capacity to Litigate
 - Criminal Capacity
 - Delictual Capacity
- OSHA applies to persons generally and

What is the Law of Things

- Legal Object
- Legally controlled by a Person
- Owned / Possessed
- Movable / Immovable
- Manufactured
- Built
- May not be used to harm others or their property unlawfully
- OHSA deals the safe use and control of things
- Plant & Equipment
- Manufactured items
- Buildings / Structures
- Civil works

What is a Contract?

- Agreement
- Contractual Capacity
- Intention to be bound
- Legal
- Possible
- Formalities (legal or agreed)
- Purchase and sale
- Lease and occupancy
- Employment
- Mandate or agency
- Construction or building
- OHSA deals with contracts

Employment contract

- Essentials
 - Specified work
 - Period
 - Remuneration
 - Authority
- Naturalia
- Employer
 - Accept employee into services
 - Provide work
- Naturalia (cont)
 - Pay remuneration
 - Pay quantum meruit
 - Safe working conditions
- Employee
 - Tender services
 - Reasonable care
 - Refrain from misconduct

OSHA places specific duties on employers regarding safe working conditions

Mandate Contract

Essential Terms

- Agreement to perform task or mandate
- Good faith

OHSA places specific duties on mandatary's and designers and contract administrators

Natural Terms

- Duties of agent (mandatary)
 - Complete within a **reasonable** time
 - Take all **reasonable** steps and act **reasonably**
 - Not exceed terms
 - Perform personally
 - Independent (subject to scope)
 - Good faith
 - Honestly & properly
 - In interest of principle
 - No conflict of interest
 - Account fully
 - No secret profits
 - Render accounts
- Duties of principle (Mandator)
 - Pay remuneration (if agreed)
 - Compensate for **reasonable** expenses
 - Assist and accept completed mandate

Common Law Metrics: Letting and Hiring of Work

Essential Terms

- Agreement to let and hire work
- Work relates to a corporeal thing
- Period (if missing)
- Remuneration
- Independence

Natural terms

- Duties of Contractor (Lessee)
 - Commence work in a **reasonable** time
 - Complete work in a **reasonable** time
 - Use **reasonable** skill, care and diligence
 - Use suitable materials
 - Comply with legislation
 - Repair patent defects
 - Warranty against latent defects
 - Return premises in similar condition in which received
- Duties of Lessor (Employer)
 - Provide access to site in **reasonable** time
 - Co-operate to enable completion and delivery
 - Pay Remuneration

Vicarious Liability for harm

- The Employer or Principle is liable for the delicts of a Servant or Agent acting within course and scope of his or her duty.
- Employee are...
- Agents are...
 - Members of the Board
 - Employed professionals
 - Legal Officers
 - Accounting Officers
 - Company Secretaries
 - External Professionals
- The OHSA deals with vicarious liability in s 37 which we will discuss later

Delict

- Act - commission or omission
- Cause
- Damage
- Unlawfulness
- Fault
 - Intent
 - Neglect



NEGLIGENCE

- Reasonable person
 - Would foresee future harm
 - Would take steps to avoid it
- Duty not to cause harm through negligence
- Also called a ‘Duty of Care’

The OHSA defines ‘Reasonably Practical (below)

Liability for acts of omission

There must be a failure to act where a duty to act positively exists – ie when-

- It is provided for in legislation (eg OHSA)
- It forms part of an agreement (eg a construction, design, or employment contract)
- A person is responsible for a dangerous object
- A person stands in a special or protective relationship
- It is the result of prior conduct
- It is contained in court order

Such an omission gives rise to criminal delictual or contractual liability

What is a crime?

- Unlawful and blameworthy conduct which is defined by law as a crime and for which punishment is prescribed
- Legality
- Act or conduct
- Culpable (intent or negligence)
- Punishment
- Murder
- Culpable Homicide
- Assault
- Malicious damage to property
- Statutory crimes
- OHSA s34 r33

Reasonably Practical

OHSA 1 [Definitions]

“reasonably practicable” means practicable having regard to –

- (a) the severity and scope of the hazard or risk concerned;
- (b) the state of knowledge reasonably available concerning that hazard or risk and of any means of removing or mitigating that hazard or risk;
- (c) the availability and suitability of means to remove or mitigate that hazard or risk; and
- (d) the cost of removing or mitigating that hazard or risk in relation to the benefits deriving there from;

Intent

- A person acts or causes a result intentionally if he wills the act or result; while aware that the act and the circumstances in which it takes place accord with the definition of the proscription, and that it is unlawful.
- OHSA s15, 34(f), (38)(1)(d), (h), (p), 39(4) of the Act.)

General duties of employers to employees & others [OHSA s8]

8. General duties of employers to their employees

- 1) Every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health and safety of his employees.
- 2) Without derogating from the generality of an employer's duties under sub-section (1), the matters to which those duties refer include in particular –

General duties of employers to employees & others [OHSA s8]

- 2 (a) a provision and maintenance of systems of work, plant and machinery that, as far as is reasonably practicable, are safe and without risks to health,
- (b) taking such steps as may be reasonably practicable to eliminate or mitigate any hazard or potential hazard to the safety of employees, before resorting to personal protective equipment;
- (c) making arrangements for ensuring, as far as is reasonably practicable, the safety and absence of risks to health in connection with the production, processing, use, handling, storage or transport of articles or substances;

General duties of employers to employees & others [OHSA s8]

2. (d) establishing, as far as is reasonably practicable, what hazards to the health and safety of persons are attached to any work which is performed, any article or substance which is produced, processed, used, handled, stored or transported and any plant or machinery which is used in his business, and he shall as far as is reasonably practicable, further establish what precautionary measures should be taken with respect to such work, article, substance, plant and machinery in order to protect the health and safety of persons, and he shall provide the necessary means to apply such precautionary measures;
2. (e) providing such information, instructions, training and supervision as may be necessary to ensure, as far as is reasonably practicable, the health and safety at work of his employees;

General duties of employers to employees & others [OHSA s8]

2. (f) as far as is reasonably practicable, not permitting any employee to do any work or to produce, process, use, handle, store or transport any article or substance or to operate any plant or machinery, unless the precautionary measures contemplated in paragraphs (b) and (d), or any other precautionary measures which may be prescribed, have been taken;
2. (g) taking all necessary measures to ensure that the requirements of this Act are complied with by every person in his employment or on premises under his control where plant or machinery is used;

General duties of employers to employees & others [OHSA s8]

- 2 (h) enforcing such measures as may be necessary in the interest of health and safety;
- 2 (i) ensuring that work is performed and that plant or machinery is used under the general supervision of a person trained to understand the hazards associated with it and who have the authority to ensure that precautionary measures taken by the employer are implemented; and
- 2 (j) causing all employees to be informed regarding the scope of their authority as contemplated in section 37(1)(b).

Duties to other people

9. General duties of employers and self-employed persons other than their employees

- 1) Every employer shall conduct his undertaking in such a manner as to ensure, as far as reasonably practicable, that persons other than those in his employment who may be directly affected by his activities are not thereby exposed to hazards to their health or safety.
- 2) Every self-employed person shall conduct his undertaking in such a manner as to ensure, as far as is reasonable practicable, that he and other persons who may be directly affected by his activities are not thereby exposed to hazards to their health and safety.

13. Duty to inform

Without derogating from any specific duty imposed on an employer by this Act, every employer shall—

- (a) as far as is reasonably practicable, cause every employee to be made conversant with the hazards to his health and safety attached to any work which he has to perform, any article or substance which he has to produce, process, use, handle, store or transport and any plant or machinery which he is required or permitted to use, as well as with the precautionary measures which should be taken and observed with respect to those hazards;

13. Duty to inform

- (b) inform the health and safety representatives concerned beforehand of inspections, investigations or formal inquiries of which he has been notified by an inspector, and of any application for exemption made by him in terms of section 40; and
- (c) inform a health and safety representative as soon as reasonably practicable of the occurrence of an incident in the workplace or section of the workplace for which such representative has been designated.

14. General duties of employees at work

Every employee shall at work –

- (a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions;
- (b) as regards any duty or requirement imposed on his employer or any other person by this Act, co-operate with such employer or person to enable that duty or requirement to be performed or complied with;
- (c) carry out any lawful order given to him, and obey the health and safety rules and procedures laid down by his employer or by anyone authorised thereto by his employer, in the interest of health and safety;

14. General duties of employees at work

- (d) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable report such situation to his employer or the health and safety representative for his workplace or section thereof, as the case may be, who shall report it to the employer; and
- (e) if he is involved in any incident which may affect his health or which has caused an injury to himself, report such incident to his employer to anyone authorised thereto by the employer, or to his health and safety representative, as soon as practicable but not later than the end of the particular shift during which the incident occurred, unless the circumstances were such that the reporting of the incident was not possible, in which case he shall report the incident as soon as possible thereafter.

CEO is the responsible person

“chief executive officer”, in relation to a body corporate or an enterprise conducted by the State, means the person who is responsible for the overall management and control of the business of such body corporate or enterprise;

16. Chief executive officer charged with certain duties

- 1) Every chief executive officer shall as far as is reasonably practicable ensure that the duties of his employer as contemplated in this Act, are properly discharged.
- 2) Without derogating from his responsibility or liability in terms of sub-section (1), a chief executive officer may assign any duty contemplated in the said sub-section, to any person under his control, which person shall act subject to the control and directions of the chief executive officer.

16. Chief executive officer charged with certain duties

- 3) The provisions of sub-section (1), shall not, subject to the provisions of section 37, relieve an employer of any responsibility or liability under this Act,
- 4) For the purpose of sub-section (1), the head of department of any department of State shall be deemed to be the chief executive officer of that department.

