



New Rules Aim to Stop Spread of COVID-19 in South African Workplaces

By Leah Shepherd
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The South African government introduced more stringent regulations on employers to prevent the spread of the coronavirus, as the worldwide pandemic continues.

The revised government directive comes after government inspectors found poor rates of compliance with workplace health and safety rules related to the pandemic.

Under the new directive, all employers in South Africa must:

- Ensure adequate space for social distancing in the workplace.
- Screen employees for typical COVID-19 symptoms when they arrive at work.
- Provide employees with at least two cloth masks.
- Make hand sanitizers available.
- Ensure that surface disinfectants used in the workplace align with recommendations from the National Department of Health.

In addition, employers with more than 50 employees—including remote and in-person staff—must:

- Undertake a risk assessment.
- Develop a written policy, which must be submitted to the Department of Employment and Labor, to prevent the spread of the virus. The workplace plan must include a description of the procedure that employees would need to follow if they want to exercise their right to refuse to work.
- Require employees to disclose whether they have any health conditions that make them especially vulnerable to COVID-19.

If an employer has more than 50 employees physically present at one worksite on the same day, it must submit data on a weekly basis to the National Institute for Occupational Health (NIOH) regarding:

- Each employee's vulnerability status.
- Daily symptom screenings.
- Details of employees who test positive for COVID-19.
- The number of workers identified as high-risk contacts.
- The number of employees who have been quarantined as a result of exposure to another worker who tested positive.
- Details about the post-infection outcomes of employees who tested positive, including fitness to return to work.

The employer would only need to submit symptom-screening data for the weeks in which it had an employee with COVID-19 symptoms.

If a worker displays symptoms of COVID-19 at the workplace, the employer must isolate the employee and arrange for him or her to be

transported to a testing site. Previously employers reported positive cases to the to the National Department of Health; now they should report positive cases to the NIOH.

Employers should tell workers that their personal information will be submitted to the NIOH in accordance with the employer's legal obligations. The NIOH is obligated to comply with the applicable privacy laws.

Compliance Rate Called Unacceptable

An employer that does not comply with the health and safety rules may be ordered to close its business. Failure to comply with South Africa's Occupational Health and Safety Act is a criminal offense and failure to take the necessary measures to prevent the transmission of COVID-19 may result in criminal prosecution.

"We are still unhappy at the level of compliance," said Aggy Moiloa, South Africa's inspector general. "Despite a number of attempts to ensure that companies and government departments increase their vigilance, in some cases, compliance has even regressed. The private sector is static at 58 percent, while the public sector has regressed from 45 percent to now 44 percent. This is not an acceptable picture."

Among the 7,307 inspections that took place over six months, 5,721 were in the private sector, and 1,586 were in the public sector.

In October, TW Nxesi, South Africa's Minister of Employment and Labor, reported that South Africa recruited an additional 500 health and safety inspectors this year. "A positive takeaway from this is that we will emerge from this difficult period, as a department, with a much-strengthened occupational health and safety inspection and enforcement capacity," he said.

"Have a clear understanding of the obligations that are applicable to your organization and do not hesitate to obtain advice if you are unsure," recommended Talita Laubscher, an attorney with Bowman Gilfillan in Johannesburg.

Some unions have backed the new measures. Laubscher noted, "Organized labor is represented in the National Economic and Labor Council, and my sense is that they generally support regulations that are aimed at the safety of employees in the workplace."

In many countries, the rates of infections and deaths recently have started increasing. Nxesi said, "None of us can afford to be complacent. I need to thank the socially responsible employers who do ensure compliance with health and safety regulations, as well as unions and workers who provide tip-offs to our inspectors."

Scope of the Pandemic

As of Nov. 11, the total number of confirmed COVID-19 cases in South Africa was 742,394. The total number of COVID-19-related deaths was 20,011, according to South Africa's Department of Health.

"While we have a relatively low fatality rate compared to many other countries, we cannot begin to calculate the loss and anguish that these deaths have caused," Cyril Ramaphosa, the president of South Africa, said in a Nov. 11 speech.

He urged citizens to continue to be vigilant in their safety measures like mask-wearing, hand-washing and social distancing in the upcoming months. "We cannot relax, and we cannot be complacent," he said.

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