THE PROFILE OF OCCUPATIONAL HEALTH AND SAFETY SOUTH AFRICA

employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA

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OCCUPATIONAL HEALTH AND SAFETY
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The Profile of Occupational Health and Safety

South Africa

A project commissioned jointly by the International Labour Organisation and the Department of Employment and Labour, South Africa

Pretoria, 2020

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ACKNOWLEDGMENTS

The authors express sincere gratitude to the Inspectorate and Enforcement Services Branch of the Department of Employment and Labour and their efficient office. We are indebted to the Chief Inspector, Mr Tibor Szana and Ms Bulelwa Huna, for their insightful comments in reviewing the initial draft of this report, their support with providing key information as well as in facilitating communication with the stakeholders.

Our sincere gratitude to Mr Phumi Maphaha, Mr Jacob Malatse and all staff members at the Department of Employment and Labour for their availability and facilitating access to information.

We are grateful to the members of the Advisory Council for Occupational Health and Safety for initiating this process and for their guidance and support during the data collection process.

We express our gratitude to ILO South Africa Office and ILO Eastern Africa Office and especially the OSH Specialist, Ms Penny Munkawa for her guidance and support in compiling this document as well as inputs in the earlier drafts of the report.

We sincerely thank all the stakeholders and everyone who participated in the interviews and made contributions by responding to the questionnaires that were sent to them. We appreciate their time in being part of this process and mindful of the fact that this report would not have been without their highly valued inputs and insights.

FOREWORD

Occupational health and safety in the Republic of South Africa is more than a century old with inspectors operating in health and safety towards the end of the 19th century. This coincided with the rapid development of the industry after the discovery of diamonds in the 1860's and the discovery of gold in the 1880's.

This naturally gave rise to the 1st Industrial revolution in South Africa moving from what was largely an agrarian society at the time. At that time, South African was a colony of the United Kingdom. As a result, the systems in health and safety that were developed in the UK, were introduced to its colonies. All the required policies were then developed and introduced. Even though the first health and safety policy focused on safety as espoused by the Machinery and Occupational Safety Act no 6 of 1983 (MOS Act), we went on to recognise the importance of health at the workplace. As the saying goes "a health workplace is a safe workplace" whereas, a safe workplace is not necessarily a healthy workplace. It was out of this realisation that the OHS Act was borne.

Decades later, I became an inspector. I was able to experience first-hand what it was like working on the ground, having to protect the most vulnerable of workers by ensuring decent work was a reality for them. After doing many, many inspections, I was able to put it into practice all the valuable lessons when I was responsible for developing policy after I became Chief Inspector several years later

We are now on the cusp of the development of the fifth OHS Act (currently in Bill form) which I believe will revolutionise the current health and safety practises and offers greater protection for workers, while equally protecting complying employers. This Bill was the culmination of years of stakeholder and partner interaction at NEDLAC. The Bill has been approved for public comment by the Cabinet of South Africa.

South Africa, through the Department of Employment and Labour (IES: Health and Safety), has always enjoyed a strong relationship with the ILO. I had the privilege of ensuring that South Africa became a signatory to Labour Inspection Convention, 1947 (No.81).

This document that you have in your hands is a valuable document in that it is the first of its kind. It is not just about occupational health and safety for which the Department of Employment and Labour is responsible, it covers all aspect of occupational health and safety in South Africa.

This document is a culmination of work done by all government departments and entities, both statutory and non-statutory institutions that are responsible for occupational health and safety in South Africa.

I would like to recognize the following key role players in the development of this document:

The ILO, for funding the project and playing a significant role in its development.

- Dr Sibongiseni Myeni: Occupational Hygienist and Leadership Specialist (DBA, MBA, MMedSc, BSc Hons)
- Dr Ntombenhle Ngcobo : Occupational Medical Practitioner (MBChB, MScMed, MBA, DOH, DTM&H, DCH)

In conclusion, I commend the Inspector General, Aggy Moiloa, and her team on the work done in ensuring that this project was driven to a successful conclusion.

Thobile Lamati (Mr)

Director General: Employment and Labour

Republic of South Africa

07 June 2021

PREFACE

We present to you, the National Occupational Health and Safety (OHS) profile. This document has been long in the marking. The realisation that something needs to be done around consolidation of OHS relate processes has long been then. The task was daunting for the longest of time, but when we finally delved into it, we did not hold back.

The forthcoming pages are rich with potential. You will notice that quite a bit of space is provided to reflecting on the legal framework of OHS. Both local and international lawful building blocks were considered to a large extent. This includes laws, regulations, directions, conventions, recommendations and standards.

An observation should be made that at the centre of this national profile of OHS, are the intended beneficiaries. It should not be misconstrued that these are just limited to the human element. It can be argued that a sound national OHS profile would bode well for the health of the economy as well. This is not meant to underplay the socio-economic impact of this but to simple state that our thinking should be opened to the convolution of economic and human health.

You will perceive that this national profile cannot be complete without a reflection on the operational environment, which is effectively made up of systems, processes and people. To give credence to meaningful implementation and application of safety and health related standards and practices, it is rather obvious that the operational environment cannot be underplayed.

Various stakeholders came together to present with an opportunity of rich engagements and consultations. This includes: various government departments, state agencies and entities, research and academic institutions as well as standard setting bodies, Each played an indispensable role towards the putting together of this profile.

This document is a first of its kind. There's little doubt that this is an exciting opportunity as it offers a leverage for future like initiatives.

Happy reading.

Ms Aggy Moiloa

Inspector General: Inspections and Enforcement

Department of Employment and Labour

South Africa

June 2021

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Competent authorities and institutions

- African Union Development Agency-New Partnership for Africa's Development
- Department of Employment and Labour
- Department of Health: Medical Bureau for Occupational Diseases and Compensation Commissioner for Occupational Diseases
- Department of Mineral Resources and Energy
- International Labour Organization
- National Institute for Occupational Health
- South African Bureau of Standards
- South African Maritime Safety Authority
- South African National Accreditation System
- South African Police Service- Explosives

Professional bodies

- Employee Assistance Professionals Association of South Africa
- Ergonomics Society of South Africa
- Health Professions Council of South Africa
- Institute of Working at Height
- Mine Medical Professionals' Association
- Southern African Institute for Occupational Hygiene
- South African Institute of Occupational Health and Safety
- South African Society of Occupational Health Nursing Practitioner
- South African Society of Occupational Medicine
- South African Qualification & Certification Committee Fire
- South African Qualification & Certification Committee Gas

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EXECUTIVE SUMMARY

South Africa has a long history on occupational safety and health (OSH), including related legislation that goes back to the late 1800s. With South Africa's long mining history, OSH and associated legislation evolved from the mining industry and resulted in different pieces of legislation under three Departments.

The challenges brought by this situation and other challenges including the loss of lives in the workplace, particularly in the mines, prompted the setting up of commissions of enquiry into OSH, related legislation, and regulations. It is worth noting that prior to 1994, the hallmark of OSH compensation benefits was race-based. The commissions included the Leon Commission of 1994, which greatly shaped OSH in the mining industry and was the basis of the Mine Health and Safety Act of 1996. The Benjamin and Greef Committee of Inquiry into OSH of 1997 came up with recommendations aimed at addressing the fragmentation in OSH legislation. The Cabinet Memorandum 1 of 1999 gave the Department of Employment and Labour (DEL) a mandate to lead a process of integration of OSH legislation, which set a stage for the development of the draft OSH Policy in 2003.

Unfortunately, most of the Commissions and Committee recommendations were not implemented. Consequently, South Africa remains with the 4 main pieces of legislation on OSH under 3 different departments: the Occupational Health and Safety Act (OHSA) and the Compensation for Occupational Injuries and Diseases Act (COIDA) under the DEL; the Mine Health and Safety Act (MHSA) under the Department of Mineral Resources and Energy (DMRE); and the Occupational Diseases in Mines and Works Act (ODMWA) under the Department of Health (DoH).

As a member of the International Labour Organization (ILO), South Africa has an obligation to develop a national OSH policy and a national OSH strategy. It is in this background that the DEL initiated the process of developing an OSH profile for SA. The ILO Convention 187 is of particular importance for this process because it provides guidance on the establishment of OSH systems and outlines the importance of the development of a country OSH profile.

The methodology that was followed in developing this OSH profile is twofold: literature review and primary data collection. Documents reviewed were the legislation; annual reports of government departments and stakeholders; reports and other publications from institutions and stakeholders; websites and peer reviewed articles. Customised questionnaires were developed and used to collect qualitative and quantitative primary data. Questionnaires that contained both qualitative and quantitative questions were widely circulated to stakeholders. A semi-structured interview guide was used to collect qualitative data through in-depth interviews with 34 purposively selected participants, representing 7 stakeholder groups. The thematic analysis of qualitative data from the interviews pointed to the following:

Legislation: Although progressive, legislation is fragmented, complicated and it generally excludes informal economy and domestic workers. Fragmentation results in inefficient use of limited resources. Legislation is viewed as punitive.

Government's role in OSH is perceived to be a setback in that government departments are significant defaulters and are non-compliant with OSH legislation. Government departments that regulate OSH work in silos, with little coordination and collaboration. The level of awareness on OSH and reporting was viewed to be poor amongst government employees. There is a general lack of reporting of work-related injuries and diseases in the public sector.

Work related injuries and diseases data collection and reporting is fragmented and not harmonised among and within the different departments. There is no uniform way of recording and reporting injuries and diseases statistics. Therefore, there is no clear picture of the burden of OSH injuries and diseases.

Enforcement of legislation is perceived as a challenge with poor compliance by employers and serious limitations with human resources capacity for inspections. Enforcement is generally reactive.

Suggestions by participants included that the process of reviewing legislation should be fast tracked and that the South African Local Government Association should support OSH systems and provide basic facilities for informal economy workers to promote OSH.

Findings from quantitative data point to good efforts in inspections by the DEL with little human resources. In 2019 over 28 000 inspections were conducted with less than 300 Inspectors. Recently created posts increased the number of Inspectors to 778 (533 currently filled). According to the 2020 Quarter 2 Quarterly Labour Force Survey, the population of employed people in South Arica is 14,148 million and 455 000 of these people are employed in the mines. The inspector to employee ratio will be 1 inspector for 17 600 employees, provided if all the 778 posts are filled.

Inspections show poor compliance by wholesale and retail sector and the construction sector. The wholesale and retail sector records the highest number of Compensation Fund claims, which exceeds even the police and the security services. Iron and steel industry also has a high number of incidents. The monetary value of claims to the Compensation Fund under DEL has been rising over the years. In 2016/17 it was just over R 4 billion. It is noteworthy that medical costs account for 66% to 71% of these claims.

Mining Industry reports that injuries are declining. There were 3 036 injuries in 2015 and 2 350 in 2018. This amounts to a rate of 1 incident per 150 employees per year. Fatalities have stagnated between 71 in 2014 and 81 in 2018 with a peak of 90 in 2017.

There is no National OSH policy and strategy. Acts on OSH that are under review include the COID Amendment Bill and Occupational Health and Safety Amendment Bill. The ILO Committee of Experts on the Application of Conventions and Recommendations and the stakeholders have noted the long time it takes to amend legislation.

It is recommended that the country should develop a national OSH policy and a strategy; revive, contextualise, and implement the Cabinet Memorandum 1 of 1999; integrate OSH competencies; prioritise and fast track the process of reviewing legislation; implement the articles of the ILO Conventions when reviewing legislation; consider the role of the South African Local Government Association and Municipalities in OSH; inform the cabinet (all Ministers) of the findings of this report, with the focus on the non-compliance of the public sector structures with OSH legislation and elicit high level commitment to addressing this; capitalize on the opportunities brought by COVID-19 to advocate for and instil an OSH culture across all sectors in the public and private sector.

1. INTRODUCTION

Occupational safety and health legislation in South Africa dates to the late 1800s, with the Precious Stones and Mineral Mining Rights Act of the Cape of Good Hope, Act 19 of 1883 that mentioned 'the protection of life and limb'. However, it was the Phthisis Act, Act 34 of 1911 (PA), directed at the mining industry, that focused on occupational health. It also introduced compensation for White workers, suffering from phthisis. The PA was in response to the concern about the high number of mine workers that acquired silicosis and tuberculosis as a result of living and working conditions. The PA was replaced by the Mines and Works Act, Act 12 of 1911 (MWA 1911) which was amended a number of times up to the Mines and Works Act, Act 27 of 1957 (MWA 1957). This was replaced by the Minerals Act, Act 50 of 1991 (MA), which in turn replaced by the Mine Health and Safety Act, Act 26 of 1996 (MHSA).

The focus on occupational hazards and diseases was initially in the mines. The Factories Act, Act 28 of 1918 (FA) was introduced about 35 years after the PA. The FA focused on sectors other than the mines which was replaced by the Factories, Machinery and Building Work Act, Act 22 of 1941 (FMBWA). This Act was largely on prevention of accidents. It excluded workers in the agriculture sector. The Machinery and Occupational Safety Act, Act 6 of 1983 (MOSA), came over 40 years later and replaced the F. It covered more on issues of occupational safety and health and emphasis on occupational hygiene. MOSA was replaced by the Occupational Health and Safety Act, Act 85 of 1993 (OHSA). It is noteworthy that the OHSA is one of the main pieces of occupational safety and health legislation and that it dates before South Africa's democracy and the Constitution of the Republic.

The compensation for mine workers dates back to the PA and later the Occupational Diseases in Mines and Works Act, Act 78 of 1973 (ODMWA). Other industries only had compensation with the introduction of the Workmen's Compensation Act, Act 30 of 1941 (WCA) in 1941. The WCA initially excluded agricultural workers and did not cover domestic and self-employed workers. In the mines, ODMWA introduced a list of compensable diseases. It is worth noting that all these pieces of earlier legislation had the hallmark of racial discrimination in the rights and benefits afforded by these Acts, which compromised the Black workers and often left them with little or no benefits.

The challenges that were brought up by the different pieces of legislation on occupational safety and health prompted the setup of Commissions to examine the state of OSH and labour reform in South Africa, that started prior to democracy. These include the: Erasmus Commission of 1974, Ricket Commission (1977), Wiehahn (1977) Commission, Niewenhuizen (1977) Commission, and the Leon Commission (1994). Erasmus and Leon Commission reports were instrumental in the repeal of the FA, enactment of the subsequent MOSA, and the current OHSA as well as the MHSA.

