

The OHS Amendment Bill enforces stricter health and safety requirements for South African business



The original Occupational Health and Safety (OHS) Act was enacted in 1993, with the purpose of providing for the health and safety of people at work while operating equipment and machinery. While the OSH Act is legally enforceable, and managed by the Department of Labour, the aim of the OHS Amendment Bill is to ensure that businesses have a direct consequence for non-compliance. This will be gazetted and signed into legislation in the first half of 2023. The Bill enforces stricter health and safety requirements for South African businesses, and while it is not law yet, this is coming, and organisations need to be prepared.

Formalising the process

The biggest fundamental change of the Bill is that businesses will now need to develop a health and safety management system to formalise workplace health and safety. This change applies to Section 7 of the OHS Act, which is currently limited to a health and safety policy.

According to the revised definitions proposed by the Bill, “a health and safety management system means, a co-ordinated, comprehensive set of interrelated or interacting elements to establish occupational health and safety policy and objectives in order to optimally manage health and safety”. Essentially, this means businesses will be required to formalise health and safety procedures with policies, objectives and measurement tools. In addition, Section 8 of the Act will now require a documented risk assessment and risk management plan. This is separate from the health and safety management system.

More severe penalties

The current penalties for non-compliance with the OHS Act include a prohibition notice with a period of

time in which to correct infringements, but no real implications for not doing so, aside from the potential implications should an incident occur. With the Amendment Bill, however, inspectors will be given the power to issue administrative fines on the spot for certain contraventions of the Act.

This includes not establishing a health and safety committee when required, and not ensuring the health and safety committee meets at least every two months. These fines amount to R50 000 per infringement or contravention, so businesses with multiple areas of non-compliance could find themselves facing significant financial penalties.

What does this mean for business?

Businesses that have the right systems and processes in place already to manage health and safety, are most of the way toward compliance with the OHS Amendment Bill. There may be some adjustments necessary, but they should not be too onerous.

However, businesses that have not previously paid attention to health and safety will now be required to have formal policies and risk assessments in place to protect employees. This applies to all businesses, in both the formal and informal sectors, and includes persons who employ domestic workers in their homes. Employees are also empowered to report their place of work to the Department of Labour should they feel their working conditions are unsafe.

Safety first

The OHS Amendment Bill provides for more formal processes, procedures and validation against health and safety requirements. Ultimately, this is about protecting people and ensuring better health and safety in the workplace. Businesses have legal, moral and financial responsibility to ensure compliance and make sure that people, their biggest asset, are safe.

With over 220 pieces of legislation that can impact a business, the process of compliance may seem overwhelming, but having the right partner on board can be a saving grace. Working with a health and safety partner ensures that businesses are able to build the systems and policies they need to comply from not only a legal standpoint, but from a cultural and administration point of view as well. A health and safety partner can ensure businesses do not fall foul of new legislation, and can continue to ensure compliance as laws get stricter.