37. Acts or omissions by employees or mandataries

- 1) Whenever an employee does or omits to do any act which it would be an offence in terms of this Act for the employer of such employee or a user to do or omit to do, then, unless it is proved that –
 - (a) doing or omitting to do that act the employee was acting without the connivance or permission of the employer or any such user;
 - (b) it was not under any condition or in any circumstance within the scope of the authority of the employee to do or omit to do an act, whether lawful or unlawful, of the character of the act or omission charged; and
 - (c) all reasonable steps were taken by the employer or any such user to prevent any act or omission of the kind in question,the employer or any such user himself shall be presumed to have done or omitted to do that act, and shall be liable to be convicted and sentenced in respect thereof; and the fact that he issued instructions forbidding any act or omission of the kind in question shall not, in itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

37. Acts or omissions by employees or mandataries

- 2) The provisions of sub-section (1) shall *mutatis mutandis* apply in the case of a mandatary of any employer or user, except if the parties have agreed in writing to the arrangements and procedures between them to ensure compliance by the mandatary with the provisions of this Act.
- 3) Whenever any employee or mandatary of any employer or user does or omits to do an act which it would be an offence in terms of this Act for the employer or any such user to do or omit to do, he shall be liable to be convicted and sentenced in respect thereof as if he were the employer or user.
- 4) Whenever any employee or mandatary of the State commits or omits to do an act which would be an offence in terms of this Act, had he been the employee or mandatary of an employer other than the State and had such employer committed or omitted to do that act, he shall be liable to be convicted and sentenced in respect thereof as if he were such an employer.
- 5) Any employee or mandatary referred to in sub-section (3) may be so convicted and sentenced in addition to the employer or user.
- 6) Whenever the employee or mandatary of an employer is convicted of an offence consisting of a contravention of section 23, the court shall, when making an order under section 38(4), make such an order against the employer and not against such employee or mandatary.

10. General duties of manufacturers and others regarding articles and substances for use at work

- 1) Any person who designs, manufactures, imports, sells or supplies, any article for use at work shall ensure, as far as is reasonably practicable, that the article is safe and without risks to health when properly used and that it complies with all prescribed requirements.
- 2) Any person who erects or installs any article for use at work on or in any premises shall ensure, as far as is reasonably practicable, that nothing about the manner in which it is erected or installed makes it unsafe or creates a risk to health when properly used.

10. General duties of manufacturers and others regarding articles and substances for use at work

- 3) Any person who manufactures, imports, sells or supplies any substance for use at work shall-
 - (a) ensure as far as is reasonably practicable, that the substance is safe and without risk to health when properly used; and
 - (b) take such steps as may be necessary to ensure that information is available with regard to the use of the substance at work, the risks to health and safety associated with such substance, the conditions necessary to ensure that the substance will be safe and without risks to health when properly used and the procedure to be followed in the case of an accident involving such substance.
- 4) Where a person designs, manufactures, imports, sells or supplies an article or substance for or to another person and that other person undertakes in writing to take specified steps sufficient to ensure, as far as is reasonably practicable, that the article or substance will comply with all prescribed requirements and will be safe and without risks to health when properly used, the undertaking shall have the effect of relieving the first mentioned person from the duty imposed upon him by this section to such an extent as may be reasonable having regard to the terms of the undertaking.

43 Regulations “this Act” includes any regulation

Construction Regulations 2014

General Administrative Regs, 2003 –CR

General Safety Regs; 1986 –CR 13, 20, 28

Lead Regulations, 2001 –CR 14,

Asbestos Regs, 2001 –CR14

Driven Machinery Regs, 1988 –CR 20

Electrical Installation Regs –CR 24

Electrical Machinery Regs – CR 24

Environ Reg for Workplaces, 1987 –CR 29

Facilities Regs, 1990 –CR 30

General Machinery Regs, 1988 -CR

43 Regulations

Ergonomics Regs, 2019

Explosives Regs, 2003

Diving Regs, 2010

Hazardous Chemical Substance Regs; 1995

Hazardous Work by Children; 2010

Major Hazard Installations Reg

Noise-induced Hearing Loss Reg; 2003

Pressure Equipment Reg; 2009

17. Health and safety representatives & Admin Regs

- 1) Subject to the provisions of sub-section (2), every employer who has more than 20 employees in his employment at any workplace, shall, within four months after the commencement of this Act or after commencing business, or from such time as the number of employees exceeds 20, as the case may be, designate in writing for a specified period health and safety representatives for such workplace, or for different sections thereof.
- 2) An employer and the representatives of his employees recognized by him or, where there are no such representatives, the employees shall consult in good faith regarding the arrangements and procedures for the nomination or election, period of office and subsequent designation of health and safety representatives in terms of sub-section (1): Provided that if such consultation fails, the matter shall be referred for arbitration to a person mutually agreed upon, whose decision shall be final: Provided further that if the parties do not agree within 14 days on an arbitration, the employer shall give notice to this effect in writing to the President of the Labour Court, who shall in consultation with the chief inspector designate an arbitrator, whose decision shall be final.

17. Health and safety representatives & Admin Regs

- 1) Arbitration in terms of sub-section (2) shall not be subject to the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), and a failure of the consultation contemplated in that sub-section shall not be deemed to be a dispute in terms of the Labour Relations Act, 1956 (Act No. 28 of 1956): Provided that the Minister may prescribe the manner of arbitration and the remuneration of the arbitrator designated by the President of the Labour Court.
- 2) Only those employees employed in a full-time capacity at a specific workplace and who are acquainted with conditions and activities at that workplace or section thereof, as the case may be, shall be eligible for designation as health and safety representatives for that workplace or section.

17. Health and safety representatives & Admin Regs

- 3) The number of health and safety representatives for a workplace or section thereof shall in the case of shops and offices be at least one health and safety representative for every 100 employees or part thereof, and in the case of all other workplaces at least one health and safety representative for every 50 employees or part thereof: Provided that those employees performing work at a workplace other than that where they ordinarily report for duty, shall be deemed to be working at the workplace where they so report for duty.
- 4) If an inspector is of the opinion that the number of health and safety representatives for any workplace or section thereof, including a workplace of section with 20 or fewer employees, inadequate, he may by notice in writing direct the employer to designate such number of employees as the inspector may determine as health and safety representatives for that workplace or section thereof in accordance with the arrangements and procedures referred to in sub-section (2).
- 5) All activities in connection with the designation, functions and training of health and safety representatives shall be performed during ordinary working hours, and anytime reasonably spent by any employee in this regard shall for all purposes be deemed to be time spent by him in the carrying out of his duties as an employee.

18. Functions of health and safety representatives

- 1) A health and safety representative may perform the following functions in respect of the workplace or section of the workplace for which he has been designated, namely –
 - (a) review the effectiveness of health and safety measures;
 - (b) identify potential hazards and potential major incidents at the workplace;
 - (c) in collaboration with his employer, examine the causes of incidents at the workplace;
 - (d) investigate complaints by any employee relating to that employee's health or safety at work;

18. Functions of health and safety representatives

- (e) make representations to the employer or a health and safety committee on matters arising from paragraphs (a), (b), (c) or (d), or where such representations are unsuccessful, to an inspector;
- (f) make representations to the employer on general matters affecting the health or safety of the employees at the workplace;
- (g) inspect the workplace, including any article, substance, plant, machinery or health and safety equipment at that workplace with a view to the health and safety of employees, at such intervals as may be agreed upon with the employer: Provided that the health and safety representative shall give reasonable notice of his intention to carry out such an inspection to the employer, who may be present during the inspection;
- (h) participate in consultations with inspectors at the workplace and accompany inspectors on inspections of the workplace;
- (i) receive information from inspectors as contemplated in section 36; and

18. Functions of health and safety representatives

- (j) in his capacity as a health and safety representative attend meetings of the health and safety committee of which he is a member, in connection with any of the above functions.
- 2) A health and safety representative shall, in respect of the workplace or section of the workplace for which he has been designated be entitled to –
- (a) visit the site of an incident at all reasonable times and attend any inspections in loco;
 - (b) attend any investigation or formal inquiry held in terms of this Act;
 - (c) in so far as it is reasonably necessary for performing his functions, inspect any document which the employer is required to keep in terms of this Act;

18. Functions of health and safety representatives

- (d) accompany an inspector on any inspection;
 - (e) with the approval of the employer (which approval shall not be unreasonably withheld), be accompanied by a technical adviser, on any inspection; and
 - (f) participate in any internal health and safety audit.
- 3) An employer shall provide such facilities, assistance and training as a health and safety representative may reasonably require and as have been agreed upon for the carrying out of his functions.
 - 4) A health and safety representative shall not incur any civil liability by reason of the fact that he failed to do anything which he may do or is required to do in terms of this Act.

19. Health and Safety Committees

- 1) An employer shall in respect of each workplace where two or more health and safety representatives have been designated, establish one or more health and safety committees and, at every meeting of such a committee as contemplated in sub-section (4), consult with the committee with a view to initiating, developing, promoting, maintaining and reviewing measures to ensure the health and safety of his employees at work.
- 2) A health and safety committee shall consist of such number of members as the employer may from time to time determine: Provided that –

19. Health and Safety Committees

- (a) if one health and safety committee has been established in respect of a workplace, all the health and safety representatives for that workplace shall be members of the committee;
- (b) if two or more health and safety committees have been established in respect of a workplace, each health and safety representative for that workplace shall be a member of at least one of those committees; and
- (c) the number of persons nominated by an employer on any health and safety committee established in terms of this section shall not exceed the number of health and safety representatives on that committee.

19. Health and Safety Committees

- 3) The persons nominated by an employer on a health and safety committee shall be designated in writing by the employer for such period as may be determined by him, while the health and safety representatives shall be members of the committee for the period of their designation in terms of Section 17(1).
- 4) A health and safety committee shall hold meetings as often as may be necessary, but at least once every three months, at a time and place determined by the committee: Provided that an inspector may by notice in writing direct the members of a health and safety committee to hold a meeting at a time and place determined by him: Provided further that, if more than 10 per cent of the employees at a specific workplace has handed a written request to an inspector, the inspector may by written notice direct that such a meeting be held.
- 5) The procedure at meetings of a health and safety committee shall be determined by the committee.

19. Health and Safety Committees

- a) A health and safety committee may co-opt one or more persons by reason of his or their particular knowledge of health or safety matters as an advisory member or as advisory members of the committee
 - b) An advisory member shall not be entitled to vote on any matter before the committee.
- 6) If an inspector is of the opinion that the number of health and safety committees established for any particular workplace is inadequate, he may in writing direct the employer to establish for such workplace such number of health and safety committees as the inspector may determine.

20. Functions of health and safety committees

- 1) A health and safety committee –
 - a) may make recommendations to the employer or, where the recommendations fail to resolve the matter, to an inspector regarding any matter affecting the health and safety of persons at the workplace or any section thereof for which such committee has been established;
 - b) shall discuss any incident at the workplace or section thereof in which or in consequence of which any person was injured, became ill or died, any may in writing report on the incident to an inspector; and
- 2) A health and safety committee shall keep record of each recommendation made to any employer in terms of sub-section (1) (a) and of any report made to an inspector in terms of sub-section (1) (b).
Occupational Health & Safety Act, 1993
- 3) A health and safety committee or a member thereof shall not incur any civil liability by reason of the fact only that it or he failed to do anything which it or he may or is required to do in terms of this Act.
- 4) An employer shall take the prescribed steps to ensure that a health and safety committee complies with the provisions of section 19 (4) and performs the duties assigned to it by sub-section s (1) and (2).