The developments noted above, are a long history of a country that is committed to addressing the OSH of workers in the context of structural challenges that stem from its history of inequalities and social divide of the apartheid era. Post 1993 OSH developments include the 1997 Benjamin and Greef Report of the Committee of Inquiry into a National Health and Safety Council in South Africa. An earnings-based system of lump-sum compensation payments replaced the race based discriminatory ODMWA 1973 compensation system. In addition, the 1997 White Paper on the Transformation of Health Systems in South Africa provided a framework for the role of provincial health departments in occupational health. The Cabinet Memo of 1999 culminated in the draft National OHS Policy, 2003 and the OH Services for Health Care Workers in the National Health Service of South Africa: A Guideline Booklet, 2003.

South Africa is committed to the decent work agenda[1] and a decent future of work for its citizens. The implementation of the International Labour Organization (ILO) conventions is key to resolving the challenge of OSH at the workplaces. South Africa is one of the 187 member states of the United Nations (UN). The ILO adopted Convention C187- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)[2] on 31 May 2006 and came into force in 2009. South Africa is one of 49-member states that have not ratified C187, which provides a framework and obligatory elements of an OSH system, which signatory member countries must implement.

The elements of an OSH System include the national policy, national system, national program for OSH, and the national preventive safety and health culture. In line with C187 and ILO's standards, it is necessary to conduct a country assessment of the overall OSH situation. Information from the assessment provides an understanding of available means and most urgent need, that form a basis for the development of a strategic priority and procurement of broad political support. This should be followed by a step-by-step development of the OSH infrastructure and the periodical evaluation of progress and adjustment in planning and execution as and when necessary. This OSH profile for South Africa is a situational analysis of the OSH system in the country. The project was commissioned by the Department of Employment and Labour (DEL) and the ILO. The country profile is the first stage in the process of policy development and a national OSH strategy as described by the ILO C187.

1. South Africa, Decent Work Country Programme 2018-2023. June 2018. Retrieved from https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_674579.pdf

2. International Labour Organization: Conclusions adopted by the International Labour Conference at its 91st Session, 2003 on Global Strategy on Occupational Safety and Health' and Convention No.187- Promotional Framework for Occupational Safety and Health Convention, 2006. Retrieved 08/09/2020

2. METHODOLOGY

Research approach

The approach was quantitative and qualitative. It included structured interviews with open ended questions, allowing collection and analysis of rich data.

Secondary data Collection.

Secondary data were collected by conducting literature and legislation review of:

- Legislation and national policy documents
- OSH reports and peer reviewed articles
- OSH association and professional bodies documents
- Publications from key stakeholders: labour, employers, accreditation bodies,
- Annual reports and other sources of relevant information

Primary Data Collection

Qualitative data collection

- A semi-structured interview guide was used to interview purposefully selected individuals of key stakeholders.
- 34 participants, representing seven stakeholder groups: Worker Organisations, employer Organisations including informal economy, government departments, professional bodies, bargaining councils, standardizing bodies and training institutions participated.
- Semi-structured in-depth virtual interviews through zoom, prompted participants to explore and share their insights of the OSH system and its effectiveness.

Quantitative data collection

A data collection instrument that contained both qualitative and quantitative questions was designed for data collection. The instrument included a wide range of areas: human resources for OHS; collaboration with stakeholders and international bodies, challenges; role played during COVID-19 pandemic and trends in occupational injuries and diseases and the review of legislation on OSH. It was widely distributed to stakeholders.

Data Analysis

Quantitative data was subjected to descriptive statistical analysis and presented in tables and graphs. Qualitative data was subjected to thematic analysis, that was data driven. There was no attempt to fit themes into a pre-existing theoretical framework.

3. FINDINGS FROM IN-DEPTH INTERVIEWS

This section discusses key themes and insights that came out of the confidential, semi-structured in-depth interviews with 34 purposefully selected participants. Themes were identified in the interview responses are presented below.

Theme 1: COVID-19 Opportunities

Participants highlighted that COVID-19 has revealed opportunities that South Africa had not explored before. For example, during COVID-19, technology was used to take information quickly available. COVID-19 has also revealed the need to develop and implement disaster management plans as part of OSH management. On the other hand, participants felt that COVID-19 provided an opportunity to see what the country could not see before. A participant put it this way:

> *"With the arrival of COVID, it has brought the realization that OHS has been ignored or just a by the way issue of compliance."*

Participants highlighted that during COVID-19, there was better cooperation between stakeholders, especially between government and employers. One participant said.

> *"COVID-19 helped to bring us together and to see we are all in this together".*

Theme 2: Enforcement of legislation

Participants were of the view that South Africa has good legislation. They praised the comprehensiveness of the OSH legislation. However, there is lack of enforcement.

> *"There are certain offences that are deemed criminal but when you look at the current situation, I have not heard of someone imprisoned. We never hear of successful prosecution of offences committed. Amend existing legislation to fill in these gaps. And then be seen to be active and enforce".* A participant

Participants felt that legislation took long to implement and enforce, this could be shortened by involving other parties by including legislation in bargaining agreement.

> *"Detail implementation should be included in the policies and in the main agreement. For example, a bargaining agent is to issue a compliance notice and refer to our dispute resolution centre (DRC). Allow our agents to refer to DRC instead of referring to the department. We can only enforce in accordance with collective agreement nothing else. Main agreement".* A participant

To improve on enforcement, participants proposed that there should be partnerships in enforcement through bargaining councils. There was also a call for enforcement of legislation to be more proactive than reactive. They expressed a need for stakeholders to work closely with the inspectors on OSH issues. They expressed that OSH legislation in SA is still mainly driven by compliance and has not reached a state where business implements OSH because it is good business. A participant summed it:

> *"The general state of health and safety in South Africa has not reached a matured state where companies voluntarily take health and safety as the way of doing business and initiate best practice implementation programmes at the operations".*

Theme 3: Poor Compliance and OSH Committees

Participants noted general poor compliance with OSH legislation in all sectors. They noted that employers were not complying and as a result, workers die or are incapacitated. The issue is also that there are no OSH Representatives and Committees. Where there are, these

were appointed by the employer and do not serve the interest of the employees. They further highlighted that the OSH Representatives are not trained on their responsibilities. They pointed out that COVID-19 pandemic highlighted the lack of compliance with OHSA. One participant noted.

> *"But for us what the COVID pandemic has done, it serves as a barometer to look for compliance in its entirety. We get a number of reports from DEL on COVID compliance, which is sometimes below 50%. So that just tells you what the general attitude of employers is with regards to OHS in the workplace."*

Participants noted that if the compliance was so poor in the formal sector, one could imagine what the situation was in the informal sector that is not covered by the OHSA.

Another participant noted.

> *". . . the requirement that there should be Health and Safety committees and even that as a basic is not in place in most workplaces. That is why when the COVID pandemic came, there was a need for H&S committees everyone scrambled and had to start from scratch because the bare minimum compliance with the actual OHS act was just not in place".*

> *". . . with this thing of COVID, it was clear that both government and private sectors had no policies or they have never respected OHSA for their own employees".*

Theme 4: Gender and the Informal Sector

Participants believed that the current OSH legislation neglects the informal economy, even though research shows that this economy is growing. According to participants, small businesses and the informal economy find it frustrating to comply with legislation. Compliance is a nightmare for small business. There was a need to formalize the talk about the benefits of complying. Participants suggested a state medical surveillance system as well as other health services that can take care of the needs of the informal economy and small, medium and micro enterprises (SMME)s. As a result of the complexity of the legislation, the informal economy struggles to comply with legislative requirements such as COIDA, PAYE and local by-laws. Furthermore, the existing legislation also does not take into consideration the different needs of different genders. One participant put it this way:

> *"Our laws were developed for all workers. No one was looking at what are the special circumstances of women. There has not been any focus on gender".*

Another:

> *"We need to really do a bit of groundwork and how we include issues of gender and I think we are falling behind events. We've got the LGBTQI community that is being marginalized in the workplaces. So, they too must find expression in our OHS policies moving forward".*

Theme 5: Complex Legislation

Participants expressed that OSH legislation is comprehensive and complex. However, they noted that this can also be a weakness for the SMMEs and the informal economy, as summarized by another participant.

"Comprehensiveness of the legal framework can be a weakness for small business who cannot afford consultants. Business decision making processes must include OHS at the center of business. We are scared of inspectors!".

They explained that it is also difficult to implement for small businesses. A participant:

> *"Occupational Health Legislation is a big mountain to climb for small business".*

He went on to explain that even when they ask service providers, they are reluctant to advise on certain aspects related to legislation.

> *"Even when you ask the health providers to guide, they are scared, they do not want to give advice. Put legislation in simple visual charts. Make it simple, just like with COVID".*

Theme 6: Perception of inspections as Punitive

Employers perceive OSH and inspections in particular, as punitive and not as a way to support their business and sustainability. A view was expressed that employers fear Inspectors and the inspection process. They understand that the Inspectors' main purpose is to close down their businesses and implementation of OSH legislation is mainly driven by fear. Enterprises fear the inspectors.

> *"They are scared of inspectors, they fear that they come to shut down their factories".*

Theme 7: Fragmentation and Poor Integration

Participants expressed that there is lack of standardization and consistency. They perceive disjuncture and duplication of OSH that is implemented and enforced through the Mine Health and Safety Act (MHSA) and that enforced through the Occupational Health and Safety Act (OHSA). They expressed that OSH system is characterized by silos. Departments are not talking to each other or working together internally. However, they acknowledged instances where departments work together as when. One department initiates a project, and another make use of the resultant information.

They pointed out that it was inadequate and did not cover most OSH matters.

> *"These Departments do not work together sufficiently and do not have a platform of engagement on overall health and safety matters. They usually meet at bi-lateral meetings on adhoc basis, except with compensation matters where they deal with claims. A functional inter-governmental forum of these Departments is critical for us to move towards a National Health and Safety regulatory framework in SA".*

Another participant provided a summary of the challenges of fragmentation:

> *"There is fragmentation, the biggest weakness. There is no working relationship amongst the departments. They are supposed to have a coordinated mechanisms. Each is doing its own thing. They are working in silos, with no collaboration and coordination."*

Another:

> *"These departments work in silos. There is no synergy in terms of their working. The second issue is that there is an element of competing among themselves. The issue of working in silos is that the other department does not know what the other one is doing. it disadvantages the workers in general. It is dismal failure because we find ourselves in this situation whereby employees are suffering".*

Fragmentation has resulted in the overlap of legal mandates among various departments, which poses enforcement challenges and include limited external training opportunities for enforcement officials. Fragmentation within departments has resulted in lack of optimal use of resources that should be directed at improving safety and health of workers.

They suggested that it is essential to coordinate OSH among all the departments; and senior officials at top of government departments and other institutions must have a clear commitment to OSH. For integration to take place, ministries needed to conclude and agree at the top level before officials that report to them can begin the work. There must be a clear mandate for integration, that is concluded at the top.

Theme 8: OSH Statistics and Incident Reporting

Participants pointed out that statistics plays a critical role in the OSH system, including efforts to reduce incidents and accidents. There was an urgent need for stakeholders to receive reliable and informative OSH statistics, such as the number of inspections conducted, percentage of non-compliance per sector and allied trade, audits executed, as well as challenges experienced. They pointed to the monthly statistics that some sectors receive from FEMA, that assists the sector to decide on what topic to focus on during awareness workshops and training. Participants expressed a need to receive a full picture of incidents to guide in planning, decision making and policy development.

They expressed that without adequate and reliable statistics, industry cannot make a meaningful contribution towards reduction of the burden of injuries and diseases in the workplace They pointed to lack of integration of compensation and preventative legislation, as well as among the different government departments has resulted in lack of up to date statistics and understanding of the true picture and burden of occupational injuries and diseases in South Africa. They noted that, employers under COIDA do not complete the accident report form and the problem this posed for employees who then lose their right to claim for compensation.

Theme 9: OHSA Not explicit on the Right To refuse Dangerous Work

Some participants pointed out that the OHSA does not explicitly express the right of workers to refuse to do dangerous work. They claimed that it is common for workers to be dismissed for refusing to do work that they find to be dangerous, especially in the farming sector.

> *"But you get employers dismissing workers and saying you refused to obey legitimate instructions. They would want workers to take the instruction and complain after. What happens if you take the instruction and you get injured?"*

Another participant said:

> *"The OHS Act is very silent in relation to that issue of refusal to work in dangerous work areas but the MHSA has a clause for workers to refuse to work in dangerous work areas"*

Another participant said.

> *". . . because the right is not expressed explicitly, in the OHS Act, when workers are in situations where they feel that they have a legitimate case to exercise their rights to refuse dangerous work, then the employer simply dismisses them because their rights are not explicit across various sectors".*

Theme 10: Public Sector Compliance

The participants were unanimously of the view that the focus of inspectorate was mainly on the private sector and that compliance in the public sector was not addressed. As a result, they indicate that there is no OSH enforcement on the public sector is not prioritised. This was echoed this way by a participant:

> *"Focus not only on private sector but also on public institutions".*

> *"HSE issues are not prioritised in some sectors. In the mining there might be strict adherence but not in the public sector and it is not meaningful. Law is not adequately protecting health and safety of workers. Overall, you would not see the labour inspector issuing strict notices such as closing of public institutions. Perhaps there is reluctance or capacity or not complying themselves in their workplaces".*

Lack of compliance in the public sector was echoed in a different manner by another when talking about key delivery systems of OSH:

> *"That is the part when you get to the public sector, you know is very weak. For instance, this was evident with the COVID epidemic where you find that some provinces didn't even have Occupational Health and Safety committees in the hospitals. These hospitals had no OHS committees. So, to them occupational health was about a staff clinic. It wasn't about having a risk assessment of the jobs in the hospital and providing adequate protection. It was more of TB wards and the nurses know that they are given masks."*

This was echoed by another participant who stated:

> *"Government departments do not adhere or follow their own legislation. There is lack of capacitation. The DoH has failed to establish and maintain adequate level of OHS, starting with the national office. They only put up clinics".*

Participants pointed to a number of cases where the government departments were housed in buildings that are not suitable for occupation and are non-compliant and employees had to embark on strike.

