



PHSDSBC

Public Health and Social Development
Sectoral Bargaining Council

Standard Operating Procedure to Fight CORONA

Legal obligations of PHSDSBC

- [1] Section 8 of the Occupational Health and Safety Act, 1993 (OHSA) requires PHSDSBC to provide and maintain, as far as reasonably practicable, a working environment that is safe and without risks to the health of its employees.

- [2] This duty includes (i) taking steps to eliminate or mitigate any hazard or potential hazard, before resorting to personal protective equipment; (ii) providing information, instructions, training and supervision that may be necessary to ensure the health and safety of employees at work; and (iii) enforcing such measures as may be necessary in the interests of health and safety. Section 9 extends these duties towards persons other than those in employment affected by the PHSDSBC's activities.

- [3] The General Safety Regulations published under the OHSA prohibit PHSDSBC from permitting a person to enter a workplace where the health and safety of such person is at risk.
- [4] PHSDSBC may accordingly impose rules on their employees in order to ensure a safe working environment and, in addition, it may place conditions on entry into its premises. PHSDSBC may exclude persons from their premises if they do not abide by those rules. It is on this basis that entry to building sites may be subject to the wearing of protective clothing.
- [5] In light of Covid-19, a legitimate entry requirement may be requiring the disclosure of recent international travel and subjecting individuals to a temperature test, if necessary. Any such test will be conducted with due regard to the individual's privacy and the individual's informed consent would first be obtained. The temperature test itself would be as un-invasive as possible, and screeners as opposed to thermometers placed in the ear or mouth, are advisable.
- [6] If an individual refuse to be subjected to a temperature test, the PHSDSBC may rely on other available information, such as persistent coughing or sneezing, and will then take appropriate measures.
- [7] The Environmental Regulations issued in terms of the OHSA provide, inter alia, that the PHSDSBC will ensure that its workplace premises are ventilated in such a way that the air breathed by the employees does not endanger their safety.

- [8] Where there is a danger of unsafe air (in the case of Covid-19 infected respiratory droplets), the PHSDSBC will provide the employees (and must ensure that they correctly use) respiratory protective equipment of a type that reduces exposure.
- [9] PHSDSBC will ensure that the air-conditioning systems at its premises do not expose the employees to the risk of infection.
- [10] Further, the Facilities Regulations require PHSDSBC to provide (free of charge) sanitary facilities, soap or a similar cleansing agent as well as hot and cold water. The PHSDSBC will maintain rooms and facilities that are clean and hygienic. Door handles, surfaces, and computer keyboards would be given particular attention and be wiped/ cleaned regularly.

Legal obligations of employees

- [11] The OHSA also imposes a duty on employees to take reasonable care for their own health and safety and that of other persons who may be affected in the workplace. Employees who act in violation of an PHSDSBC's health and safety rules or who disobey reasonable and lawful instructions in this regard may be subjected to appropriate disciplinary action. Blatant disregard for such rules or instructions could potentially be grounds for dismissal on the basis of misconduct.
- [12] If an employee becomes aware of a situation that is unsafe or unhealthy, s/he must report such a situation to the PHSDSBC as soon as practicable. In the context of Covid-19, this may include a suspicion that a fellow-employee or

customer/ client exhibits flu-like symptoms or is running a fever. The PHSDSBC should then take appropriate steps, such as requesting the individual concerned to submit to a temperature test, and to require the person concerned to leave the premises if need be. Again, such testing may only be conducted with the individual's informed consent.

Excluding people from the workplace:

[13] The General Safety Regulations issued in terms of the Occupational Health and Safety Act entitle PHSDSBC to impose rules for entry into their premises in order to ensure health and safety, and they may legitimately exclude people on this basis. If a person displays flu-like symptoms, or is running a fever, the PHSDSBC may require the person concerned to leave the premises and urge her/ him to obtain a medical opinion.

[14] Accordingly, PHSDSBC will take precautionary measures in circumstances where there is a reasonable apprehension that an employee has been exposed to COVID-19.