Other provisions of the OHSA

-21. General prohibitions

22. Sale of certain articles prohibited

23. Certain deductions prohibited

24. Report to inspector certain incidents

25. Report to chief inspector regarding occupational disease

26. Victimisation forbidden

-27. Designation and functions of chief inspector

28. Designation of inspectors by Ministers

29. Functions of inspectors

30. Special powers of inspectors

31. Investigations

32. Formal Inquiries

33. Joint inquiries

34. Obstruction of investigation or inquiry or presiding inspector or failure to render assistance

35. Appeal against decision of inspector

Other provisions of the OHSA

36. Disclosure of information

37. Acts or omissions by employees or mandataries

38. Offences, penalties and special orders of court

39. Proof of certain facts

40. Exemptions

41. This Act not affected by agreements

42. Delegation and assignment of functions

43. Regulations

44. Incorporation of health and safety standards in regulations

45. Serving of notices

46. Jurisdiction of magistrates' court

47. State bound

48. Conflict of provisions

49. Repeal of laws

50. Short title and commencement

Legal Perspective

Day 2

The Construction Regulations, 2014 (RG 10113)

of

The Occupational Health & Safety Act, 1993

“this Act” includes any regulation

Remember - legal principles

- Aim of legislation
- Self-regulation principle
- Common Law
- Statutory Law
- Contracts
- Employment
- Construction
- Mandate
- Delict
- Vicarious Liability
- Reasonable Practicable
- Negligence
- Intention
- Criminal Liability

Reasonably Practical

OHSA 1 [Definitions]

“reasonably practicable” means practicable having regard to –

- (a) the severity and scope of the hazard or risk concerned;
- (b) the state of knowledge reasonably available concerning that hazard or risk and of any means of removing or mitigating that hazard or risk;
- (c) the availability and suitability of means to remove or mitigate that hazard or risk; and
- (d) the cost of removing or mitigating that hazard or risk in relation to the benefits deriving there from;

Regulation 1 Definitions

Selected definitions

"agent" means a competent person who acts as a representative for a client;

"client" means any person for whom construction work is being performed;

Regulation 1 Definitions

"competent person" means a person who. -

- (a) has in respect of the work or task to be performed the required knowledge, training and experience and, where applicable, qualifications, specific to that work or task: Provided that where appropriate qualifications and training are registered in terms of the provisions of the National Qualification Framework Act, 2000 (Act No.6? of 2000), those qualifications and that training must be regarded as the required qualifications and training; and
- (b) is familiar with the Act and with the applicable regulations made under the Act;

Regulation 1 Definitions

"construction manager" means a competent person responsible for the management of the physical construction processes and the coordination, administration and management of resources on a construction site;

"construction site" means a work place where construction work is being performed;

"construction supervisor" means a competent person responsible for supervising construction activities on a construction site;

Regulation 1 Definitions

"construction vehicle" means a vehicle used as a means of conveyance for transporting persons or material, or persons and material, on and off the construction site for the purposes of performing construction work;

Regulation 1 Definitions

"construction work" means any work in connection with -

- (a) the construction, erection, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure; or
- (b) the construction, erection, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, runway, sewer or water reticulation system; or the moving of earth, clearing of land, the making of excavation, piling, or any similar civil engineering structure or type of work;

Regulation 1 Definitions

"contractor" means an employer who performs construction work;

"design" in relation to any structure, includes drawings, calculations, design details and specifications;

"designer" means-

(a) a competent person who-

(i) prepares a design;

(ii) checks and approves a design;

(iii) arranges for a person at work under his or her control to prepare a design, including an employee of that person where he or she is the employer; or

(iv) designs temporary work, including its components;

Regulation 1 Definitions

- (b) an architect or engineer contributing to, or having overall responsibility for a design;
- (c) a building services engineer designing details for fixed plant;
- (d) a surveyor specifying articles or drawing up specifications;
- (e) a contractor carrying out design work as part of a design and building project; or
- (f) an interior designer, shop-fitter or landscape architect;

Regulation 1 Definitions

"excavation work" means the making of any man-made cavity, trench, pit or depression formed by cutting, digging or scooping;

"explosive actuated fastening device" means a tool that is activated by an explosive charge and that is used for driving bolts, nails and similar objects for the purpose of providing fixing;

Regulation 1 Definitions

"fall arrest equipment" means equipment used to arrest a person in a fall, including personal equipment, a body harness, lanyards, deceleration devices, lifelines or similar equipment;

"fall prevention equipment" means equipment used to prevent persons from falling from a fall risk position, including personal equipment, a body harness, lanyards, lifelines or physical equipment such as guardrails, screens, barricades, anchorages or similar equipment;

"fall protection plan" means a documented plan, which includes and provides for-

- (a) all risks relating to working from a fall risk position, considering the nature of work undertaken;
- (b) the procedures and methods to be applied in order to eliminate the risk of falling; and
- (c) a rescue plan and procedures;

Regulation 1 Definitions

"fall risk" means any potential exposure to falling either from, off or into;

"health and safety file" means a file, or other record containing the information in writing required by these Regulations;

Regulation 1 Definitions

"health and safety plan" means a site, activity or project specific documented plan in accordance with the client's health and safety specification;

"health and safety specification" means a site, activity or project specific document prepared by the client pertaining to all health and safety requirements related to construction work;

"medical certificate of fitness" means a certificate contemplated in regulation 7(8);

Regulation 1 Definitions

"principal contractor" means an employer appointed by the client to perform construction work;

"scaffold" means a temporary elevated platform and supporting structure used for providing access to and supporting workmen or materials or both;

Regulation 1 Definitions

"structure" means-

- (a) any building, steel or reinforced concrete structure (not being a building), railway line or siding, bridge, waterworks, reservoir, pipe or pipeline, cable, sewer, sewage works, fixed vessels, road, drainage works, earthworks, dam, wall, mast, tower, tower crane, bulk mixing plant, pylon, surface and underground tanks, earth retaining structure or any structure designed to preserve or alter any natural feature, and any other similar structure;
- (b) any falsework, scaffold or other structure designed or used to provide support or means of access during construction work;
or
- (c) any fixed plant in respect of construction work which includes installation, commissioning, decommissioning or dismantling and where any construction work involves a risk of a person falling

3 Application for construction work permit

- (1) A *client* who intends to have *construction work* carried out, must at least 30 days before that work is to be carried out apply to the provincial director in writing for a *construction work permit* to perform *construction work* if the intended *construction work* will-
 - (a) exceed 180 days;
 - (b) will involve more than 1800 person days of *construction work*; or
 - (c) the works contract is of a value equal to or exceeding thirteen million rand or Construction Industry Development Board (CIDB) grading level 6.

3 Application for construction work permit

- (2) An application contemplated in sub-regulation (1) must be done in a form similar to Annexure 1.\
- (3) The provincial director must issue a *construction work permit* in writing to perform construction work contemplated in sub-regulation (1) within 30 days of receiving the *construction work permit* application and must assign a site specific number for each construction site.
- (4) A site specific number contemplated in sub-regulation (3) must be conspicuously displayed at the main entrance to the site for which that number is assigned.

3 Application for construction work permit

- (5) A *construction work permit* contemplated in this regulation may be granted only if-
- (a) the fully completed documents contemplated in regulation 5(1)(a) and (b) have been submitted; and
 - (b) proof in writing has been submitted-
 - (i) that the *client* complies with regulation 5(5)
 - (ii) with regard to the registration and good standing of the *principal contractor* as contemplated in regulation 5(1)(j); and
 - (iii) that regulation 5(1)(c), (d), (e), (f), (g) and (h) has been complied with

3 Application for construction work permit

- (6) A *client* must ensure that the *principal contractor* keeps a copy of the *construction work permit* contemplated in sub-regulation (1) in the occupational *health and safety file* for inspection by an *inspector*, the *client*, the client's authorised agent, or an employee.
- (7) No *construction work* contemplated in sub-regulation (1) may be commenced or carried out before the *construction work permit* and number contemplated in sub-regulation (3) have been issued and assigned.
- (8) A site specific number contemplated in sub-regulation (3) is not transferrable.

4 Notification of construction work

- (1) A *contractor* who intends to carry out any *construction work* other than work contemplated in regulation 3(1), must at least 7 days before that work is to be carried out notify the provincial director in writing in a form similar to Annexure 2 if the intended construction work will-
 - (a) include *excavation work*;
 - (b) include working at a height where there is risk of falling;
 - (c) include the demolition of a structure; or
 - (d) include the use of explosives to perform *construction work*.

4 Notification of construction work

- (2) A contractor who intends to carry out *construction work* that involves construction of a single storey dwelling for a *client* who is going to reside in such dwelling upon completion, must at least 7 days before that work is to be carried out notify the provincial director in writing in a form similar to Annexure 2

5 Duties of client

(1) *A client* must-

(a) prepare a baseline risk assessment for an intended *construction work* project;

(b) prepare a suitable, sufficiently documented and coherent site specific *health and safety specification* for the intended *construction work* based on the baseline risk assessment contemplated in paragraph (a);

5 Duties of client

- (c) provide the *designer* with the *health and safety specification* contemplated in paragraph (b);
- (d) ensure that the *designer* takes the prepared *health and safety specification* into consideration during the design stage;
- (e) ensure that the *designer* carries out all responsibilities contemplated in regulation 6;
- (f) include the *health and safety specification* in the tender documents;

5 Duties of client

- (g) ensure that potential *principal contractors* submitting tenders have made adequate provision for the cost of health and safety measures;
- (h) ensure that the *principal contractor* to be appointed has the necessary competencies and resources to carry out the *construction work* safely;

5 Duties of client

- (i) take reasonable steps to ensure co-operation between all *contractors* appointed by the client to enable each of those *contractors* to comply with these Regulations;
- (j) ensure before any work commences on a site that every *principal contractor* is registered and in good standing with the compensation fund or with a licensed compensation insurer as contemplated in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);