Theme 11: Poor Reporting Yet increasing Claims and Lack of Awareness

Participants pointed out poor reporting in spite of increasing number of claims. They highlighted lack of awareness of the need to report, in different industries. Some employees find it difficult to report because of the fear of the employer, who was not eager to report. Participants particularly lamented the low level of awareness and poor reporting among government employees. The government is an exempted employer for the financial contributions to the fund, this leads to a large number of employees who are not aware of the need to report, especially health workers. As a result, they either use an in-house clinic facility when affected or are likely to use their medical aid like GEMS for a work-related incidents. This further compromises their position because the medical aid gets depleted and eventually, they have no medical aid cover. the lack of penalties for not reporting COIDA related cases contribute to the lack of reporting.

Theme 12: Partnerships

Closer to the theme on integration of legislation, is a need for collaboration, partnerships and coordination that the participants expressed. The departments, private sector, and OSH agencies need to work together in a collaborative and integrated manner in the delivery of OSH.

> *"There is limited formal interdepartmental cooperation and interaction. No interdepartmental memoranda of understanding (MOUs)".*

Participants noted the critical importance of partnerships in the delivery of OSH. Cooperation and interdepartmental cooperation are particularly important in the current system, where OSH competency and authority are vested in many departments.

Theme 12: Human Resources Challenges for Inspection

The number of inspectors in relation to the number of enterprises is a big concern. They pointed to that the DEL has over 1 000 000 registered employers and about 600 inspectors. Therefore, the number of inspectors to enterprises is very small, they are greatly outnumbered to conduct adequate inspections over a cycle.

Theme 13: Better Enforcement in the Mines

There is a perception that the inspections and enforcement of OSH is much more effective and robust in the mines. The understanding is that enforcement is stricter in the mining sector. As a result, there is better compliance because of the effective fines if no compliance and closure of a mine where necessary. Some participants expressed a concern that some Inspectors did not have adequate skill and competency for inspections. Quite a number of participants made this observation. One said:

" ,,, in the mining sector there is a score card on the mine safety which tracks the incidents that have taken place in the mines. But in other industries there is nothing of that sort."

Theme 14: Importance of Safety and Occupational Health

Participants view OSH as important and were concerned that it is not given the priority it deserves. One participant said.

"The importance of OHS should not be underestimated and is second to none, but it is often overlooked when compared to business objectives. Therefore, I think it's time that authorities make it compulsory for businesses to appoint a qualified and full time Safety, Health and Environment representative (SHE) whose role also includes wellness".

Participants pointed to that the lack of prioritization of OSH now and again leads to a declared dispute at NEDLAC, and the employee representatives end up with a certificate to go on strike because government and employers do not accept some issues of concern including safety. Another participant stated:

". . . with the invention of COVID, the wellbeing of the citizens generally and workers in particular, health and safety should be a priority".

Theme 15: Aligning MHSA and OHSA, Length of Time to Amend Legislation

Some participants pointed to the long-standing recommendation to align and combine the main two pieces of legislation on occupational health and safety, the OHSA and the MHSA. They lamented that recommendations have been made at NEDLAC that legislation should be combined and that it is over 4 years that NEDLAC reviewed MHSA and the OHSA, but the Amendment Bills have not yet been presented to parliament. They expressed frustration on this, and that effort and time is wasted with poor implementation or failure to timeously process recommendations from NEDLAC.

"We have been calling for the alignment of the MHSA and the OHSA to be one thing for quite some time. Even at the legislative level things drag to be finalized.

Another indicated:

"As I conclude . . . we made submissions, that the OHSA and MHSA should be combined so that we have one policy and one act for this country. That thing has been with the office of the then Minister of Labour for a year. I'm sure even the current Minister has not finalized that matter to be tabled to Parliament".

Theme 16: OHSA Dependent on Definition of an Employer and Employee

Participants noted with concern that the OHSA is dependent on the definition of an employer for the implementation. This brings up challenges in the informal economy because it is often not clear who the employer is. This also applies in the case of domestic workers or people who work at different places, on different days. In such cases the people worked for easily dodge the definition of an employer.

"The other one was about regarding the discussion we had about broadening the definition of employees to include your actor workers so that they are covered by the relevant labour legislation because right now a lot of them, if you are self-employed, or you are a contractor or actor or whatever the story is, then you fall through the crack."

The legislative review that will look into these definitions was also seen as a priority area. A participant also stated the following on areas to prioritise.

". . . that is your OHS amendment bill but also the COIDA amendment bill, which is now finally at Parliament but now that one is relevant because it defines the house as the workplace for domestic workers. So, they will be then covered by COIDA and the OHSA provisions etc".

Theme 17: The Role of SALGA and Municipalities

Participants expressed concern that there was a role that municipalities should be playing in terms of providing basic facilities for the informal sector. For example, they pointed out that the informal economy is highly neglected by municipalities. At best, they put up stalls, but no toilets and no washing basins are provided. Participants pointed to this as a serious concern especially now with the COVID pandemic. Furthermore, the police put informal traders are under stress whilst there is no provision for them. They suggested that SALGA should put a requirement for municipalities to put up such basic amenities for the informal economy workers especially informal traders.

Separate Structures and Departments for Processing Claims of Miners

The participants also brought up the concern of separate structures/ departments for reporting of occupation al diseases and injuries for mineworkers; reporting to the DMRE, DEL and the DOH. The DOH under the ODMWA only compensates for lung diseases of miners and ex-miners. Injuries and the occupational diseases that do not affect the lungs have to be reported to the DEL and be compensated by the CF under the COIDA. The DMRE has to receive the report through the Inspectorate division, on incidents related to their activities. The DEL also has to receive reports on injuries and other and the DoH has to receive the reports for compensation purposes. This becomes a challenge also for miners themselves especially, for ex-miners when they have to deal with 3 departments. Often it is hard for them when they have been at homes that are in remote rural areas or even in neighboring countries. This is also a challenge for data collection and management of information.

4. NATIONAL REGULATORY FRAMEWORK

The first part of this section identifies and describes the enforceable instruments making up the national regulatory framework in SA. The second part describes voluntary technical standards and guidelines that are reliable references.

4.1. Laws and Regulations

4.1.1 The Constitution

The legislative system consists of the Constitution[3]; the primary legislation, which is the act of parliament and secondary legislation, which is composed of regulations and rules. The Constitution, Act 108 of 1996, is the Supreme law of the country and all laws must be consistent with it. Any law or conduct inconsistent with the Constitution is invalid. In addition, the obligations imposed by the Constitution must be fulfilled. The founding values of the Constitution include human dignity, achievement of equality, advancement of human rights and non-sexism. Chapter 2 of the Constitution is the Bill of Rights. It applies to all laws, and binds the legislature, executive, judiciary and all organs of state. Gender equality is one of the founding values of the Constitution; section 9(3) which stipulates:

> *"The state may not unfairly discriminate against anyone directly or indirectly on the grounds of: gender, sex, pregnancy, sexual orientation. . . "*

Occupational health and safety legislation is derived from Chapter 2, Section 24(a), which states that everyone has the right to an environment that is not harmful to their health or well-being. Section 27(2) places an obligation on the state to take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of the rights in the Bill of Rights. Parliament is the national legislative authority that passes and amends national laws, including occupational health and safety laws.

4.1.2 Laws, Regulations and Collective Bargaining on OSH

Laws on Occupational Health and Safety - Brief Overview

In SA occupational safety and health, a tripartite arrangement; in line with the International Labour Organization Convention C144- Tripartite Consultation Convention, 1976 (No. 144). Employers, employee representatives and government contribute on decisions that affect the occupational safety and health policy, laws, regulations, and their implementation. Consequently, the Mine Health and Safety Act (MHSA), established the tripartite structures: The Mine Health and Safety Council (MHSC) and the Mine Qualification Authority (MQA), which are led by stakeholders. These institutions are to co-ordinate and direct research and training in order to improve health and safety performance of the mining industry. The OHSA established an Advisory Council for Occupational Health and Safety (ACOHS), which is also a tripartite institution. These institutions are to ensure that there are political and economic systems to influence policy and legislation.

The legislation on occupational OSH developed through the tripartite system, is fairly progressive and enforceable. In addition, there are voluntary technical standards that, whilst not legally enforceable, industries recognize, and adopt them to be part of their OSH management systems. However, the legislation governing occupational safety and health in SA is quite complex and spans general occupational sectors and specific mining, maritime, aviation, railway, transport and nuclear or energy sectors; as described by Manning and Pillay (2020). Notably legislation falls under different ministries and is characterised by duplication of roles, overlaps, and contradictions among the laws, lack of coordination, and waste of scarce resources among administering departments (Ncube & Kanda, 2018). The main pieces of legislation on OSH that cover almost all sectors and are in table 4.1.

Table 4.1. Main Legislation on OSH.

Legislation	Administering Department
Occupational Health and Safety Act, Act No. 85 of 1993	Department of Employment and Labour
Compensation for Occupational Injuries and Disease Act, Act No. 78 of 1973	
Mine Health and Safety Act, Act No. 29 of 1996	Department of Mineral Resources and Energy
Occupational injuries and Diseases in the Mines and Works Act, Act No. 78 of 1973	Department of Health

Other pieces of legislation that are mainly regulatory, to enforce specific industry requirements including safety and health for specific sectors, are shown in table 4.2.

Table 4.2. Legislation on OSH - Regulatory for Specific Industries.

Legislation	Regulating Authority	Purpose
National Energy Regulator Act, Act No. 47 of 1999	National Nuclear Energy Regulator	Provides for the protection of persons, property and the environment against nuclear damage in South Africa
Railway Safety Regulator Act, Act No. 16 of 2002	Railway Safety Regulator	Provides for safety standards and regulatory practices for the protection of persons, property
South African Maritime Authority Act, Act No. 5 of 1998	South African Maritime Authority	Safety provisions for staff on board ship, appliances and equipment
Act of Civil Aviation Authority Act, Act No. 3 of 2009	South African Civil Aviation Authority	Regulates civil aviation safety and security in support of the sustainable development of the aviation industry

3. South Africa. (1996). The Constitution of the Republic of South Africa as adopted on 8 May 1996 and amended on 11 October 1996 by the Constitutional Assembly. Retrieved from https://www.justice.gov.za/legislation/constitution/SAConstitution-web-eng.pdf

There other various pieces of labour legislation that govern OSH in various sectors or industries that lie with many authorities, which include: Civil Aviation Act, Act 3 of 2009 (CAA); Explosives Act, Act 15 of 2003; Hazardous Substances Act, Act 15 of 1973; Merchant Shipping Act 57 of 1957 as amended; National Health Act, Act 61 of 2003; National Public Health Institute of South Africa Act, Act 1 of 2020; and the Construction Industry Development Board Act, Ac 38 of 2000.

The Occupational Health and Safety Act (OHSA) as amended

The OHSA, Act No. 85 of 1993 as amended, is the main Act that governs OSH in practically all sectors in South Africa other than the mines. Section 8 of the OHSA stipulates the general duties of employers to their employees. Section 9 stipulates the general duties of employers and self-employed persons to persons other than their employees. Section 10 stipulates the general duties of manufacturers regarding articles and substances for use at work. Section 13 places a duty on employers to inform employees about workplace health hazards. Section 14 stipulates the general duties of employees at work. Section 24 covers the type of incidents that should be reported to the Inspector of the DEL. In terms of Section 24, a member of the South African Police to whom an incident was reported in terms of subsection (3)(b), is obliged to notify an inspector thereof. Section 25 requires a medical practitioner to report to the Chief Inspector (CI) regarding occupational illnesses. In terms of Section 37, an employer takes responsibility of an employee's acts of omission or commission that are regarded as an offence, unless the employer can submit proof that he/she is not guilty. The OHSA is currently under review and it is at a Bill stage.

Simplified overview of the legal framework of OSH in South Africa

Figure 4.1 is a simplified overview of the legal framework of OSH in South Africa.

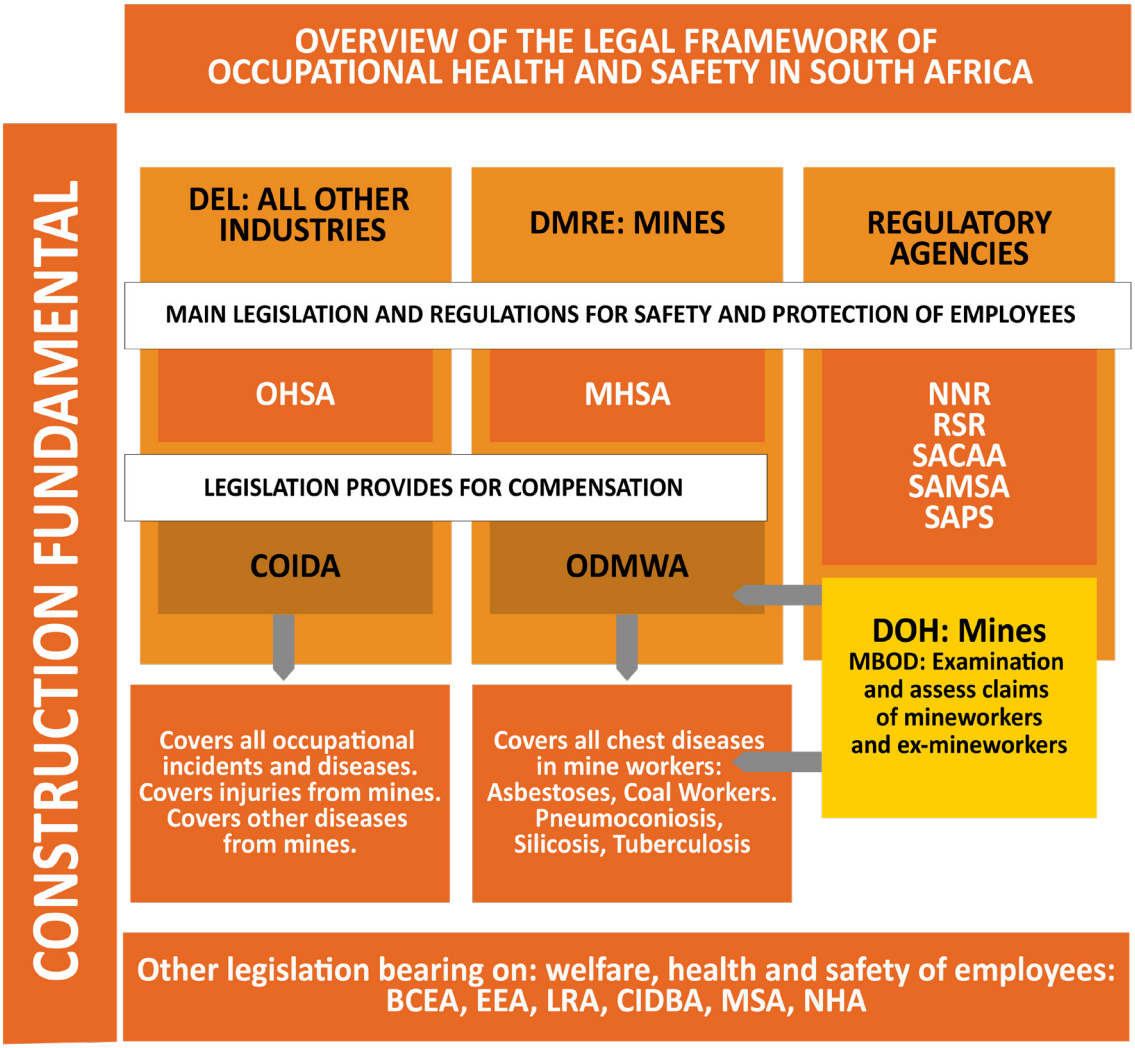


Figure 4.1. An overview of the Legal framework of OSH in SA.