[15] Acceptable criteria to determine whether a reasonable apprehension exists, include:

- a. that an employee has travelled to a country with a high incidence of COVID-19;
- b. that an employee has been in close proximity with an individual who has tested positive for COVID-19; and

- c. that an employee displays flu-like symptoms, such as coughing, a fever and difficulty breathing.

[16] The PHSDSBC would require employees to disclose any circumstances that may give rise to a reasonable apprehension, as well as sufficient proof of the incident creating the reasonable apprehension, for example, a copy of the employee's boarding pass, confirmation that the employee had been in close proximity of the person who tested positive, etc.

[17] Where a reasonable apprehension exists, employees may be required to self-quarantine, either at their own request or at the request of their PHSDSBC. The standard self-quarantine period is 14 days. Requiring employees to self-quarantine upon a reasonable apprehension ensures that individuals carefully monitor their health, keep PHSDSBC updated of their status, and minimise the risk of spreading the COVID-19 virus.

[18] Upon return, employees may be requested to provide proof that they are healthy to return to work.

Disclosure of recent travel history:

[19] The PHSDSBC may require staff, visitors and customers to complete a travel information form in terms of which details regarding international travel since December 2019 are provided. If the person has traveled to a Covid-19 hotspot, the PHSDSBC may require the taking of a temperature test, but must obtain the person's informed consent. (See 3 below).

Require remote working:

[20] If an employee is placed in quarantine, the PHSDSBC may require the employee to work remotely, if this is possible.

Take sick leave:

[21] In the event that the employee displays flu-like symptoms or runs a fever, the employee may be required to take sick leave. The Basic Conditions of Employment Act entitles employees to 30 days' paid sick leave in every sick leave cycle. Where an employee has exhausted her/ his sick leave entitlement, the employee may be required to take annual leave. If no annual leave is available, the absence due to illness may need to be unpaid.

Close operations:

[22] If alternative measures are not appropriate to sufficiently ensure the safety of employees or visitors, it may - as a last resort - be necessary to close operations. If employees are able to work from home, the PHSDSBC would continue to pay the employees who are working remotely. Where remote working is not possible or feasible (e.g. in the case of reception staff, teachers, pilots, etc.) the PHSDSBC will need to consider whether the employee's absence will be paid or not. This is because the absence would not be as a result of any of the recognized reasons for employee-absence, such as annual leave, sick leave, family responsibility leave, parental leave or maternity leave. Rather, the reason for the absence is the PHSDSBC's need and obligation to ensure a safe and healthy work environment. If the

temporary closure is for a short period only, the PHSDSBC may decide to regard the absence as a form of special leave in respect of which the employees would be entitled to be paid. If the closure is likely to be for a prolonged period, it may not be possible to continue to pay the employees, and the PHSDSBC would need to carefully consider its options.

[23] An employee tests positive for COVID-19:

- a. In these circumstances, an employee will be booked off on sick leave until such time that the employee has recovered and no longer tests positive for COVID-19. Should employees exhaust their sick leave entitlement, they might utilise their outstanding annual leave. Alternatively, the PHSDSBC might consider granting them paid special leave in its discretion and subject to such conditions as it may deem appropriate (such as requiring the employees to conclude pay-back/ work-back agreements), or the leave may need to be unpaid.

[24] Having regard to the above, all employees are advised of the following:

- a. the importance of maintaining personal hygiene
- b. to keep in touch with their Health and Safety representative regarding any concerns they might have about the COVID-19
- c. to keep abreast with the latest information on precautions to stop the spread of the virus.
- d. constantly update records of travel with HMC.

- e. adjust seating arrangements in the open plan offices to have at least 2 meters distance between the employees so that a safe distance can be maintained between employees.
- f. Re-introduction of a card system for purposes of clock in and out of the buildings.



Mpumelelo Sibiyi

PHSDSBC: General Secretary

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