5 Duties of client

- (k) appoint every *principal contractor* in writing for the project or part thereof on the construction site;
- (l) discuss and negotiate with the *principal contractor* the contents of the principal contractor's *health and safety plan* contemplated in regulation 7(1), and must thereafter finally approve that plan for implementation;
- (m) ensure that a copy of the principal contractor's *health and safety plan* is available on request to an employee, inspector or contractor;
- (n) take reasonable steps to ensure that each contractor's *health and safety plan* contemplated in regulation 7(1)(a) is implemented and maintained;

5 Duties of client

- (o) ensure that periodic health and safety audits and document verification are conducted at intervals mutually agreed upon between the principal contractor and any contractor, but at least once every 30 days;
- (p) ensure that a copy of the health and safety audit report contemplated in paragraph (o) is provided to the *principal contractor* within seven days after the audit;
- (q) stop any *contractor* from executing a construction activity which poses a threat to the health and safety of persons which is not in accordance with the client's *health and safety specifications* and the *principal contractor's health and safety plan* for the site;

5 Duties of client

- (r) where changes are brought about to the design or construction work, make sufficient health and safety information and appropriate resources available to the principal contractor to execute the work safely; and
- (s) ensure that the *health and safety file* contemplated in regulation 7(1)(b) is kept and maintained by the principal contractor.
- (2) Where a *client* requires additional work to be performed as a result of a design change or an error in construction due to the actions of the *client*, the *client* must ensure that sufficient safety information and appropriate additional resources are available to execute the required work safely.
- (3) Where a fatality or permanent disabling injury occurs on a *construction site*, the *client* must ensure that the *contractor* provides the provincial director with a report contemplated in section 24 of the Act, in accordance with regulations 8 and 9 of the General Administrative Regulations, 2013, and that the report includes the measures that the *contractor* intends to implement to ensure a safe construction site as far as is reasonably practicable.

5 Duties of client

- (4) Where more than one *principal contractor* is appointed as contemplated in sub-regulation (1)(k), the *client* must take reasonable steps to ensure co-operation between all *principal contractors* and *contractors* in order to ensure compliance with these Regulations.
- (5) Where a *construction work permit* is required as contemplated in regulation 3(1), the *client* must, without derogating from his or her health and safety responsibilities or liabilities, appoint a *competent person* in writing as an *agent* to act as his or her representative, and where such an appointment is made the duties that are imposed by these Regulations upon a client, apply as far as reasonably practicable to the *agent* so appointed.

5 Duties of client

- (6) Where notification of *construction work* is required as contemplated in regulation 4(1), the *client* may, without derogating from his or her health and safety responsibilities or liabilities, appoint a *competent person* in writing as an *agent* to act as his or her representative, and where such an appointment is made the duties that are imposed by these Regulations upon a *client*, apply as far as reasonably practicable to the *agent* so appointed: Provided that, where the question arises as to whether an *agent* is necessary, the decision of an *inspector* is decisive.

5 Duties of client

- (7) An *agent* contemplated in sub-regulations (5) and (6) must-
 - (a) manage the health and safety on a construction project for the client; and
 - (b) be registered with a statutory body approved by the Chief Inspector as qualified to perform the required functions;
- (8) When the chief inspector has approved a statutory body as contemplated in sub-regulation (7)(b), he or she must give notice of that approval in the Gazette.

6 Duties of designer

- (1) The *designer* of a structure must -
 - (a) ensure that the applicable safety standards incorporated into these Regulations under section 44 of the Act are complied with in the design;
 - (b) take into consideration the *health and safety specification* submitted by the client;
 - (c) before the contract is put out to tender, make available in a report to the client -
 - (i) all relevant health and safety information about the design of the relevant structure that may affect the pricing of the construction work;
 - (ii) the geotechnical-science aspects, where appropriate; and
 - (iii) the loading that the structure is designed to withstand;

6 Duties of designer

- (d) inform the client in writing of any known or anticipated dangers or hazards relating to the construction work, and make available all relevant information required for the safe execution of the work upon being designed or when the design is subsequently altered;
- (e) refrain from including anything in the design of the structure necessitating the use of dangerous procedures or materials hazardous to the health and safety of persons, which can be avoided by modifying the design or by substituting materials;
- (f) take into account the hazards relating to any subsequent maintenance of the relevant structure and must make provision in the design for that work to be performed to minimise the risk;

6 Duties of designer

- (g) when mandated by the client to do so, carry out the necessary inspections at appropriate stages to verify that the construction of the relevant structure is carried out in accordance with his design: Provided that if the designer is not so mandated, the client's appointed agent in this regard is responsible to carry out such inspections;
- (h) when mandated as contemplated in paragraph (g), stop any contractor from executing any construction work which is not in accordance with the relevant design's health and safety aspects: Provided that if the designer is not so mandated, the client's appointed agent in that regard must stop that contractor from executing that construction work;

6 Duties of designer

- (i) when mandated as contemplated in paragraph (g), in his or her final inspection of the completed structure in accordance with the National Building Regulations, include the health and safety aspects of the structure as far as reasonably practicable, declare the structure safe for use, and issue a completion certificate to the client and a copy thereof to the contractor; and
- (j) during the design stage, take cognisance of ergonomic design principles in order to minimise ergonomic related hazards in all phases of the life cycle of a structure

6 Duties of designer

- (2) The designer of *temporary works* must ensure that-
- (a) all *temporary works* are adequately designed so that it will be capable of supporting all anticipated vertical and lateral loads that may be applied;
 - (b) the designs of *temporary works* are done with close reference to the structural design drawings issued by the *contractor*, and in the event of any uncertainty consult the *contractor*;
 - (c) all drawings and calculations pertaining to the design of *temporary works* are kept at the office of the *temporary works* designer and are made available on request by an *inspector*; and
 - (d) the loads caused by the *temporary works* and any imposed loads are clearly indicated in the *design*.

7 Duties of principal contractor and contractor

(1) A *principal contractor* must-

(a) provide and demonstrate to the client a suitable, sufficiently documented and coherent site specific *health and safety plan*, based on the client's documented *health and safety specifications* contemplated in regulation 5(1)(b), which plan must be applied from the date of commencement of and for the duration of the *construction work* and which must be reviewed and updated by the principal contractor as work progresses;

(b) open and keep on site a *health and safety file*, which must include all documentation required in terms of the Act and these Regulations, which must be made available on request to an *inspector*, the *client*, the client's *agent* or a *contractor*; and

7 Duties of principal contractor and contractor

(c) on appointing any other *contractor*, in order to ensure compliance with the provisions of the Act-

(i) provide contractors who are tendering to perform construction work for the principal contractor, with the relevant sections of the *health and safety specifications* contemplated in regulation 5(1)(b) pertaining to the *construction work* which has to be performed;

(ii) ensure that potential *contractors* submitting tenders have made sufficient provision for health and safety measures during the construction process;

(iii) ensure that no *contractor* is appointed to perform *construction work* unless the *principal contractor* is reasonably satisfied that the contractor that he or she intends to appoint, has the necessary competencies and resources to perform the construction work safely;

7 Duties of principal contractor and contractor

- (iv) ensure prior to work commencing on the site that every contractor is registered and in good standing with the compensation fund or with a licensed compensation insurer as contemplated in the Compensation for Occupational Injuries and Diseases Act, 1993;
- (v) appoint each contractor in writing for the part of the project on the construction site;
- (vi) take reasonable steps to ensure that each contractor's *health and safety plan* contemplated in sub-regulation (2)(a) is implemented and maintained on the *construction site*;
- (vii) ensure that the periodic site audits and document verification are conducted at intervals mutually agreed upon between the principal contractor and any contractor, but at least once every 30 days;

7 Duties of principal contractor and contractor

(viii) stop any *contractor* from executing *construction work* which is not in accordance with the client's *health and safety specifications* and the principal contractor's *health and safety plan* for the site or which poses a threat to the health and safety of persons;

(ix) where changes are brought about to the design and construction, make available sufficient health and safety information and appropriate resources to the contractor to execute the work safely; and

(x) discuss and negotiate with the contractor the contents of the *health and safety plan* contemplated in sub-regulation (2) (a), and must thereafter finally approve that plan for implementation;

7 Duties of principal contractor and contractor

(d) ensure that a copy of his or her *health and safety plan* contemplated in paragraph (a), as well as the contractor's health and safety plan contemplated in sub-regulation (2)(a), is available on request to an employee, an inspector, a contractor, the client or the client's agent;

(e) hand over a consolidated health and safety file to the client upon completion of the construction work and must, in addition to the documentation referred to in sub-regulation (2)(b), include a record of all drawings, designs, materials used and other similar information concerning the completed structure;

(f) in addition to the documentation required in the health and safety file in terms of paragraph (c)(v) and sub-regulation (2)(b), include and make available a comprehensive and updated list of all the contractors on site accountable to the principal contractor, the agreements between the parties and the type of work being done; and

(g) ensure that all his or her employees have a valid medical certificate of fitness specific to the construction work to be performed and issued by an occupational health practitioner in the form of Annexure 3.

7 Duties of principal contractor and contractor

- (2) A *contractor* must prior to performing any *construction work*-
- (a) provide and demonstrate to the *principal contractor* a suitable and sufficiently documented *health and safety plan*, based on the relevant sections of the client's *health and safety specification* contemplated in regulation 5(1)(b) and provided by the principal contractor in terms of sub-regulation (1)(a), which plan must be applied from the date of commencement of and for the duration of the construction work and which must be reviewed and updated by the contractor as work progresses;
 - (b) open and keep on site *a health and safety file*, which must include all documentation required in terms of the Act and these Regulations, and which must be made available on request to an *inspector*, the *client*, the client's *agent* or the *principal contractor*;
 - (c) before appointing another contractor to perform construction work be reasonably satisfied that the contractor that he or she intends to appoint has the necessary competencies and resources to perform the construction work safely;

7 Duties of principal contractor and contractor

- (d) co-operate with the principal contractor as far as is necessary to enable each of them to comply with the provisions of the Act; and
 - (e) as far as is reasonably practicable, promptly provide the principal contractor with any information which might affect the health and safety of any person at work carrying out construction work on the site, any person who might be affected by the work of such a person at work, or which might justify a review of the health and safety plan.
- (3) Where a contractor appoints another contractor to perform construction work, the duties determined in sub-regulation (1)(b) to (g) that apply to the principal contractor apply to the contractor as if he or she were the principal contractor.
- (4) A principal contractor must take reasonable steps to ensure co-operation between all contractors appointed by the principal contractor to enable each of those contractors to comply with these Regulations.