DEL = Department of Employment & Labour, DMRE= Department of Mineral Resources & Energy, COIDA = Compensation for Occupational Injuries & Diseases Act, ODMWA = Occupational Diseases in Mines and Works Act, EEA = Employment Equity Act, BCEA = Basic Conditions of Employment Act, LRA = Labour Relations Act, MSA = Merchant Shipping Act, CIBDA = Construction Industry Development Board Act, NHA = National Health Act, NNER= National Nuclear Energy Regulator, RSR= Railway Safety Regulator, SAMSA = SA Maritime Safety Authority, SACAA = SA Civil Aviation Authority, SAPS= South African Police Service.

Apart from the South African National Standards (SANS) that have been incorporated, currently there are 22 regulations that are promulgated under the OHSA, which are specific to occupational health hazards. The 22 regulations are summarized in table 4.3 below. SANS standards enjoy the same status as the regulations once they are incorporated in the Act.

Table 4.3 Summary of the Regulations under OHSA.

Diving Regulations	Electrical Installation Regulations	Facilities Regulations
Noise Induced Hearing Loss Regulations	Electrical Machinery Regulations	Regulations for Hazardous Biological Agents
Regulations for Hazardous Chemical Substances	Environmental Regulations for Workplaces	General Administrative Regulations
Asbestos Abatement Regulations	Ergonomics Regulations	General Safety Regulations
Construction Regulations	Children working in Hazardous Environments	Lead Regulations
Pressure Equipment Regulations	Explosive Regulations	Major Hazard Installation Regulations
General Machinery Regulations	Driven Machinery Regulations	Electrical Machinery Regulations
Lift, Escalator and Passenger Conveyor Regulations		

The specific regulations that require employers to conduct statutory measurements and assessment of specific health hazards mean that some occupational health hazards receive more attention than others. For example, the Noise Induced Hearing Loss (NIHL) Regulations require employers in noisy industries to conduct noise measurements every 2 years. Similarly, the Regulations for Hazardous Chemical Substances (HCS) require employers to conduct measurement of chemical hazards that employees are exposed to. Where applicable, medical surveillance should be conducted under certain regulations as stated in table 4.4 below.

Table 4.4 OHSA Regulations that Require Medical Surveillance.

Regulation	Scope of Application
Asbestos Abatement Regulations	To every employer and self-employed person who carries out work at a workplace that may expose any person to asbestos dust at that workplace
Noise Induced Hearing Loss Regulations	To an employer or self-employed person who, at any workplace under his or her control, carries out work that may expose any person at that workplace to noise at or above the noise-rating limit
Regulations for Hazardous Biological Agents	To every employer and self-employed person at a workplace where- • HBA is deliberately produced, processed, used, handled, stored or transported; or • an incident, that does not involve a deliberate intention to work with HBA but may result in persons exposed to HBA in the performance of work
Regulations for Hazardous Chemical Substances	To an employer or a self-employed person who carries out work at a workplace which may expose any person to the intake of an HCS at the workplace. Exclusions: 3(1), 6 and 7 shall for: (a) a self-employed person; or (b) a person who visits a workplace as contemplated in sub-regulation (1). Exclusions: Where the Lead and Asbestos Regulations apply.
Lead Regulations	To every employer and self-employed person at a workplace where lead is produced, processed, used, handled or stored in a form in which it can be inhaled, ingested or absorbed by any person in that workplace. (2) Regulations 4(1), 4(2), 441, 4(6), 6(2), 7, 8, 1 O(c), lO(d), lOM, 11 (2)8) and 12(6) shall not apply in the case of self-employed persons.
Ergonomics Regulations	To any employer or self-employed person who carries out work, which may expose any person to ergonomic risks; and designer, manufacturer, importer or supplier of machinery, plant or work systems for use at a workplace.
Construction Regulations	All persons involved in construction work. Exclusions: regulations 3 and 5 for construction work that on a single-story dwelling for a client who intends to reside in such a dwelling upon completion thereof.

The OHSA regulations seek to address each of the five general groups of workplace health hazards: physical, chemical, ergonomics, psychosocial, and biological hazards. No regulations currently, specifically address psychosocial or psychological hazards.

Mine Health and Safety Act, Act No. 29 of 1996 (MHSA) as amended

The two principal Acts that set the framework of the Department of Mineral Resources and Energy (DMRE) are the Mineral and Petroleum Development Act, Act No. 28 of 2002 and the MHSA. The two Acts provide the regulatory framework for the promotion and regulation of the mining, minerals and petroleum industry. In addition, they provide a regulatory framework for ensuring equitable access to and sustainable development of the mineral resources and related matters (Annual Report, 2018/2019). The aim of the MHSA is to provide for protection of the health and safety of employees and other persons at mines and those that may be affected by mining activities.

One of the advantages of the MHSA is that it was promulgated after the OHSA. In addition, the ILO's Mine Health and Safety Convention 176 of 1995, which South Africa ratified in June 2000, influenced the development of the MHSA. The Labour Relations Act, Act No. 66 of 1995 as amended (LRA), also influenced the MHSA, especially in the approach towards worker participation on health and safety and resolution of disputes over the disclosure of information (Guild, Ehrlich, Johnston, & Ross, 2001). The MHSA has a variety of legal and policy instruments that the Department can use to regulate health and safety in the mining industry. The instruments include Regulations and Codes of Practices which must comply with any guidelines issued by the Chief Inspector of the Mines.

Occupational Diseases in Mines and Works Act

The Occupational Diseases in Mines and Works Act, Act No. 78 of 1973 as amended (ODMWA) is administered by the Department of Health. ODMWA provides for compensation in respect of lung diseases contracted by miners and ex-miners only and related matters. The Medical Bureau for Occupational Disease (MBOD), which is the entity under the Department of Health provides benefit medical examination of miners and ex-miners. In terms of ODMWA, post mortem benefits of miners are conducted through the pathology section of the National Institute for Occupational Health (NIOH) if there is any occupational disease, whether it was the cause of death or not. ODMWA provides for payment of a lump sums of money and the amount is dependent on the level of impairment. There is no provision for any further pension. The owner

of the mine is responsible for the payment of all medical expenses, including follow-up for the treatment of the lung disease.

Compensation for Occupational Injuries and Diseases Act,

The Compensation for Occupational Injuries and Diseases Act, Act No. 130 of 1993 (COIDA) as amended, aims to:

> *"Provide for compensation for disablement caused by occupational injuries or diseases contracted by employees in the course of their employment, and for death from such . . ."*

The COIDA is in line with the ILO Convention 1964 (No.121): Employment Injury Benefits. The Act has XI chapters and 101 sections and provides for a "No Fault Claim". It defines rights of employees to compensation, and the condition under which compensation is acceptable which are discussed in chapter IV. Chapter V discusses administrative procedures for claims, chapter VI is on determination and calculation of compensation, chapter VII is on occupational diseases, and chapter IX lists and discusses obligations of employers. Schedules 2 and 3 list compensable injuries and diseases respectively. COIDA aims to support the employer, whilst looking after the employees in the event of a serious occupational disease or injury.

Basic Conditions of Employment Act, Act No. 75 of 1997, as amended

Chapter two of the Basic Conditions of Employment Act, Act No 75 of 1997 (BCEA) covers regulating working time. Section 7 stipulates that every employer must regulate the working time of each employee with due regard to health and safety of employees. Under the BCEA, employers have prescribed obligations that pertain to night workers and pregnant workers. An employer has an obligation to ensure that the working time of employees does not negatively impact on their safety and health. The Act allows the application of the OHSA and related regulations and covers conditions for work at night between 18h00 and 06h00 and the right of employees to undergo medical examinations at the expense of the employer. The employer has to provide alternative day work for those who cannot cope with night duty.

Section 26 covers protection of a pregnant woman, not to work under conditions hazardous to her health and that of her unborn baby. Section 43 (1) prohibits employment of children who are under 15, who should not be employed where it is inappropriate for age, health and well-being. The Sectoral Determination 7, of the BCEA regulates the maximum number of working hours, meal breaks and rest for domestic workers. In terms of the Basic Guide to Working Hours, domestic workers may agree in writing to work up to 12 hours a day without overtime. However, they may not work more than: 45 ordinary hours a week, 10 hours overtime a week, five days a week. They are entitled to receive double pay for work on Sundays or public holidays.

Labour Relations Act, Act No. 66 of 1995

One of the aims of the Labour Relations Act, Act No. 66 of 1995 (LRA), is to promote employee participation in decision-making through the establishment of workplace forums. Section 84 specifies matters for consultation at the workplace. These include employer consultation with the workplace forum with a view to initiating, developing, promoting, monitoring and reviewing measures to ensure health and safety at work. This requirement is subject to an agreement between the employer and t trade unions and subject to requirements of the OHSA. The Act prescribes conditions under which an employer may dismiss an employee who is unable to work due to injury or illness

Employment Equity Act, Act No. 55 of 1998

The Employment Equity Act, Act No. 55 of 1998 (EEA) brings about fairness in the work environment. In terms of the Act an employer may not discriminate against an employee on the grounds of disability. The Act regulates disability in the workplace and the conduct of medical testing. The Code of Good Practice on the Employment of People with Disabilities distinguishes between medical tests to establish a person's ability to perform a particular task and tests to establish the health of a person. There is a requirement for employers to take affirmative action measures to promote the employment of disabled persons. In terms of this Code, there must be suitable facilities for people with disabilities at work and employers are to provide reasonable accommodation for people with disabilities. The Code prohibits employment of a person with disability if that would present a substantial risk to the person or others.

4.1.3 Laws and Regulations Related to OSH Under Other Ministries

Table 4.5 below shows the OSH related acts and regulations that are outside the ambit of the OHSA and MHSA. Most of them are regulated and administered by other Departments, such as: Health, Public Works, Environmental Affairs, Transport and the South African Police Service.

Table 4.5 Laws and Regulations under other ministries that relate to health and safety.

Act / regulations	Ministry / National Department	Aim related to OSH
Merchant Shipping Act, Act No. 57 of 1951	Transport	Established South African Maritime Safety Authority to ensure safety of life and property at sea.
The Civil Aviation Authority Act, Act No. 13 of 2009	Transport	Established the South African Civil Aviation Authority (SCAA), which administers civil aviation safety and security oversight in South Africa. Under the SCAA, safety, is audited by the International Civil Aviation Organization (ICAO), a specialised agency of the United Nations under the Universal Safety Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA). The SCAA Authority has also established a Civil Aviation Medical Program (CAMP), which sets medical standards, medical fitness assessment and fitness criteria for aviation personnel.
South African Maritime Safety Act, Act No. 5 of 1998	Transport	South African Maritime Safety Authority (SAMSA) was established on the 1st April 1998 under the SAMSA Act. SAMSA mainly active in the ports: Richards Bay, Durban, Ngqura and Port Elizabeth and Cape Town One of the objectives of the Authority is to To ensure safety of life and property at sea; prevent and combat pollution of the marine environment by ships.
		Maritime Occupational Health and Safety (MOSH) unit of SAMSA has a responsibility to improve health and safety standards as well as awareness in the stevedore and ship repair industries. MOSH conducts inspections to ensure safety and safe behaviour. Unit has Stevedore and Ship Repair safety committees in the ports as above.
Merchant Shipping Regulations, 2004 under the South African Maritime Safety Act, Act No. 5 of 1998	Transport	Eye-sight examination and medical examination of Seaferers.

Act / regulations	Ministry / National Department	Aim related to OSH
Maritime Occupational Safety Regulations, 1994 (Chapter II)	Transport	Safety provisions for staff on board ship, appliances and equipment.
National Road Traffic Act, Act No. 93 of 1996 and regulations (Chapter IV)	Transport	Chapter IV of the National Road Traffic Act, discuses fitness requirements of drivers. The Act stipulates conditions under which a person will be disqualified to drive. These include section 15, which lists diseases or disabilities that disqualify a person from driving. Regulation 102 in Chapter V of the National Road Traffic Regulations, 2000, stipulates defective vision that disqualifies a person from obtaining or holding license.
National Railway Safety Regulator Act, Act No. 16 of 2002	Transport	Safety standards and regulatory practices for the protection of persons, property and the environment.
National Public Health Institute of South Africa Act, Act No.1 of 2020	Health	Establishment of a single national public entity to provide public health services; performs critical public health functions and that requires a high level of coordination across functions, such as surveillance and research. Provide coordinated disease and injury surveillance, including occupational health, and the relevant provincial health policy in respect of or within the relevant province, provide occupational health services.
National Health Act, Act No. 61 of 2003	Health	To provide a framework for a structured uniform health system, taking into account the obligations imposed by the Constitution and other laws on the national, provincial and local governments with regard to health services. Section 25 (Provincial health services), one of the responsibilities of the Head of a provincial department is to provide occupational health services in accordance with national health policy.
Hazardous Substances Act, Act No. 15 of 1973	Health	To provide for the control of substances which may cause injury or ill-health or death of human beings by reason of their toxic, corrosive, irritant, strongly sensitizing or flammable nature or the generation of pressure and for the control of certain electronic products; to provide for the division of such substances or products into groups((I and II; III and IV) in relation to the degree of danger; Section 8 provides for appointing an Inspector and duties of an Inspector. Group I and II hazardous chemicals are regulated by the Hazardous Chemical Substance Regulations under the DEL

Act / regulations	Ministry / National Department	Aim related to OSH
Regulations for Prohibition of the Use, Manufacturing, Import and Export of Asbestos and Asbestos Containing Materials	Environmental Affairs and Tourism	A schedule under section 24B of the Environment Conservation Act. For the Prohibition of the Use, Manufacturing, Import and Export of Asbestos and Asbestos Containing Materials.
Construction Industry Development Board Act, Act No. 38 of 2000	Public Works	To provide for the establishment of the Construction Industry Development Board; to implement an integrated strategy for the reconstruction, growth and development of the construction industry and to provide for matters connected therewith.
Engineering Profession Act, Act No. 46 of 2000.	Public Works	The Engineering Council of South Africa's primary role is the regulation of the engineering profession. Its core functions are the accreditation of engineering programmes, registration of persons as professionals in specified categories, and the regulation of the practice of registered persons. Competency Standard for Registration as a Professional Certificated Engineer. Certificate of Competency (Government Ticket.

Act / regulations	Ministry / National Department	Aim related to OSH
Project and Construction Management Professions Act, Act No. 48 of 2000	Public Works	To provide for the establishment of a juristic person to be known as the South African Council for the Project and Construction Management Professions (SACPCMP); to provide for the registration of professionals, candidates and specified categories in the project and construction management professions; to provide for regulation of the relationship between the South African Council for the Project and Construction Management Professions and Council for the Built Environment. Prescribes the registration of Construction Health and Safety Officers as a specified category in terms of section 18(1) (c) of the Act No. 48 of 2000
		The SACPCMP has as its objective, the regulation of the Construction Health and Safety Officer profession, thereby ensuring the progressive development of this occupational Group.
		Professional Construction Health and Safety Agent, Construction Health and Safety Manager, Construction Health and Safety Officer, Candidate Construction Health and Safety Officer
		The SACPCMP acts as the custodian of the profession of Construction Health and Safety Officers, accordingly it is responsible for registration of Construction Health and Safety Officers. It prescribes the Code of Conduct and monitors the Continuing Professional Development (CPD) of each registered Construction Health and Safety Officer.
Notice Regarding Application of the Construction Regulations 2014 Occupational Health and Safety Act, Act No. 85 of 1993 Construction Regulations, 2014	Public Works	Registration with the SACPCMP of construction health and safety professionals Regulations 8 (6) prescribes that: contractor must appoint a construction health and safety officer at the site having ensured they registered with a statutory body approved by the Chief Inspector and has the necessary competencies and skills

Act / regulations	Ministry / National Department	Aim related to OSH
The Built Environment Act, Act No. 43 of 2000	Public Works	As one of its functions, the Council for Built Environment has a responsibility for accreditation in the built environment. CBE has to obtain recognition for the councils for the professions as bodies responsible for the establishment of education and training standards. The CBE coordinates the following professional councils each its own legislation outlining its mandate and regulating its scope of operation: Engineering, Quantity Surveying, Architectural, Construction Management.
Explosives Act, Act No. 15 of 2003	Safety and Security	To provide for the control of explosives; and to provide for matters connected therewith. The South African Police Service (SAPS) together with other role players are responsible to ensure general safety including enforcement of various legislation. Only wholesale and retail dealers that are licensed in terms of the Explosives Act, and have a valid licence issued by the Chief Inspector of Explosives (may deal in the sale of fireworks).

Act / regulations	Ministry / National Department	Aim related to OSH
National Nuclear Regulator Act, Act No. 47 of 1999	Mineral Resources and Energy	NNER is to provide to provide for safety standards and regulatory practices for protection of persons, property and the environment against nuclear damage in SA. The NNR is responsible for a number of facilities around the county: • Nuclear Power Plants • South African Nuclear Energy Corporation • Vaalputs National Radioactive Waste Disposal Facility • Facilities and activities handling minerals and raw materials of natural origin • Special Case Mines and Non-Special Case Mines (SCMs)

Act / regulations	Ministry / National Department	Aim related to OSH and scope
Skills Development Act, Act No. 97 of 1998	Employment and Labour	Provides an institutional framework to devise and implement national, sector and workplace strategies to develop and improve the skills of the work force; to provide for learnerships that lead to recognized occupational qualifications; to regulate employment services.
Unemployment Insurance Act, Act No. 63 of 2001	Employment and Labour	Payment of unemployment benefits to certain employees, and for the payment of illness, maternity, adoption and dependent's benefits related to the unemployment of such employees
Notice of Direction in Terms of Section 7(1) of the Occupational Health and Safety Act, Act No. 85 of 1993 No. R. 859 2 September 2005	Employment ad Labour	CLASS xm Iron, Steel, Artificial Limbs, Galvanizing, Garages, Metals, Etc. The OHSAS 18001: Occupational Health and Safety Management Systems- Specification and OHSAS 18002: Occupational Health and Safety Management Systems- Guidelines for the implementation of OHSAS 18001 may be used as a guideline.
Construction Regulations: Management and supervision of construction work	Employment and Labour	Regulation 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.

4.1.4 ILO Conventions Ratified by South Africa.

The legal instruments of the ILO are the Conventions and Recommendations, drawn by governments, employers and workers to set out basic principles and rights at work. Conventions are legally binding international treaties and member states may ratify them. Once a country ratifies an ILO Convention, it is obliged to enact legislation in line with the Convention. Recommendations are non-binding guidelines. South Africa has been a Member of the ILO from 1919. In 1966 South Africa left the ILO because of the ILO's position on the government's apartheid policy. ILO membership was resumed on the 26th of May 1994. South Africa has ratified 27 ILO conventions, shown in table 4.6 below; 24 of these conventions are in force. The breakdown of the conventions ratified is as follows: Fundamental Conventions: 8 of 8; Governance Conventions (Priority): 2 of 4 and Technical Conventions: 17 of 178.

Table 4.6 List of ILO conventions that SA has ratified, and which are in force.

Types/ groups	ILO OSH Convention	Date of Ratification
Fundamental conventions	C029- Forced Labour Convention, 1930 (No. 29)	05 Mar 1997
	C087- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	19 Feb 1996
	C098- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	19 Feb 1996
	C100- Equal Remuneration Convention, 1951 (No. 100)	30 Mar 2000
	C105- Abolition of Forced Labour Convention, 1957 (No. 105)	05 Mar 1997
	C111- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	05 Mar 1997
	C138- Minimum Age Convention, 1973 (No. 138)	30 Mar 2000
	C182- Worst Forms of Child Labour Convention, 1999 (No. 182)	07 Jun 2000
Governance	C081- Labour Inspection Convention, 1947 (No. 81)	20 Jun 2013
	C144- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	18 Feb 2003

Table 4.6 Continued

Type / groups	ILO -OSH Convention	Date of Ratification
Technical	C002- Unemployment Convention, 1919 (No. 2)	20 Feb 1924
	C019- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)	30 Mar 1926
	C026- Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)	28 Dec 1932
	C042- Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)	26 Feb 1952
	C045- Underground Work (Women) Convention, 1935 (No. 45)	25 Jun 1936
	C063- Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)	08 Aug 1939
	C080- Final Articles Revision Convention, 1946 (No. 80)	19 Jun 1947
	C089- Night Work (Women) Convention (Revised), 1948 (No. 89)	02 Mar 1950
	C116- Final Articles Revision Convention, 1961 (No. 116)	09 Aug 1963
	C155- Occupational Safety and Health Convention, 1981 (No. 155)	18 Feb 2003
	C176- Safety and Health in Mines Convention, 1995 (No. 176)	09 Jun 2000
	MLC, 2006- Maritime Labour Convention, 2006 (MLC, 2006)	20 Jun 2013
	Amendments of 2014 to the MLC, 2006	18-Jan-2017
	Amendments of 2016 to the MLC, 2006	08-Jan-2019
	C188- Work in Fishing Convention, 2007 (No. 188)	20 Jun 2013
	C189- Domestic Workers Convention, 2011 (No. 189)	20 Jun 2013

Source: International Labour Organization, NORMLEX: Information System on International Labour Standards.

South Africa has not denounced or revoked any of the 27 conventions that have been ratified. There are 58 ILO's Conventions that South Africa has not ratified, including 2 Governance (Priority) and 56 Technical Conventions. There are no ILO conventions, recommendations or labour standards that are in the process of being ratified. However, the possibility of ratifying C161 is being considered.

4.1.5 Legislation on Gender Equality and Non-discrimination

This section examines legislation on gender equality and considers legal and administrative gaps in the national OSH related legislation and regulations as compared to ILO - OSH Conventions in particular C 155 and C 187. ILO lists 10 Keys for Gender Sensitive OSH Practice, as guidelines for gender mainstreaming in OSH. These guidelines are shown in table 4.7.

Table 4.7 ILO Keys to gender Sensitive OSH Practice.

#	Key for Gender Sensitive OSH Practice
1.	Taking a gender mainstreaming approach to reviewing and developing OSH legislation
2.	Developing OSH Policies to address gender inequalities in OSH practice
3.	Ensuring consideration of gender differences in risk management
4.	OSH research should properly take into account gender differences
5.	Developing gender sensitive OSH indicators based on sex-disaggregated data
6.	Promoting equal access to occupational health services and health care for all workers
7.	Ensuring the participation of both men and women workers and their representatives in OSH measures, health promotion and decision-making
8.	Developing gender-sensitive OSH information, education and training
9.	Designing work equipment, tools and personal protective equipment for both men and women and
10	Working time arrangements and work-life balance

Source: ILO Working Paper, 10 Keys for Gender Sensitive OSH Practice.

Guidelines for Gender Mainstreaming in Occupational Safety and Health in South Africa is characterized as gender-blind or gender neutral. The development and implementation of the Employment Equity Act, Act 55 of 1998 (EEA) is an example of how SA has applied international standards on equity. There is also the Commission for Gender Equality.

Commission for Gender Equality Act, Act 39 of 1996

The Commission for Gender Equality Act, Act 39 of 1996 (CGEA), provides for the composition, powers, functions and functioning of the Commission on Gender Equality (CGE). The CGE aims to promote respect for gender equality and the protection, development and attainment of gender equality; through research, public education, policy development and evaluation, legislative initiatives, and litigation. It takes care of gender issues across all the sectors of the economy, public bodies and private businesses.

4.1.6 Application of International Standards

South African courts have cited ILO conventions in some of their judgments. Table 4.8 below shows examples of such cases. The ILO Committee of Expert on Application of Conventions and Recommendations (CEACR) has requested information that pertains to the implementation of

ILO C155 from South Africa. Table 4.9 shows recent (0-5 years back) recommendations by Supervisory body or CEACR on labour inspection and OSH, including progress made in addressing them. The request was adopted in 2016 and published during the 106th International Labour Conference session in 2017.

Table 4.8. OSH Related Court Cases that have referred to ILO Conventions and Recommendations.

Case and cited ILO Convention	Date of case	Applicant	Defendant	Judgement/Application of international labour standard
ILO Conventions 158 and 135 Whether the current interpretation and application of sections 189(1)(a) – (c) and 23(1)(d) of the Labour Relations Act infringe constitutional rights. The Labour Court of South Africa, Johannesburg. Case no: J 2578 /15	17 June 2016, delivered 19 December 2016	Association of Mineworkers And Construction Union (AMCU) First Applicant Individuals	Bafokeng Rasimone Management Services (Pty) Ltd First Respondent The National Union of Mineworkers Second Respondent UASA – The Union Third Respondent The Minister Of Labour Fourth Respondent The Minister of Justice and Constitutional Development Fifth Respondent The Chamber Of Mines	I cannot find that the current interpretation and application of sections 23(1)(d) and 189(1)(a)-(c) of the LRA violate or undermine the Rule of Law. There are important policy considerations that played a vital role in the crafting of the said sections and those cannot be ignored and do not amount to a violation of the Rule of Law. Order: The application is dismissed

Case and cited ILO Convention	Date of case	Applicant	Defendant	Judgement/Application of international labour standard
ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise 8 and Convention No. 98 on the Right to Organise and Collective Bargaining. The ratification of these conventions accords with the s18 right of freedom of association in the RSA Constitution, and the right to fair labour practices in s23, which includes the right of employees to form and join trade unions, to strike and the right of trade unions, employers and employers' organisations to bargain collectively In the Labour Appeal Court of South Africa, Johannesburg. Case no: JA87/2015	Heard: 15 November 2016. Delivered: 31 May 2017	South African Correctional Services Workers Union (SACOSWU)	Police and Prisons Civil Rights Union (POPCRU) First Respondent Minister of Correctional Services Second Respondent LGP Ledwaba N.O. Third Respondent General Public Service Sectoral Bargaining Council	The appeal is upheld with costs, including the costs of two counsel. The orders of the Labour Court are set aside and replaced with the following order: Save for the substitution of the arbitration award as set out below, the application to review and set aside the arbitration award is dismissed: 'The collective agreement entered into with POPCRU in terms of section 18(1) of the LRA establishing representation thresholds for the exercise of organisational rights under s 12, s 13 and s 15 in the workplace of the Department of Correctional Services, does not prevent the Department from entering into a valid and enforceable collective agreement with SACOSWU in terms of s 20 to permit the union to represent its members at internal disciplinary and grievance proceedings in the workplace.

Table 4.9. Recommendations by the ILO Committee of Expert on Application of Conventions and Recommendations (CEACR).