7 Duties of principal contractor and contractor

- (5) No contractor may allow or permit any employee or person to enter any site, unless that employee or person has undergone health and safety induction training pertaining to the hazards prevalent on the site at the time of entry.
- (6) A contractor must ensure that all visitors to a construction site undergo health and safety induction pertaining to the hazards prevalent on the site and must ensure that such visitors have the necessary personal protective equipment.
- (7) A contractor must at all times keep on his or her construction site records of the health and safety induction training contemplated in sub-regulation (6) and such records must be made available on request to an inspector, the client, the client's agent or the principal contractor;.
- (8) A contractor must ensure that all his or her employees have a valid medical certificate of fitness specific to the construction work to be performed and issued by an occupational health practitioner in the form of Annexure 3.

8 Management and supervision of construction work

- (1) *A principal contractor* must in writing appoint one full-time competent person as the *construction manager* with the duty of managing all the *construction work* on a single site, including the duty of ensuring occupational health and safety compliance, and in the absence of the construction manager an alternate must be appointed by the principal contractor.
- (2) *A principal contractor* must upon having considered the size of the project, in writing appoint one or more assistant construction managers for different sections thereof: Provided that the designation of any such person does not relieve the construction manager of any personal accountability for failing in his or her management duties in terms of this regulation.

8 Management and supervision of construction work

- (3) Where the construction manager has not appointed assistant construction managers as contemplated in sub-regulation (2), or, in the opinion of an inspector, a sufficient number of such assistant construction managers have not been appointed, that *inspector* must direct the construction manager in writing to appoint the number of assistant construction managers indicated by the inspector, and those assistant construction managers must be regarded as having been appointed under sub-regulation (2).

8 Management and supervision of construction work

- (4) No construction manager appointed under sub-regulation (1) may manage any construction work on or in any construction site other than the site in respect of which he or she has been appointed.
- (5) A contractor must, after consultation with the client and having considered the size of the project, the degree of danger likely to be encountered or the accumulation of hazards or risks on the site, appoint a full-time or part-time construction health and safety officer in writing to assist in the control of all health and safety related aspects on the site: Provided that, where the question arises as to whether a construction health and safety officer is necessary, the decision of an inspector is decisive.

8 Management and supervision of construction work

- (6) No contractor may appoint a construction health and safety officer to assist in the control of health and safety related aspects on the site unless he or she is reasonably satisfied that the construction health and safety officer that he or she intends to appoint is registered with a statutory body approved by the Chief Inspector and has necessary competencies and resources to assist the contractor

8 Management and supervision of construction work

- (7) *A construction manager* must in writing appoint *construction supervisors* responsible for construction activities and ensuring occupational health and safety compliance on the construction site.
- (8) *A contractor* must, upon having considered the size of the project, in writing appoint one or more competent employees for different sections thereof to assist the construction supervisor contemplated in sub-regulation (7}, and every such employee has, to the extent clearly defined by the contractor in the letter of appointment, the same duties as the construction supervisor:
Provided that the designation of any such employee does not relieve the construction supervisor of any personal accountability for failing in his or her supervisory duties in terms of this regulation.

8 Management and supervision of construction work

- (9) Where the *contractor* has not appointed an employee as contemplated in sub-regulation (8), or, in the opinion of an *inspector*, a sufficient number of such employees have not been appointed, that *inspector* must instruct the employer to appoint the number of employees indicated by the inspector, and those employees must be regarded as having been appointed under sub-regulation (8).
- (10) No *construction supervisor* appointed under sub-regulation (7) may supervise any construction work on or in any construction site other than the site in respect of which he or she has been appointed: Provided that if a sufficient number of competent employees have been appropriately designated under sub-regulation (7) on all the relevant construction sites, the appointed construction supervisor may supervise more than one site.

9 Risk assessment for construction work

- (1) A *contractor* must, before the commencement of any construction work and during such construction work, have risk assessments performed by a *competent person* appointed in writing, which risk assessments form part of the *health and safety plan* to be applied on the site, and must include -
 - (a) the identification of the risks and hazards to which persons may be exposed to;
 - (b) an analysis and evaluation of the risks and hazards identified based on a documented method;

9 Risk assessment for construction work

- (c) a documented plan and applicable safe work procedures to mitigate, reduce or control the risks and hazards that have been identified;
 - (d) a monitoring plan; and
 - (e) a review plan.
- (2) *A contractor* must ensure that as far as is reasonably practicable, ergonomic related hazards are analysed, evaluated and addressed in a risk assessment.

9 Risk assessment for construction work

- (3) A *contractor* must ensure that all employees under his or her control are informed, instructed and trained by a *competent person* regarding any hazard and the related work procedures and or control measures before any work commences, and thereafter at the times determined in the risk assessment monitoring and review plan of the relevant site.

9 Risk assessment for construction work

- (4) *A principal contractor* must ensure that all *contractors* are informed regarding any hazard that is stipulated in the risk assessment before any work commences, and thereafter at the times that may be determined in the risk assessment monitoring and review plan of the relevant site.
- (5) *A contractor* must consult with the health and safety committee or, if no health and safety committee exists, with a representative trade union or representative group of employees, on the monitoring and review of the risk assessments of the relevant site.

9 Risk assessment for construction work

- (6) *A contractor* must ensure that copies of the risk assessments of the relevant site are available on site for inspection by an inspector, the client, the client's agent, any contractor, any employee, a representative trade union, a health and safety representative or any member of the health and safety committee.
- (7) *A contractor* must review the relevant risk assessment-
 - (a) where changes are effected to the design and or construction that result in a change to the risk profile; or
 - (b) when an incident has occurred.

10 Fall protection

- (1) *A contractor must-*
 - (a) designate a *competent person* to be responsible for the preparation of a *fall protection plan*;
 - (b) ensure that the *fall protection plan* contemplated in paragraph (a) is implemented, amended where and when necessary and maintained as required; and
 - (c) take steps to ensure continued adherence to the *fall protection plan*.

10 Fall protection

- (2) *A fall protection plan* contemplated in sub-regulation (1), must include -
- (a) a risk assessment of all work carried out from a fall risk position and the procedures and methods used to address all the risks identified per location;
 - (b) the processes for the evaluation of the employees' medical fitness necessary to work at a fall risk position and the records thereof;
 - (c) a programme for the training of employees working from a fall risk position and the records thereof;
 - (d) the procedure addressing the inspection, testing and maintenance of all fall protection equipment;
and

10 Fall protection

- (e) a rescue plan detailing the necessary procedure, personnel and suitable equipment required to affect a rescue of a person in the event of a fall incident to ensure that the rescue procedure is implemented immediately following the incident.
- (3) A contractor must ensure that a construction manager appointed under regulation 8(1) is in possession of the most recently updated version of the *fall protection plan*.

10 Fall protection

- (4) A contractor must ensure that-
 - (a) all unprotected openings in floors, edges, slabs, hatchways and stairways are adequately guarded, fenced or barricaded or that similar means are used to safeguard any person from falling through such openings;
 - (b) no person is required to work in a fall risk position, unless such work is performed safely as contemplated in sub-regulation (2);

10 Fall protection

- (c) all prevention and fall arrest equipment are-
 - (i) approved as suitable and of sufficient strength for the purpose for which they are being used, having regard to the work being carried out and the load, including any person, they are intended to bear; and
 - (ii) securely attached to a structure or plant, and the structure or plant and the means of attachment thereto are suitable and of sufficient strength and stability for the purpose of safely supporting the equipment and any person who could fall; and
- (d) fall arrest equipment is used only where it is not reasonably practicable to use fall prevention equipment.

10 Fall protection

- (5) Where roof work is being performed on a *construction site*, the contractor must ensure that, in addition to the requirements set out in sub-regulations (2) and (4), it is indicated in the fall protection plan that-
- (a) the roof work has been properly planned;
 - (b) the roof erectors are competent to carry out the work;
 - (c) no employee is permitted to work on roofs during inclement weather conditions or if any conditions are hazardous to the health and safety of the employee;

10 Fall protection

- (d) all covers to openings and fragile material are of sufficient strength to withstand any imposed loads;
- (e) suitable and sufficient platforms, coverings or other similar means of support have been provided to be used in such a way that the weight of any person passing across or working on or from fragile material is supported; and
- (f) suitable and sufficient guard-rails, barriers and toe-boards or other similar means of protection prevent, as far as is reasonably practicable, the fall of any person, material or equipment.

11 Structures

- (1) A contractor must ensure that-
 - (a) all reasonably practicable steps are taken to prevent the uncontrolled collapse of any new or existing *structure* or any part thereof, which may become unstable or is in a temporary state of weakness or instability due to the carrying out of construction work;
 - (b) no *structure* or part of a structure is loaded in a manner which would render it unsafe; and
 - (c) all drawings pertaining to the design of the relevant *structure* are kept on site and are available on request to an *inspector*, other contractors, the client and the client's agent or employee.

11 Structures

- (2) An owner of a *structure* must ensure that -
- (a) inspections of that structure are carried out periodically by competent persons in order to render the structure safe for continued use;
 - (b) that the inspections contemplated in paragraph (a) are carried out at least once every six months for the first two years and thereafter yearly;
 - (c) the *structure* is maintained in such a manner that it remains safe for continued use;
 - (d) the records of inspections and maintenance are kept and made available on request to an inspector.

12 Temporary works

(1) A contractor must appoint a *temporary works* designer in writing to design, inspect and approve the erected *temporary works* on site before use.

(2) A contractor must ensure that all *temporary works* operations are carried out under the supervision of a *competent person* who has been appointed in writing for that purpose.