ILO Convention (Labour Inspection Convention, 1947, No. 81) and article being addressed	Article Description	Recommendation by Supervisory Body or CEACR	Progress on addressing the recommendation / request.
Articles 4, 5(a) and 9 of the Convention	Organisation and functioning of the labour inspection system, effective cooperation with other government services engaged in similar activities and association of duly qualified technical experts and specialists in the work of the labour inspection services.	Provide an Organisational chart of the labour inspection services, and supply information on whether the Inspection Enforcement Services of the Department of Labour have a unit responsible for OSH, or whether the Inspection Enforcement Services depend entirely on the association of approved inspection authorities (AIAs) and other technical experts and specialists for controls in the area of OSH. In this respect, the Committee also requests the Government to provide more information on the status and conditions of service of the AIAs and where applicable, how they differ from those of labour inspectors. It also requests the Government to provide information on whether the modernization and restructuring of the labour inspectorate is still ongoing and provide information on any steps taken in this process.	The Department of Employment and Labour has an Inspection and Enforcement Unit with its Inspectors. This unit includes OSH inspectors. The AIAs are private commercial entities that go through an accreditation and registration process through the Department of Employment and Labour.

ILO Convention (Labour Inspection Convention, 1947, No. 81) and article being addressed	Article Description	Recommendation by Supervisory Body or CEACR	Progress on addressing the recommendation / request.
Article 5(b).	Effective collaboration between the labour inspection services and employers and workers or their Organisations	Provide further information on the collaboration of labour inspectors with bargaining councils. As the Government has only provided succinct information on the collaboration as provided for in Article 5(b), the Committee requests the Government to provide information on other forms of collaboration, such as the forms of collaboration described in Paragraph 6 of the Labour Inspection Recommendation, 1947 (No. 81).	As part of the collaborative arrangement between the labour inspection services and the bargaining councils, the labour inspection service assist the bargaining councils by building their capacity on the understanding and implementation of the OSHA.

ILO Convention (Labour Inspection Convention, 1947, No. 81) and article being addressed	Article Description	Recommendation by Supervisory Body or CEACR	Progress on addressing the recommendation / request.
Articles 6 and 7.	Status and conditions of service of labour inspectors. Capacity of labour inspectors	Provide information on the conditions of service of the labour inspectors (wages and allowances, career prospects, etc.) in comparison with other public servants exercising similar functions, such as tax inspectors. It also requests that the Government provide explanations on what are the challenges to attract, recruit and retain qualified candidates (such as more favourable conditions in other government services, unsafe working conditions, etc.) and any measures taken to address them.	There is a training program for inspectors and to professionalize the inspectorate.
Articles 10, 11 and 16.	Sufficient number of labour inspectors and adequate coverage of workplaces by labour inspection. Material conditions	Provide information on the needs determined by the Department of Labour in terms of the budgetary and human resources for the effective discharge of the labour inspection functions, in relation to the criteria provided for in Article 10(a)(i)–(iii), (b) and (c). It also requests that the Government provide information on any efforts undertaken to meet these needs so as to achieve a sufficient coverage of workplaces by labour inspection.	Capacity of labour inspectors. The ratio of DEL inspectors to the labour force is 1:25 690.
Article 12(1)(a) and (b).	Free access of labour inspectors to workplaces liable to inspection at any hour of the day or night	Bring the national legislation into conformity with the requirements set out in Article 12(1)(a)–(b).	Labour inspectors work standard day shift.
Article 15(c).	Obligation concerning the confidentiality of the source of a complaint and the fact that an inspection visit was made in consequence of a complaint	Take measures to give a legal basis to the principle of confidentiality set forth in Article 15(c).	This aspect requires further attention.
Articles 20 and 21.	Publication and communication of annual labour inspection reports	Take the necessary steps to ensure that the central authority publishes and communicates to the ILO an annual report on labour inspection activities containing all the information required by Article 21, including information on the statistics of workplaces liable to inspection and the number of workers employed therein (Article 21(b)), and statistics of occupational diseases (Article 21(g)). In this regard, the Committee also requests the Government to provide information on whether the Government has undertaken efforts to improve the collection of inspection data, including through electronic means.	Labour inspection reports are published in the DEL annual report. There is no separate annual publication of the labour inspection report.

4.1.7 Legislation Cognisance of Biological Differences

The primary occupational safety and health legislation in South Africa does not specifically pay attention to gender and biological differences between men and women to ensure that they are equally protected. The legislation is gender neutral. It talks about protection of employees, without making a distinction amongst the genders. The closest that comes to gender differentiation are the Lead Regulations. Clauses that take into consideration gender and biological differences between men and women are found in other pieces of labour legislation as shown in table 4.10 below.

4.1.8 Legislation on Sectors and Occupations Where Women and Men Work.

The legislated Sectoral Determination 7 of the BCEA, stipulates and limits the working time of domestic workers. The DEL developed a Basic Guide to Working Hours (Domestic Workers). See earlier section. About 74% of employees in private households are women. The Mineral Council South Africa has issued codes that seek to promote women's health and safety in mining. The Mine Health and Safety Council (MHSC) and the Minerals Council have undertaken a number of projects that address concerns pertaining to women in mining. For example, in March 2020, the Minerals Council published a "White Paper Focused on Streamlining Industry Strategies To Advance Women in Mining". The paper aims to contribute toward the improvement of the representation of women in SAMI.

The Code of Good Practice for the Handling of Sexual Harassment Cases.

The Code of Good Practice for the Handling of Sexual Harassment Cases in the workplace was issued through the Government Notice R1367 of 17 July 1998. It was amended on 4 August 2005, by the Amendments to the Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace (General Notice 1357). After deliberations in 2018, this code was repealed and replaced by the 2005 Amendments.

On 20 August 2020, the DEL issued for public comment, a Draft Code of Good Practice on the Prevention and Elimination of Violence and Harassment in the World of Work. This Code is in line with the ILO Convention 190, which recognizes everyone's right to a world of work free from violence and harassment including gender-based violence and harassment.

Table 4.10. Legislation that considers biological differences between men and women.

Legislation	Clause	Content
Lead Regulations, 2002	Medical surveillance 8(4)	(4) An employer shall ensure that- (a) a female employee who is capable of procreation and who carries out work that exposes her to lead, is removed from such work when her blood lead concentration exceeds 40 µg/100 ml or her urinary lead concentration exceeds 75 µg/l, or if she falls pregnant; and (b) the employee contemplated in subregulation (4)(a) is not permitted to return to work that will expose her to lead unless her blood lead concentration is less than 30 µg/100ml or her urinary lead concentration is less than 65 µg/l, or, where the removal was due to pregnancy, the employee is no longer pregnant.
Ergonomics Regulations, 2019	Regulation 2: ergonomics risk assessment	(2) The ergonomic risk assessment) must (b) include: (i) A complete hazard identification; (ii) The identification of all persons who may be affected by the ergonomic risks;
Employment Equity Act	Section 6: Prohibition of unfair discrimination	No person may unfairly discriminate, directly or indirectly, against an employee in any employment policy or practice, on one or more grounds, including . . . gender, sex, pregnancy . . .
Basic Conditions of Employment Act	Section 25: Maternity leave Section 26: Protection of employees before and after birth of a child	No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of her child During an employee's pregnancy. and for a period of six months after the birth of her child. her employer must offer her suitable, alternative employment.
Promotion of Equality and Prevention of Unfair Discrimination Act, Act No. 4 of 2000	Section 8: Prohibition of unfair discrimination on ground of gender	No person may unfairly discriminate against any person on the ground of gender.

4.1.9 COVID-19 Pandemic and OSH Related Law Reform.

There have been significant legal developments on OSH in response to COVID-19. The DEL responded to COVID-19 by issuing a number of guidelines, directives, notices, and directions. The Direction on Health and Safety in the Workplace was issued by the Minister in terms of Regulation 10(8) of the National Disaster Regulations to ensure that the measures taken by employers under OHSA are consistent with the overall national strategies and policies to minimise the spread of COVID-19. Although the guidelines accommodate employers with less than 10 employees, they were less stringent for such employers. The directives made provisions for the following requirements, amongst others: to designate a Compliance Officer to ensure controls and standards are adhered to; Conduct a Risk Assessment in respect of COVID-19 as a biological hazard; administrative requirements and workplace arrangements; symptoms screening; ventilation, personal protective equipment (PPE) and cloth masks; social distancing and a plan for return to work.

Publications by the DEL included the COVID-19 Occupational Health and Safety Measures in Workplaces COVID-19 (C19 OHS), 29 April 2020; 2020 Worker COVID-19 Risk Assessment Guidance on Vulnerable Employees and Workplace Accommodation in relation to COVID-19 (V4: 25 May 2020) Guidance Note for Workplaces in the event of identification of a COVID-19 positive employee (V5: 14 May 2020); and Workplace Preparedness: COVID-19 (SARS-CoV-19 virus). The National Department of Health issued Risk Assessment Guides. DEL also issued guidelines for the construction industry. The DEL and DOH worked together to develop these documents. Sector specific guidelines were also issued. For example, on the 18th of May 2020, the Mine Health and Safety Inspectorate (MHSI) issued Guideline for a Mandatory Code of Practice on Mitigation and Management of COVID-19 Outbreak (Notice 280 of 2020, issued by the Chief Inspector of Mines).

Regulations for Hazardous Biological Agents

As part of the risk assessment, the Regulations for Hazardous Biological Agents (RHBA) require employers to assess biological hazards and put in place infection prevention and control measures. Regulation 6 of the RHBA, requires employers and self-employed persons, where there is a potential for exposure to HBA, to conduct a hazardous biological agents (HBA) risk assessment. This includes places where HBAs are deliberately produced, processed, used, handled, stored or transported and specific incident of exposure. Regulation 6 requires that the HBA risk assessment be conducted immediately and at intervals not exceeding two years. The aim of the HBA risk assessment is to determine if any person might have been exposed to a HBA. Employers are required to put control measures that include information and training, monitoring exposure at workplace, and medical surveillance. Regulations 10 stipulates control measures that employers must put in place. The RHBA also apply to SARS CoV-2, the virus that causes COVID-19.

A significant legal development in response to COVID-19, was the promulgation of the COVID-19 compensation direction by notice from the Compensation Commissioner under the Directive of the Minister of DEL in March 2020 and later revised in July 2020.

4.2 OSH Technical Standards, Guidelines and Management System

4.2.1 OSH Management System

The certification to OSH management systems is voluntary in South Africa. There are ISO 17021-1, OHSAS 18001 and ISO 45001 certification bodies. There are currently 14 certification bodies that are accredited by SANAS under the voluntary scheme of occupational health and safety management systems. Five (5) of these are accredited for ISO 45001:2018, 2 for ISO 45001:2018 and OHSAS 18001, 1 for OHSAS 18001, and 6 for Occupational Health and Safety Management Systems. Apart from companies in the iron and steel sector, which were directed by the DEL to implement OHSAS 18001, implementation of OSHM systems is voluntary. There are many other certification organisations that are not certified or registered with SANAS.

Certification Bodies

Voluntary standards that enterprises have adopted are ISO 17021-1, OHSAS 18001 and ISO 45001. The South African Bureau of Standards (SABS) has a mandate to develop South African National Standards (SANS). The SABS has adopted the international ISO 45001 standard, it is called SANS/ISO 45001. SANS/ISO 45001 provides a framework to increase safety, reduce workplace risks and enhance health and well-being at work, which enables organisations to proactively improve their OSH performance. SANS/ISO 45001 was published in March 2018. An organisation that wants to confirm its competence as a certification Conformity Assessment Body (CAB) can approach SANAS and be assessed. Upon satisfaction with the competence of the certification body, SANAS issues the certification body (organisation) with a certificate of accreditation, confirming competence. Organisations that previously implemented OHSAS 18001, have until September 2021 to migrate to SANS/ISO 45001.

4.2.2 Emergency Prevention, Preparedness and Response

The Department that is responsible for disaster management is the Cooperative Governance and Traditional Affairs (CoGTA). The Disaster Management Act, Act No. 57 of 2002 (DMA) was promulgated in 2003. There is a National Disaster Management Centre and in each of the eight provinces. There are also functional disaster management centres and advisory forums. In terms of the United Nations (UN), the National Disaster-Management Advisory Forum is the national platform for reducing the risk of disaster. South Africa declared the national state of disaster on the 15th of March 2020 and classified COVID-19 as a national disaster. On the 17th of March 2020, the Minister of CoGTA issued Regulations in terms of Sections 27(2) of the DMA. Since then a number of directives, directions, guidelines and notices have been issued in an effort to deal with the pandemic.

4.2.3 Workplace Emergency Arrangements with Emergency Service

The OHSA requires employers to ensure the protection of employees and those who might be affected by workplace activities This potentially includes emergency prevention, preparedness and response. However, the OHSA does not expressly stipulate this requirement. The MHSA requires each mine to prepare a Code of Practice for Emergency Preparedness and Response. Section 9(2) of the MHSA stipulates that the Chief Inspector of Mines may require each mine to prepare and implement a Code of Practice on a matter that affects the health and safety of employees and other persons who may be directly affected by activities at the mine.

The Major Hazard Installation Regulations, of the OHSA require enterprises to put together an emergency plan that is approved by the local authority where a company has a major hazard installation. Enterprises are required to annually test the response plans to the emergency plans, to establish its functionality. DEL together with social partners, has put together a standard for emergency preparedness plans. DEL participates in the National Disaster Management Centers and is part of Disaster Management Forums, that include enterprises and municipalities.

5. INSPECTION AND ENFORCEMENT SYSTEMS

The inspection and enforcement system in South Africa follow that of the Labour Inspection Convention, 1947 (No. 81), which is complemented by Recommendations (Nos. 81 and 82) and by the Protocol of 1995, which extends its scope of application to the non-commercial services sector (public service and state-run enterprises). The Convention stipulates responsibilities of governments on inspections:

- Establish an independent qualified corps of inspectors in sufficient numbers.
- The inspectorate must be fully equipped to provide good services.
- Legal provision for penalties for violation of safety and health regulations.
- Inspectors' duty to enforce requirements, provide technical information and advise employers and workers on means of complying with legal provisions.
- Inspectors to report gaps in regulations and submit annual reports on their work.
- Governments compile annual reports with statistics on inspections conducted.

The DEL and DMRE are the main departments for OSH inspections. Other agencies and regulators that conduct OSH inspections are the NNR, SAMSA, RSR and SAPS who also have OSH related inspectorates. There is no single authority that takes overall responsibility for OSH inspections and enforcement. The previous attempts to bring together the different inspectorates have not been successful.

5.1 Inspection Methodology and Powers of Inspectors

The methodology followed by inspectors and their powers is similar for the DEL, DMRE and agencies. Inspectors have a range of powers and authority to conduct inspections and fulfil the objectives of the various inspection related legislation. The model followed by Inspectors is advocacy, inspections and enforcement. The DEL has different types of inspections which are: routine, proactive and reactive inspections. All other activities are slotted into these inspection types. Proactive and routine inspections include blitzes that are often planned inspections. Reactive inspections are part of an investigations into reported incidents and complaints. Planned reactive inspections are conducted on the basis of accident statistics, while planned proactive inspections are conducted where there is known presence of hazardous substances, such as the use of benzene in laundries, or use of dangerous machinery in the workplace.

Investigations may be from a reported incident that is reported by an employer, trade union or may be a result from requests or complaints by workers, or members of the public. The complaints or requests are treated as confidential. Inspectors have authority to enter a workplace at any reasonable time without any prior notice to the employer. The employer has to cooperate with the Inspector and OSH Representatives have a responsibility to accompany the Inspector during an inspection and also importantly during an investigation. The employer is required to produce related reports and additional information as required. Where there are no OSH representatives the employer allocates a senior person to accompany the inspector, or an OSH Officer in the construction industry.

Inspectors conduct inspections independently and can question and talk to anyone at the workplace. In terms of the OHSA, they have authority to demand cooperation from the employer and employees. The Inspector may request to see records, reports, books, substance, or documents that may be used as evidence in a court of law or merely for further investigation or as part of the inspection. They have authority to seize any article, substance or a sample, plant or machinery or part thereof for examination and analysis but must issue receipt to the employer before removing any item. Inspectors may prohibit the use of a plant, equipment or machinery if they are of the opinion that there is a significant risk to the health and safety of employees; and may barricade or fence off a plant, machinery or a workplace or part thereof.

Inspectors may prohibit an employee from performing certain duties or limit the duration of certain duties if of the opinion that there is significant exposure to certain hazards that is a risk to the employees. Inspectors may conduct a formal inquiry under the directive of the Chief Inspector. This is often in response to a person who has brought up some evidence (prima facie) in relation to a presumed offence. In the case of an inquiry, an Inspector may subpoena anyone whom is deemed appropriate for the enquiry. This person may be expected to present himself/herself at a place and time as stipulated by the Inspector. Usually, notices are issued and employers are expected to address the contravention or the issue at hand within a specified period. If the employer does not address the issue, then the Inspector imposes restriction or prohibition as above. The DEL has three types of notices may be issued by an Inspector under the OHSA to enforce workplace requirements and enforce the employer to comply.

a) Prohibition notice

A prohibition notice is issued if an inspector finds a threatening danger at the workplace. Once issued, a prohibition notice prohibits a particular action, process, or the use of a machine or equipment. No person may disregard the contents of such a notice and compliance must take place with immediate effect.

b) Contravention notice

A contravention notice is issued if there is contravention of a regulation or the act. The inspector may serve a contravention notice on the workers or the employer. Contravention of the Act can lead to immediate prosecution. On the contravention of a regulation, the inspector may give the employer an opportunity to correct the contravention within a time limit specified in the notice, which is usually 60 days.

c) Direction notice

A direction notice is issued where the health and safety measures which the employer has instituted, do not satisfactorily protect the health and safety of the workers. A direction notice prescribes the corrective measures and it requires the employer to bring about more effective measures.

5.2 Department of Employment and Labour (DEL) Inspectorate

According to the Stats SA, in Quarter 2 of year 2020 there were 10 064 000 people employed in the formal sector (non-agricultural). This amounts to 71.1% of the total employed population. The DEL has the responsibility to enforce OSH in all the companies that employ the total labor force, less the 455 000 employed in the mines, who are covered by the DMRE. This also includes those people employed under other agencies such as the National Nuclear Regulator, Railway Safety Regulator, SAMSA and SAPS. Therefore, the DEL and the regulatory agencies have the responsibility to inspect companies that employ 13 693 000 workers (if we consider the total working

population of 14 148 000 minus 455 000 employed in the mines). According to the Compensation Fund (CF) records at the end of October 2020, there are about 752 418 employers registered with the CF, which the DEL inspectorate must cover.

The DEL has one of its key performance area as "decent employment through inclusive growth". For this outcome it has the following strategic goals:

- Promote occupational health services
- Development of the occupational health and safety policies
- Protect vulnerable workers
- Strengthen occupational safety protection.

Therefore, the Department has clearly set OSH as a priority area. The inspection and enforcement system as contemplated in the OHSA, are administered by the Inspections and Enforcement Services (IES) branch, under the Chief Directorate of Occupational Health and Safety. In order to ensure the health and safety of workers, there are provincial offices in all 9 provinces with 126 Labour Centers in various locations across provinces. Inspectors from the leadership of the provincial offices carry out inspections and investigations at workplaces. The IES Branch consists of the following sub-programmes listed in table 5.1. Figures 5.1 and 5.2 show the DEL Inspectors disaggregated by gender and province and the total number of OSH Inspectors' posts, respectively. The figures are as on October 2020.

Table 5.1 Different programs of the IES at the DEL National Office.

Subprogram	Mandate / responsibility
Management and Support Services: Inspection and Enforcement Services	Manages the delegated administrative and financial responsibilities of the office of the Deputy Director-General: Inspection and Enforcement Services, and provides corporate support to line function sub-programmes within the programme.
Occupational Health and Safety	Promotes health and safety in the workplace by regulating dangerous activities and the use of plant and machinery.
Registration: Inspection and Enforcement Services	Registers incidents relating to labour relations and occupational health and safety matters, as reported by members of the public, and communicates these to the relevant structures within the Compliance, Monitoring and Enforcement sub-programme for investigation.
Compliance, Monitoring and Enforcement Services	Ensures that employers and employees comply with labour legislation through regular inspections and following up on reported incidents.

Subprogram	Mandate / responsibility
Training of staff	Inspection and Enforcement Services defrays all expenditure relating to staff training within this programme in order to easily identify this expenditure for reporting purposes.
Statutory and Advocacy Services	Gives effect to the legislative enforcement requirement and educate stakeholders on labour legislation.

Human Capacity of Inspectors of DEL and Inspections.

Figure: 5.1. DEL Inspectors by gender and province.

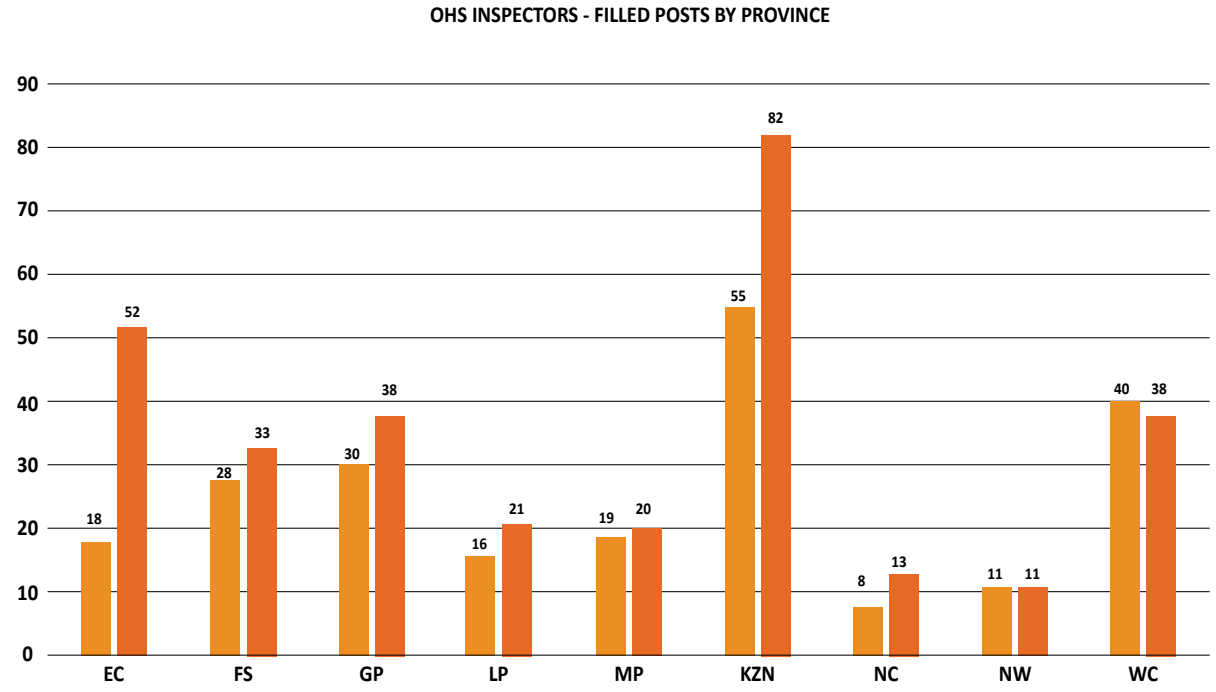
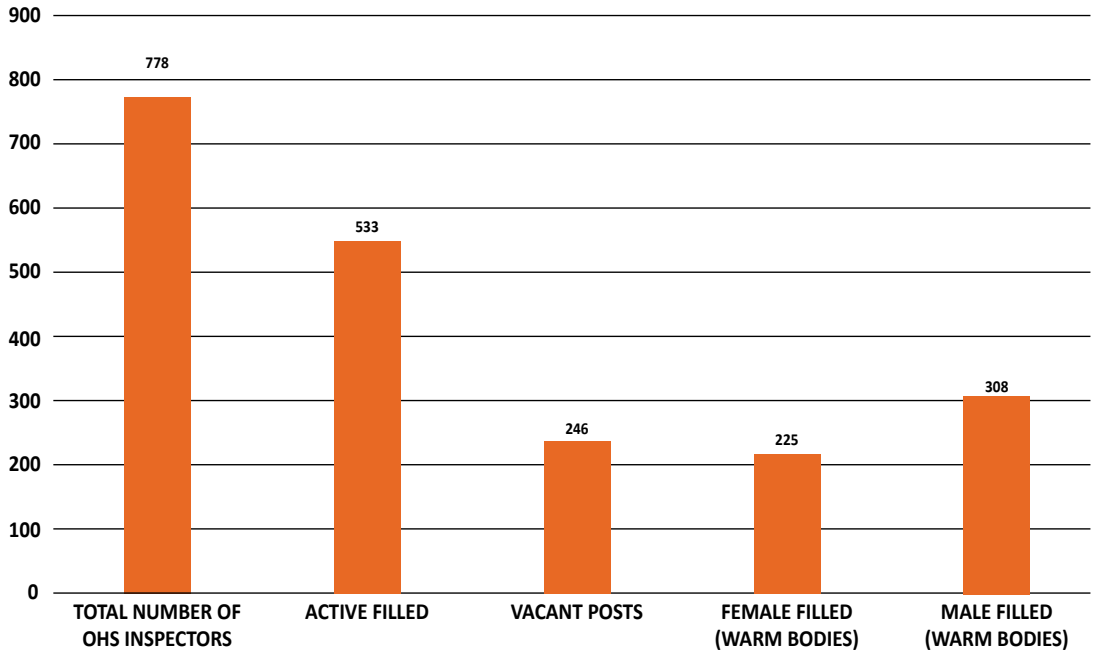


Figure 5.2. Total No. of OSH Inspectors Posts – filled and vacant.



* There are 778 posts with some vacancies, currently 533 of these posts (68.5%) are filled. The full break down is given in the chapter under Human Resources for Occupational Health.

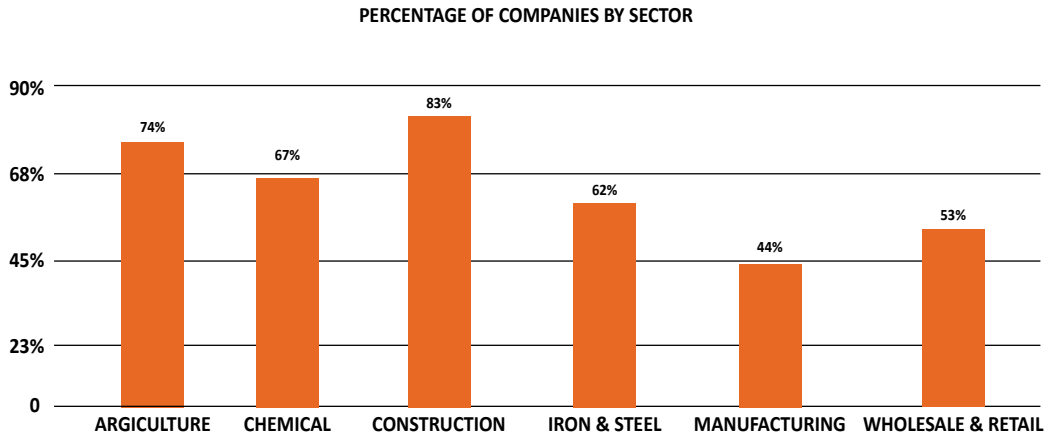
To achieve the goal of "Enforcing decent work principles" and ensure that employers adhere to employment equity plans and vulnerable workers are protected, the DEL has recently added 500 inspectors posts to enhance enforcement and improve compliance with the legislation. These posts are funded by the Compensation Fund. OSH inspections by sector and level of compliance are presented in table 5.2 below

Table 5.2 OSH Inspections by Sector at the end of Quarter 4 2019/2020.

Sector	Total Inspected	Total Compliance	% Compliant
Agriculture	622	461	74
Chemical	483	324	67
Construction	4725	3919	83
Iron & Steel	1078	673	62
Manufacturing	542	241	44
Wholesale & Retail	1897	996	53

Compliance figures by sector, as shown in figure 5.3 below indicates lowest compliance in the manufacturing sector followed by retail and highest in the construction and agriculture.