12 Temporary works

- (3) *A contractor* must ensure that-
- (a) all *temporary works* structures are adequately erected, supported, braced and maintained by a *competent person* so that they are capable of supporting all anticipated vertical and lateral loads that may be applied to them, and that no loads are imposed onto the structure that the structure is not designed to withstand;
 - (b) (b) all *temporary works* structures are done with close reference to the structural design drawings, and where any uncertainty exists the structural designer should be consulted;

12 Temporary works

- (c) detailed activity specific drawings pertaining to the design of temporary works structures are kept on the site and are available on request to an inspector, other contractors, the client, the client's agent or any employee
- (d) all persons required to erect, move or dismantle *temporary works* structures are provided with adequate training and instruction to perform those operations safely;

12 Temporary works

- (e) all equipment used in *temporary works* structure are carefully examined and checked for suitability by a *competent person*, before being used;
- (f) all temporary works structures are inspected by a competent person immediately before, during and after the placement of concrete, after inclement weather or any other imposed load and at least on a daily basis until the temporary works structure has been removed and the results have been recorded in a register and made available on site;

12 Temporary works

- (g) no person may cast concrete, until authorisation in writing has been given by the competent person contemplated in paragraph (a);
- (h) if, after erection, any temporary works structure is found to be damaged or weakened to such a degree that its integrity is affected, it is safely removed or reinforced immediately;

12 Temporary works

- (i) adequate precautionary measures are taken in order to-
 - (i) secure any deck panels against displacement; and
 - (ii) prevent any person from slipping on temporary works due to the application of release agents;
- (j) as far as is reasonably practicable, the health of any person is not affected through the use of solvents or oils or any other similar substances;
- (k) upon casting concrete, the temporary works structure is left in place until the concrete has acquired sufficient strength to safely support its own weight and any imposed load, and is not removed until authorisation in writing has been given by the competent person contemplated in paragraph (a);

12 Temporary works

- (l) the foundation conditions are suitable to withstand the loads caused by the temporary works structure and any imposed load in accordance with the temporary works design.
- (m) provision is made for safe access by means of secured ladders or staircases for all work to be carried out above the foundation bearing level;
- (n) a temporary works drawing or any other relevant document includes construction sequences and methods statements;
- (o) the temporary works designer has been issued with the latest revision of any relevant structural design drawing;

12 Temporary works

- (p) a temporary works design and drawing is used only for its intended purpose and for a specific portion of a construction site; and
 - (q) the temporary works drawings are approved by the temporary works designer before the erection of any temporary works.
- (4) No contractor may use a *temporary works* design and drawing for any work other than its intended purpose.

13 Excavation

- (1) A contractor must-
 - (a) ensure that all excavation work is carried out under the supervision of a competent person who has been appointed in writing for that purpose; and
 - (b) evaluate, as far as is reasonably practicable, the stability of the ground before excavation work begins.

13 Excavation

- (2) A contractor who performs excavation work-
 - (a) must take reasonable and sufficient steps in order to prevent, as far as is reasonably practicable, any person from being buried or trapped by a fall or dislodgement of material in an excavation;
 - (b) may not require or permit any person to work in an excavation which has not been adequately shored or braced: Provided that shoring and bracing may not be necessary where-
 - (i) the sides of the excavation are sloped to at least the maximum angle of repose measured relative to the horizontal plane; or

13 Excavation

- (ii) such an excavation is in stable material: Provided that -
 - (aa) permission has been given in writing by the appointed competent person contemplated in sub-regulation (1) upon evaluation by him or her of the site conditions; and
 - (bb) where any uncertainty pertaining to the stability of the soil still exists, the decision from a professional engineer or a professional technologist competent in excavations is decisive and such a decision must be noted in writing and signed by both the competent person contemplated in sub-regulation (1) and the professional engineer or technologist, as the case may be;

13 Excavation

- (c) must take steps to ensure that the shoring or bracing contemplated in paragraph (b) is designed and constructed in a manner that renders it strong enough to support the sides of the excavation in question;
- (d) must ensure that no load, material, plant or equipment is placed or moved near the edge of any excavation where it may cause its collapse and consequently endangers the safety of any person, unless precautions such as the provision of sufficient and suitable shoring or bracing are taken to prevent the sides from collapsing;

13 Excavation

- (e) must ensure that where the stability of an adjoining building, structure or road is likely to be affected by the making of an excavation, steps are taken to ensure the stability of such building, structure or road and the safety of persons;
- (f) must cause convenient and safe means of access to be provided to every excavation in which persons are required to work, and such access may not be further than six meters from the point where any worker within the excavation is working;

13 Excavation

- (g) must ascertain, as far as is reasonably practicable, the location and nature of electricity, water, gas or other similar services which may in any way be affected by the work to be performed, and must before the commencement of excavation work that may affect any such service, take the steps that are necessary to render the circumstances safe for all persons involved;

13 Excavation

- (h) must ensure that every excavation, including all bracing and shoring, is inspected -
 - (i) daily, prior to the commencement of each shift;
 - (ii) after every blasting operation;
 - (iii) after an unexpected fall of ground;
 - (iv) after damage to supports; and
 - (v) after rain,

by the competent person contemplated in sub-regulation (1), in order to ensure the safety of the excavation and of persons, and those results must be recorded in a register kept on site and made available on request to an inspector, the client, the client's agent, any other contractor or any employee;

13 Excavation

- (i) must cause every excavation which is accessible to the public or which is adjacent to public roads or thoroughfares, or whereby the safety of persons may be endangered, to be-
 - (i) adequately protected by a barrier or fence of at least one metre in height and as close to the excavation as is practicable; and
 - (ii) provided with warning illuminants or any other clearly visible boundary indicators at night or when visibility is poor, or have resort to any other suitable and sufficient precautionary measure where subparagraphs (i) and (ii) are not practicable;

13 Excavation

- (j) must ensure that all precautionary measures stipulated for confined spaces as determined in the General Safety Regulations, 2003, are complied with by any person entering any excavation;
- (k) must, where the excavation work involves the use of explosives, appoint a competent person in the use of explosives for excavation, and must ensure that a method statement is developed by that person in accordance with the applicable explosives legislation; and
- (l) must cause warning signs to be positioned next to an excavation within which or where persons are working or carrying out inspections or tests.

14 Demolition work

- (1) A contractor must appoint a competent person in writing to supervise and control all demolition work on site.
- (2) A contractor must ensure that before any demolition work is carried out, and in order to ascertain the method of demolition to be used, a detailed structural engineering survey of the structure to be demolished is carried out by a competent person and that a method statement on the procedure to be followed in demolishing the structure is developed by that person.
- (3) During a demolition, the competent person contemplated in sub-regulation (1) must check the structural integrity of the structure at intervals determined in the method statement contemplated in sub-regulation (2), in order to avoid any premature collapses.

14 Demolition work

- (4) A contractor who performs demolition work must
- (a) with regard to a structure being demolished, take steps to ensure that-
 - (i) no floor, roof or other part of the structure is overloaded with debris or material in a manner which would render it unsafe;
 - (ii) all reasonably practicable precautions are taken to avoid the danger of the structure collapsing when any part of the framing of a framed or partly framed building is removed, or when reinforced concrete is cut; and
 - (iii) precautions are taken in the form of adequate shoring or other means that may be necessary to prevent the accidental collapse of any part of the structure or adjoining structure;

14 Demolition work

- (b) ensure that no person works under overhanging material or a structure which has not been adequately supported, shored or braced;
- (c) ensure that any support, shoring or bracing contemplated in paragraph (b), is designed and constructed so that it is strong enough to support the overhanging material;
- (d) where the stability of an adjoining building, structure or road is likely to be affected by demolition work on a structure, take steps to ensure the stability of such structure or road and the safety of persons;

14 Demolition work

- (e) ascertain as far as is reasonably practicable the location and nature of electricity, water, gas or other similar services which may in any way be affected by the work to be performed, and must before the commencement of demolition work that may affect any such service, take the steps that are necessary to render circumstances safe for all persons involved;
- (f) cause every stairwell used and every floor where work is being performed in a building being demolished, to be adequately illuminated by either natural or artificial means;
- (g) cause convenient and safe means of access to be provided to every part of the demolition site in which persons are required to work; and

14 Demolition work

- (h) erect a catch platform or net above an entrance or passageway or above a place where persons work or pass under, or fence off the danger area if work is being performed above such entrance, passageway, or place so as to ensure that all persons are kept safe where there is a danger or possibility of persons being struck by falling objects.
- (5) A contractor must ensure that no material is dropped to any point, which falls outside the exterior walls of the structure, unless the area is effectively protected.

14 Demolition work

- (6) No person may dispose of waste and debris from a high place by a chute unless the chute-
- (a) is adequately constructed and rigidly fastened;
 - (b) if inclined at an angle of more than 45 degrees to the horizontal, is enclosed on its four sides;
 - (c) if of the open type, is inclined at an angle of less than 45 degrees to the horizontal;
 - (d) where necessary, is fitted with a gate at the bottom end to control the flow of material;
and
 - (e) discharges into a container or an enclosed area surrounded by barriers.

14 Demolition work

- (7) A contractor must ensure that every chute used to dispose of rubble is designed in such a manner that rubble does not free-fall and that the chute is strong enough to withstand the force of the debris travelling along the chute.
- (8) A contractor must ensure that no equipment is used on floors or working surfaces, unless such floors or surfaces are of sufficient strength to support the imposed loads.
- (9) Where a risk assessment indicates the presence of asbestos, a contractor must ensure that all asbestos related work is conducted in accordance with the *Asbestos Regulations, 2001, promulgated by Government Notice No. R. 155 of 10 February 2002.*

14 Demolition work

- (10) Where a risk assessment indicates the presence of lead, a contractor must ensure that all lead related work is conducted in accordance with the Lead Regulations, 2001, promulgated by Government Notice No. R.236 of 28 February 2002.
- (11) Where the demolition work involves the use of explosives, a method statement must be developed in accordance with the applicable explosives legislation, by an appointed person who is competent in the use of explosives for demolition work and all persons involved in the demolition works must adhere to demolition procedures issued by the appointed person.
- (12) A contractor must ensure that all waste and debris are as soon as reasonably practicable removed and disposed of from the site in accordance with the applicable legislation.

15 Tunnelling

No person may enter a tunnel, which has a height dimension of less than 800 millimetres.

16 Scaffolding

- (1) A contractor must appoint a competent person in writing who must ensure that all scaffolding work operations are carried out under his or her supervision and that all scaffold erectors, team leaders and inspectors are competent to carry out their work.
- (2) A contractor using access scaffolding must ensure that such scaffolding, when in use, complies with the safety standards incorporated for this purpose into these Regulations under section 44 of the Act.

17 Suspended platforms

- (1) A contractor must appoint a competent person in writing who must ensure that all suspended platforms work operations are carried out under his or her supervision and that all suspended platform erectors, operators and inspectors are competent to carry out their work.

17 Suspended platforms

- (2) No contractor may use or permit the use of a suspended platform, unless-
 - (a) the design, stability and construction thereof comply with the safety standards incorporated for this purpose into these Regulations under section 44 of the Act;
 - (b) he or she is in possession of a certificate of system design issued by a professional engineer, certificated engineer or a professional technologist for the use of the suspended platform system; and

17 Suspended platforms

- (c) he or she is, before the commencement of the work, in possession of an operational compliance plan developed by a competent person based on the certificate of system design contemplated in subparagraph (b) and applicable to the environment in which the system is being used, which operational compliance plan must include proof of the -
 - (i) appointment of the competent person contemplated in sub-regulation (1);
 - (ii) competency of erectors, operators and inspectors;
 - (iii) operational design calculations, which must comply with the requirements of the system design certificate;
 - (iv) performance test results;

17 Suspended platforms

- (v) sketches indicating the completed system with the operational loading capacity of the platform;
- (vi) procedures for and records of inspections having been carried out; and
- (vii) procedures for and records of maintenance work having been carried out.

17 Suspended platforms

- (3) A contractor making use of a suspended platform system must submit a copy of the certificate of system design contemplated in sub-regulation (2) (b), including a copy of the operational design calculations contemplated in sub-regulation 2(c)(iii), sketches and test results, to the provincial director before commencement of the use of the system and must further indicate the intended type of work that the system will be used for.
- (4) A contractor must submit a copy of the certificate of system design in the manner contemplated in sub-regulation (3) for every new project.

17 Suspended platforms

- (5) A contractor must ensure that the outriggers of each suspended platform-
 - (a) are constructed of material of adequate strength and have a safety factor of at least four in relation to the load it is to carry; and
 - (b) have suspension points provided with stop devices or other effective devices at the outer ends to prevent the displacement of ropes.

17 Suspended platforms

- (6) A contractor must ensure that-
 - (a) the parts of the building or structure on which the outriggers of a suspended platform are supported, are checked by means of calculations to ensure that the required safety factor is adhered to without risk of damage to the building or structure;
 - (b) the suspension wire rope and the safety wire rope are separately connected to the outrigger;

17 Suspended platforms

- (c) each person on a suspended platform is provided with and wears a body harness as a fall prevention device, which must at all times be attached to the suspended platform;
- (d) the hand or power driven machinery to be used for the lifting or lowering of the working platform of a suspended platform is constructed and maintained in such a manner that an uncontrolled movement of the working platform cannot occur;

17 Suspended platforms

- (e) the machinery referred to in paragraph (d) is so situated that it is easily accessible for inspection;
- (f) the rope connections to the outriggers are vertically above the connections to the working platform; and
- (g) when the working platform is suspended by two ropes only, the connections of the ropes to the working platform are of a height above the level of the working platform to ensure the stability of the working platform.

17 Suspended platforms

- (7) A contractor must ensure that a suspended platform -
 - (a) is suspended as near as possible to the structure to which work is being done to prevent as far as is reasonably practicable horizontal movement away from the face of the structure;
 - (b) is fitted with anchorage points to which workers must attach the lanyard of the safety harness worn and used by the worker, and such anchorage connections must have sufficient strength to withstand any potential load applied to it; and

17 Suspended platforms

- (c) is fitted with a conspicuous notice easily understandable by all workers working with the suspended platform, showing-
 - (i) the maximum mass load;
 - (ii) the maximum number of persons; and
 - (iii) the maximum total mass load, including load and persons, which the suspended platform can carry.

17 Suspended platforms

- (8) A contractor must cause-
- (a) the whole installation and all working parts of a suspended platform to be thoroughly examined by a competent person in accordance with the manufacturer's specification;
 - (b) the whole installation to be subjected to a performance test as determined by the standard to which the suspended platform was manufactured;
 - (c) the performance test contemplated in paragraph (b) to be done by a competent person appointed in writing, with the knowledge and experience of erection and maintenance of suspended platforms or similar machinery, and who must determine the serviceability of the structures, ropes, machinery and safety devices before they are used, every time suspended platforms are erected; and

17 Suspended platforms

- (d) the performance test contemplated in paragraph (b) of the whole installation of the suspended platform to be subjected to a load equal to that prescribed by the manufacturer or, in the absence of such load, to a load of 110 per cent of the rated mass load, at intervals not exceeding 12 months and in such a manner that every part of the installation is stressed accordingly.
- (9) A contractor must, in addition to sub-regulation (8), cause every hoisting rope, hook or other load-attaching device which forms part of the suspended platform to be thoroughly examined in accordance with the manufacturer's specification by the competent person contemplated in sub-regulation (8) before they are used every time they are assembled, and, in cases of continuous use, at intervals not exceeding three months.

17 Suspended platforms

- (10) A contractor must ensure that the suspended platform supervisor contemplated in sub-regulation (1), or the suspended platform inspector contemplated in sub-regulation (8)(c), carries out a daily inspection of all the equipment prior to use, including establishing whether-
- (a) all connection bolts are secure;
 - (b) all safety devices are functioning;
 - (c) all safety devices are not tampered with or vandalised;
 - (d) the total maximum mass load of the platform is not exceeded;
 - (e) the occupants in the suspended platform are using body harnesses which have been properly attached;

17 Suspended platforms

(f) there are no visible signs of damage to the equipment;
and

(g) all reported operating problems have been attended to.

(11) A contractor must ensure that all inspection and performance test records are kept on the construction site at all times and made available to an inspector, the client, the client's agent or any employee upon request.

(12) A contractor must ensure that all employees required to work or to be supported on a suspended platform are-

(a) medically fit to work safely in a fall risk position or such similar environment by being in possession of a medical certificate of fitness;

(b) competent in conducting work related to suspended platforms safely;

17 Suspended platforms

- (c) trained or received training, which includes at least-
 - (i) how to access and egress the suspended platform safely; (ii) how to correctly operate the controls and safety devices of the equipment;
 - (iii) Information on the dangers related to the misuse of safety devices; and
 - (iv) information on the procedures to be followed in the case of
 - (aa) an emergency;
 - (bb) the malfunctioning of equipment; and
 - (cc) the discovery of a suspected defect in the equipment; and
 - (v) instructions on the proper use of body harnesses.

17 Suspended platforms

- (13) A contractor must ensure that where the outriggers of a suspended platform are to be moved, only persons trained and under the supervision of the competent person effect such move, within the limitation stipulated in the operational compliance plan contemplated in sub-regulation (2)(c), and that the supervisor must carry out an inspection and record the result thereof prior to re-use of the suspended platform.
- (14) A contractor must ensure that the suspended platform is properly isolated after use at the end of each working day in such a manner that no part of the suspended platform presents a danger to any person thereafter.

18 Rope Access Work

- (1) A contractor must-
 - (a) appoint a competent person in writing as a rope access supervisor with the duty of supervising all rope access work on the site, including the duty of ensuring occupational health and safety compliance in relation to rope access work: Provided that the appointment of any such person does not relieve the construction manager of any personal accountability for failing in his management duties in terms of this regulation;
 - (b) ensure that all rope access work on the construction site is carried out under the supervision of a competent person; and
 - (c) ensure that all rope access operators are competent and licensed to carry out their work.

18 Rope Access Work

- (2) No contractor may use or allow the use of rope access work unless-
 - (a) the design, selection and use of the equipment and anchors comply with the safety standards incorporated for this purpose into these Regulations under section 44 of the Act; and
 - (b) he or she is in possession of a site specific fall protection plan developed by a competent person applicable to the specific work and environment prior to the commencement of the work, including records of maintenance and inspections of all the equipment used for the work operations.
- (3) A contractor must ensure that adequate measures are in place to allow rescue procedures to commence immediately in the event of a fall incident taking place.

19 Material hoists

- (1) A contractor must ensure that every material hoist and its tower have been constructed in accordance with the generally accepted technical standards and are strong enough and free from defects.

19 Material hoists

- (2) A contractor must ensure that the tower of every material hoist is-
- (a) erected on firm foundations and secured to the structure or braced by steel wire guy ropes, and extends to a distance above the highest landing to allow a clear and unobstructed space of at least 900 millimetres for over travel;
 - (b) enclosed on all sides at the bottom, and at all floors where persons are at risk of being struck by moving parts of the hoist, except on the side or sides giving access to the material hoist, with walls or other effective means to a height of at least 2100 millimetres from the ground or floor level; and
 - (c) provided with a door or gate at least 2100 millimetres in height at each landing, and that door or gate must be kept closed except when the platform is at rest at such a landing.

19 Material hoists

- (3) A contractor must cause -
- (a) the platform of every material hoist to be designed in a manner that it safely contains the loads being conveyed and that the combined mass of the platform and the load does not exceed the designed lifting capacity of the hoist;
 - (b) the hoisting rope of every material hoist which has a remote winch to be effectively protected from damage by any external cause to the portion of the hoisting rope between the winch and the tower of the hoist; and
 - (c) every material hoist to be provided with an efficient brake capable of holding the platform with its maximum load in any position when power is not being supplied to the hoisting machinery.

19 Material hoists

- (4) No contractor may require or permit trucks, barrows or material to be conveyed on the platform of a material hoist and no person may so convey trucks, barrows or material unless those articles are secured or contained in a manner that displacement thereof cannot take place during movement.
- (5) A contractor must cause a notice, indicating the maximum mass load which may be carried at any one time and the prohibition of persons from riding on the platform of the material hoist, to be affixed around the base of the tower and at each landing.
- (6) A contractor of a material hoist may not require or permit any person to operate a hoist, unless the person is competent in the operation of that hoist.

19 Material hoists

- (7) No contractor may require or permit any person to ride on a material hoist. (8) A contractor must ensure that every material hoist -
- (a) is inspected on daily basis by a competent person appointed in writing by the contractor and such competent person must have the experience pertaining to the erection and maintenance of material hoists or similar machinery;
 - (b) inspection contemplated in paragraph (a), includes the determination of the serviceability of the entire material hoist, including guides, ropes and their connections, drums, sheaves or pulleys and all safety devices;
 - (c) inspection results are entered and signed in a record book by a competent person, which book must be kept on the premises for that purpose;
 - (d) is properly maintained and the maintenance records in this regard are kept on site.

20 Bulk mixing plant

- (1) A contractor must ensure that the operation of a bulk mixing plant is supervised by a competent person who has been appointed in writing and is-
 - (a) aware of all the dangers involved in the operation thereof; and
 - (b) conversant with the precautionary measures to be taken in the interest of health and safety.
- (2) No person supervising or operating a bulk mixing plant may authorise any other person to operate the plant, unless that person is competent to operate a bulk mixing plant.
- (3) A contractor must ensure that the placement and erection of a bulk mixing plant complies with the requirements set out by the manufacturer and that such plant is erected as designed.

20 Bulk mixing plant

- (4) A contractor must ensure that all devices to start and stop a bulk mixing plant are provided and that those devices are-
 - (a) placed in an easily accessible position; and
 - (b) constructed in a manner to prevent accidental starting.
- (5) A contractor must ensure that the machinery and plant selected is suitable for the mixing task and that all dangerous moving parts of a mixer are placed beyond the reach of persons by means of doors, covers or other similar means.

20 Bulk mixing plant

- (6) No person may remove or modify any guard or safety equipment relating to a bulk mixing plant, unless authorised to do so by the appointed person contemplated in sub-regulation (1).
- (7) A contractor must ensure that all precautionary measures stipulated for confined spaces as determined in the General Safety Regulations, 2003, are complied with when entering any silo.
- (8) A contractor must ensure that a record is kept of all repairs or maintenance to a bulk mixing plant and that the record is available on site to an inspector, the client, the client's agent or any employee.

21 Explosive actuated fastening device

- (1) No contractor may use or permit any person to use an explosive actuated fastening device, unless-
 - (a) the user is provided with and uses suitable protective equipment;
 - (b) the user is trained in the operation, maintenance and use of such a device;

21 Explosive actuated fastening device

- (c) the explosive actuated fastening device is provided with a protective guard around the muzzle end, which effectively confines any flying fragments or particles; and
- (d) the firing mechanism is so designed that the explosive actuated fastening device, will not function unless-
 - (i) it is held against the surface with a force of at least twice its weight; and
 - (ii) the angle of inclination of the barrel to the work surface is not more than 15 degrees from a right angle.

21 Explosive actuated fastening device

- (2) A contractor must ensure that-
- (a) only cartridges suited for the relevant explosive actuated fastening device, and the work to be performed, are used;
 - (b) an explosive actuated fastening device is cleaned and examined daily before use and as often as may be necessary for its safe operation by a competent person who has been appointed for that purpose;
 - (c) the safety devices of an explosive actuated fastening device are in good working order prior to use;
 - d) when not in use, an explosive actuated fastening device and its cartridges are locked up in a safe place, which is inaccessible to unauthorised persons;

21 Explosive actuated fastening device

- (e) an explosive actuated fastening device is not stored in a loaded condition;
- (f) a warning notice is displayed in a conspicuous manner in the immediate vicinity wherever an explosive actuated fastening device is used; and
- (g) the issuing and collection of cartridges and nails or studs of an explosive actuated fastening device are-
 - (i) controlled and done in writing by a person having been appointed in writing for that purpose; and
 - (ii) recorded in a register by a competent person and that the recipient has accordingly signed for the receipt thereof as well as the returning of any spent and unspent cartridges.

22 Cranes

A contractor must, in addition to compliance with the Driven Machinery Regulations, 1988 ensure that where tower cranes are used-

- (a) they are designed and erected under the supervision of a competent person;
- (b) a relevant risk assessment and method statement are developed and applied;

22 Cranes

- (c) the effects of wind forces on the crane are taken into consideration and that a wind speed device is fitted that provides the operator with an audible warning when the wind speed exceeds the design engineer's specification;
- (d) the bases for the tower cranes and tracks for rail-mounted tower cranes are firm, level and secured;
- (e) the tower crane operators are competent to carry out the work safely; and
- (f) the tower crane operators have a medical certificate of fitness to work in such an environment, issued by an occupational health practitioner in the form of Annexure 3.

23 Construction vehicles and mobile plant

- (1) A contractor must ensure that all construction vehicles and mobile plant-
 - (a) are of an acceptable design and construction;
 - (b) are maintained in a good working order;
 - (c) are used in accordance with their design and the intention for which they were designed, having due regard to safety and health;

23 Construction vehicles and mobile plant

- (d) are operated by a person who-
 - (i) has received appropriate training, is certified competent and in possession of proof of competency and is authorised in writing to operate those construction vehicles and mobile plant;
 - (ii) has a medical certificate of fitness to operate those construction vehicles and mobile plant, issued by an occupational health practitioner in the form of Annexure 3.;
- (e) have safe and suitable means of access and egress;

23 Construction vehicles and mobile plant

- (f) are properly organised and controlled in any work situation by providing adequate signalling or other control arrangements to guard against the dangers relating to the movement of vehicles and plant, in order to ensure their continued safe operation;
- (g) are prevented from falling into excavations, water or any other area lower than the working surface by installing adequate edge protection, which may include guardrails and crash barriers;
- (h) are fitted with structures designed to protect the operator from falling material or from being crushed should the vehicle or mobile plant overturn;

23 Construction vehicles and mobile plant

- (i) are equipped with an acoustic warning device which can be activated by the operator;
- (j) are equipped with an automatic acoustic reversing alarm; and
- (k) are inspected by the authorised operator or driver on a daily basis using a relevant checklist prior to use and that the findings of such inspection are recorded in a register kept in the construction vehicle or mobile plant.

23 Construction vehicles and mobile plant

- (2) A contractor must ensure that -
- (a) no person rides or is required or permitted to ride on a construction vehicle or mobile plant otherwise than in a safe place provided thereon for that purpose;
 - (b) every construction site is organised in such a way that, as far as is reasonably practicable, pedestrians and vehicles can move safely and without risks to health;
 - (c) the traffic routes are suitable for the persons, construction vehicles or mobile plant using them, are sufficient in number, in suitable positions and of sufficient size;

23 Construction vehicles and mobile plant

- (d) every traffic route is, where necessary, indicated by suitable signs;
- (e) all construction vehicles and mobile plant left unattended at night, adjacent to a public road in normal use or adjacent to construction areas where work is in progress, have appropriate lights or reflectors, or barricades equipped with appropriate lights or reflectors, in order to identify the location of the vehicles or plant;
- (f) all construction vehicles or mobile plant when not in use, have buckets, booms or similar appendages, fully lowered or blocked, controls in a neutral position, motors stopped, wheels chocked, brakes set and ignition secured;

23 Construction vehicles and mobile plant

- (g) whenever visibility conditions warrant additional lighting, all mobile plant are equipped with at least two headlights and two taillights when in operation;
- (h) tools, material and equipment are secured and separated by means of a physical barrier in order to prevent movement when transported in the same compartment with employees;
- (i) vehicles used to transport employees have seats firmly secured and adequate for the number of employees to be carried; and
- (j) all construction vehicles or mobile plant traveling, working or operating on public roads comply with the requirements of the National Road Traffic Act, 1996.

24 Electrical installations and machinery on construction sites

A contractor must, in addition to compliance with the Electrical Installation Regulations, 2009, and the Electrical Machinery Regulations, 1988, promulgated by Government Notice No.R. 1593 of 12 August 1988, ensure that-

- (a) before construction commences and during the progress thereof, adequate steps are taken to ascertain the presence of and guard against danger to workers from any electrical cable or apparatus which is under, over or on the site;
- (b) all parts of electrical installations and machinery are of adequate strength to withstand the working conditions on construction sites;

24 Electrical installations and machinery on construction sites

- (c) the control of all temporary electrical installations on the construction site is designated to a competent person who has been appointed in writing for that purpose;
- (d) all temporary electrical installations used by the contractor are inspected at least once a week by a competent person and the inspection findings are recorded in a register kept on the construction site; and
- (e) all electrical machinery is inspected by the authorised operator or user on a daily basis using a relevant checklist prior to use and the inspection findings are recorded in a register kept on the construction site.

25 Use and temporary storage of flammable liquids on construction sites

A contractor must, in addition to compliance with the provisions for the use and storage of flammable liquids in the General Safety Regulations, 2003, ensure that-

- (a) where flammable liquids are being used, applied or stored at the workplace concerned, it is done in a manner that does not cause a fire or explosion hazard, and that the workplace is effectively ventilated;
- (b) no person smokes in any place in which flammable liquid is used or stored, and the contractor must affix a suitable and conspicuous notice at all entrances to any such areas prohibiting such smoking;
- (c) an adequate amount of efficient fire-fighting equipment is installed in suitable locations around the flammable liquids store with the recognised symbolic signs;

25 Use and temporary storage of flammable liquids on construction sites

- (d) only the quantity of flammable liquid needed for work on one day is taken out of the store for use;
- (e) all containers holding flammable liquids are kept tightly closed when not in actual use and, after their contents have been used up, are removed from the construction site and safely disposed of;
- (f) where flammable liquids are decanted, the metal containers are bonded and earthed; and
- (g) no flammable material, including cotton waste, paper, cleaning rags or similar material is stored together with flammable liquids.

26 Water environments

- (1) A contractor must ensure that where construction work is done over or in close proximity to water, provision is made for-
 - (a) preventing persons from falling into water;
and
 - (b) the rescuing of persons in danger of drowning.
- (2) A contractor must ensure that where a person is exposed to the risk of drowning by falling into the water, the person is provided with and wears a lifejacket.

27 Housekeeping and general safeguarding on construction sites

A contractor must, in addition to compliance with the Environmental Regulations for Workplaces, 1987, promulgated by Government Notice No. R. 2281 of 16 October 1987, ensure that suitable housekeeping is continuously implemented on each construction site, including-

- (a) the proper storage of materials and equipment;
- (b) the removal of scrap, waste and debris at appropriate intervals;
- (c) ensuring that materials required for use, are not placed on the site so as to obstruct means of access to and egress from workplaces and passageways;

27 Housekeeping and general safeguarding on construction sites

- (d) ensuring that materials which are no longer required for use, do not accumulate on and are removed from the site at appropriate intervals;
- (e) ensuring that waste and debris are not disposed of from a high place with a chute, unless the chute complies with the requirements set out in regulation 14(6);
- (f) ensuring that construction sites in built-up areas adjacent to a public way are suitably and sufficiently fenced off and provided with controlled access points to prevent the entry of unauthorised persons; and
- (g) ensuring that a catch platform or net is erected above an entrance or passageway or above a place where persons work or pass under, or fencing off the danger area if work is being performed above such entrance, passageway, or place so as to ensure that all persons are kept safe in the case of danger or possibility of persons being struck by falling objects.

The balance

- 28 Stacking and storage on construction sites -R
- 29 Fire precautions on construction sites -R
- 30 Construction employees' facilities -R
- -31 Construction health and safety technical committee
- -32 Approved Inspection Authority

33 Offences and penalties

Any person who contravenes or fails to comply with any provision of regulations 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30, 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, not exceeding an additional fine of R200 or additional imprisonment of one day for each day on which the offence continues: Provided that the period of such additional imprisonment will not exceed 90 days.