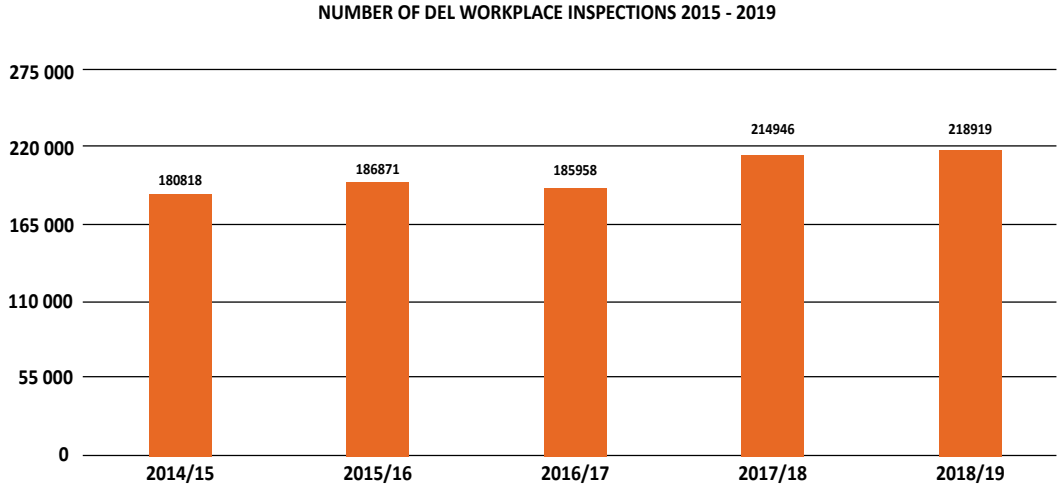
Figure 5.3. Compliance percentage by sector on OHS Inspections. Source: DEL.



Trends in all Labour Law Inspections over the past 5 years.

The number of all inspections conducted in the past five years has increased. Figure 5.4 shows the general progressive increase in the number of workplace inspections conducted since 2015 up to 2019.

Figure 5.4. Number of inspections conducted by DEL over the last 5 years.



5.3 Department of Mineral Resources and Energy Inspectorate

The 1st Quarterly Employment Statistics survey indicated that the South African Mining industry employs an estimated 455 000 employees (STATSSA, 28 July 2020) and 450 000 employees in the second quarter (STATSSA SES, 15 October 2020). The MHSA covers the health and safety of these employees, who make about 2.6% and 3,1% of South African workforce in the 1st quarter and 2nd quarter respectively, when agriculture and private households are included. On the other hand, the Quarterly Labour Force Survey showed that there were about 436 000 employees during the first quarter of 2020 and 373 000 in the second quarter in the mining industry. In both the 1st quarter and 2nd quarter about 63 000 of the employees are women. Therefore, about 16.9 percent of employees in the SAMI are women.

The large mining industry workforce is exposed to many different contaminants which include airborne pollutants such as silica quartz, coal dust, and other harmful chemical substances, physical agents- such as noise, thermal stress- and radiation. The constitutional mandate of the DMRE is to protect and safeguard the health and safety of mine employees and communities affected by mining operations. The MHSA provides for the establishment of the Mine Health and Safety Inspectorate (MHSI), which has to execute the constitutional mandate of the DMRE.

The MHSI is headed by the Chief Inspector of Mines, who is also the Chairperson of the Boards of the Mine Health and Safety Council (MHSC) and the Mining Qualifications Authority (MQA). The MHSI has a head office and 10 regional offices located in the nine (9) provinces. Each regional office is headed by a Principal Inspector of Mines. The regional offices and Principal Inspectors of Mines report to Deputy Chief Inspector of Mines and these are divided as shown in table 5.3.

Table 5.3 The Different Regions and provinces by region

Head Office (Chief Inspector of Mines; Deputy Chief Inspector of Mines))	
Regional Offices (Each Headed by a Principal Inspector of Mines)	
Regions	Location of Offices in the Region
Central and Coastal Regions	Eastern Cape, Gauteng, KwaZulu-Natal and Northern Cape
Central and North-Eastern Regions	Free State, Limpopo and Mpumalanga
Western Regions	North West: Klerksdorp
	North West: Rustenburg and Western Cape

The DMRE annual report 2018/19, states that efforts have resulted in a sustainable downward trend in occupational diseases, injuries and fatalities over the years. Table 5.4 shows the breakdown of mine health and safety inspectors by gender and province.

DMRE Human Resources for Inspection

Table 5.4 Different Categories of Inspectors at national and Province.

Staff categories (Inspectorate)	Number of staff	
Region	Male	Female
Eastern Cape Province	3	0
KwaZulu Natal	9	0
Limpopo	10	6
Western Cape	4	1
Northern Cape	5	0
North West	8	1
Mpumalanga	12	7
Free State	11	1
Rustenburg	14	3
Gauteng	23	4
Total gender breakdown	99	23
Total	122	

In terms of Quarter 2 mining employment figures, the 122 DMRE inspectors equate to an inspector to employee ratio of 1:3 689.

5.4 Department of Transport

The Department of Transport has the following Inspectorate divisions:

- Aeronautical and Maritime Search and Rescue (AMSAR) Inspectorate, which falls under the South Africa Civil Aviation Authority
- The SAMSA Inspectorate, which falls under SAMSA
- Railway Safety Inspectorate which falls under the Railway Safety Regulator.

South Africa is a signatory to the Convention on International Civil Aviation of 1944 (Chicago Convention), which led to the establishment of a United Nations specialised body, the International Civil Aviation Organization (ICAO). The ICAO is responsible for standardising and administering the safety and security of civil aviation operations across the world. The South Africa Civil Aviation Authority (SACAA) was established in terms of the Civil Aviation Act, Act No. 13 of 2009. The mandate of the SACAA is to administer civil aviation safety and security oversight of the aviation industry, in accordance with the Civil Aviation Act, Civil Aviation Security Regulations, 2011 as well as the standards and recommended practices (SARPs) prescribed by the ICAO.

The SACAA has an Aircraft Accident and Incident Investigation Division (SAAIID), which investigates aircraft accidents and serious incidents with the aim of enhancing safety and not to apportion blame or liability. There are Search and Rescue (SAR) inspectors who are drawn from the existing pool of the Department of Transport's Internal Audit Unit. The task of the SAR Inspectors is to establish a safety oversight and regulatory system, over and above their normal and core auditing functions. The AMSAR Inspectorate consists of inspectors who are responsible for conducting continuous monitoring of compliance with national SAR legislation, regulations, policies, guidelines, and prescribed procedures. However, the South African Police Service, subject to the provisions of the South African AMSAR Act, Act 44 of 2002, have a right of prior access to any scene of an accident or aircraft incident.

SAMSA Inspections

Ship and Boat Safety Surveys and Inspections

For SAMSA to comply with its mandate it has appointed safety officers and surveyors that are in 3 categories: (i) Internal Surveyors that are employed and remunerated by SAMSA; (ii) External Appointed Surveyors that are appointed from authorised agencies (organised sporting bodies) and (iii) Authorised Agency Appointed Safety Officers, who report to the authorised agency and are not remunerated by SAMSA. Inspections and surveys are conducted by these officers, including ensuring safety, marking and certification of vessels under 9 metres in length. SAMSA has 28 inspectors who are also surveyors. SAMSA appears to have an adequate number of Inspectors in relation to the ports. The number of inspections conducted by SAMSA over the last 5 years is presented in table 5.5 below.

Table 5.5 SAMSA Inspections and detections over the last 6 years

Year	2014	2015	2016	2017	2018	2019
Total Inspections	310	282	217	317	353	359
Total Detentions	7	6	7	7	2	2

SAMSA reports that the 359 inspections conducted in 2019 detected 142 deficiencies and 2 of these were serious and warranted detention. There is a decrease in the number of detentions over the last 2 years.

5.5 Department of Safety and Security

The Explosives Act, Act No. 15 of 2003 is administered by the Department of Safety and Security. The Act provides for the control of explosives and related matters. Chapter 2 provides for the appointment, powers of inspectors and disposal of explosives. Section 5 stipulates the duties of an Inspector. Any person who wants to operate an explosives manufacturing site or who wants to run a magazine for the storage of explosive is required to apply for a certificate from the Chief Inspector of Explosives. The Human Resources for Explosive Inspections by SAPS are shown in table 5.6 below.

Table 5.6 Number of SAPS Inspectors by province and gender.

Staff categories (Inspectorate)	Number of staff		
	Male	Female	Total
Chief Inspector of Explosives	1	0	1
Inspectors of explosives	11	7	18
Gauteng	37	6	43
Eastern Cape Province	18	8	26
KwaZulu Natal	31	8	39
Limpopo	13	8	21
Western Cape	19	2	21
Northern Cape	15	5	20
North West	19	4	23
Mpumalanga	12	5	17
Free State	10	4	14
Total inspectors of explosives	**186**	**57**	**243**

The Department of Safety and Security has a total of 243 inspectors distributed in the provinces as shown in 5.6. They conducted over 18 000 inspections during the financial year 2018/19.

5.6 National Nuclear Regulator

The primary function of the National Nuclear Regulator (NNR) is to monitor and enforce regulatory safety of a wide range of facilities and actions in order to achieve safe operating conditions, prevent nuclear accidents and reduce consequences of nuclear accidents. NNR has a Compliance Assurance & Enforcement (CAE) division. The following facilities and responsibilities are under NNR: safety over the Koeberg nuclear power station; Pelindaba research and production facility, Vaalputs nuclear waste repository; the mining and processing of uranium and other radioactive ores.

Compliance Assurance

The NNR conducts compliance assurance activities to determine if the holders of nuclear authorisations comply with the conditions of authorisation. The assessment of the extent of compliance is based on the type of authorisation and the risk posed by the facility or its processes and actions. The compliance assurance process involves a combination of audits, routine inspections, non-routine inspections, review of routine reports and review of occurrence reports.

Enforcement

In instances where non-compliance with the conditions is identified, the NNR initiates enforcement actions. Enforcement actions are to respond to non-compliances with the specified requirements. Enforcement actions are in line with the seriousness of non-compliance and may be written warnings, penalties, curtailment of operations, suspension of the authorisation, or ultimately withdrawal of the authorisation.

5.7 Inspectors participation in training and advisory services.

The DEL and the DMRE have a system that puts the Chief Inspector at the centre of processes that advise on OSH matters, including matters on main policy and legislation on OSH. The Inspectorate divisions are significant members of the Advisory Council for Occupational Health and Safety (ACOHS) of the DEL and the Mine Health and Safety Council (MHSC). The Chief Inspectors, their Directors and the Specialists and Principal Inspectors for DEL and DMRE also participate in the technical committees of the ACOHS and the MHSC respectively.

The MHSC is in collaboration with the MQA which is responsible for the administration of skills development programmes for the mining and minerals sector. MHSC has a collaboration with Wits University and the University of Pretoria (UP). An example of the collaboration is the development of the training programme in seismology and rock engineering to address the skills shortages in the mining industry. Similarly, ACOHS has collaborations with stakeholders and academics are represented in ACOHS. There are forums for interacting with the universities. DEL holds workshops and meetings which involve a wide range of stakeholders, academics and representatives of professionals such as the Southern African Institute for Occupational Hygiene (SAIOH) and the South African Society of Occupational Medicine (SASOM).

6. CONSULTATION, COORDINATION AND COLLABORATION MECHANISMS

Various tripartite mechanisms are in place to ensure that OSH is implemented in a consultative, coordinated, and collaborative manner. The mechanisms are in place in both industrial and mining work environments. These include the National Economic Development and Labour Council (NEDLAC), Mine Health and Safety Council (MHSC), and the Advisory Council for Occupational Health and Safety (ACOHS) at national level. NEDLAC is at an overall national level and is not sector specific. The MHSC covers the mining environment whilst ACOHS covers the relevant sectors, other than the mines. These structures are essential in the implementation of OSH policies and legislation in a tripartite manner, in line with the requirements of the ILO. The stakeholders include representatives from government, workers, employers, and communities.

6.1 Consultation and Collaboration at National Level

6.1.1 The National Economic Development and Labour Council

NEDLAC was established in terms of the NEDLAC Act, Act No. 35 of 1994. It operates in terms of its own constitution. Through NEDLAC, Government, labour, business, and community organisations seek to cooperate, through problem-solving and negotiation, on economic, labour and development issues, and related challenges facing the country. NEDLAC covers four broad policy areas, under which negotiations are conducted:

- Public finance and monetary policy;
- Labour market policy;
- Trade and industrial policy; and
- Development policy.

Policy structure - Concerning matters

The Labour Market Chamber considers all proposed labour legislation relating to the labour market policy before it is introduced in Parliament. The following issues are currently on the agenda of the Labour Market Chamber:

- Bargaining Councils Demarcation disputes/applications
- Decent Work Country Programme: Implementation
- Compensation for Occupational Injuries and Diseases Amendment Bill
- Employment Equity Amendment Bill
- Monitoring Labour Market Institutional Trends

The strategic outcome-oriented goal 1 of NEDLAC for the financial year 2020/2021 is: Promote economic growth, social equity and decent work. This goal aims to contribute to the achievement of decent work and economic growth targets, as set out in the National Development Plan and the New Growth Path, and contribute to the reduction of social inequity, as measured by the GINI coefficient. GINI coefficient is a measure of the distribution of income across a population and it is often used to gauge economic inequality, measuring income distribution. It can measure wealth distribution among a population. NEDLAC Constituencies are shown below. Mechanisms of cooperation are shown in table 6.1. Table 6.2 and 6.3 show the national collaborative mechanisms and the mechanisms at enterprise level respectively.

Table 6.1 NEDLAC Constituencies.

Constituency	Members
Business	Business Unity South Africa
Labour	Congress of South African Trade Unions
	National Council of Trade Unions
	Federation of Unions of South African
Government	Department of Employment and Labour
	Department of Trade and Industry
	Department of Public Works
	National Treasury
	Other Departments

Constituency	Members
Community	Women's National Coalition
	South African National Civics Organisation
	South African Youth Council
	Disabled People of South Africa
	The National Cooperative Associations of South Africa
	Financial Sector Campaign Coalition

At NEDLAC, Business Unity South Africa (BUSA) represents the interests of various business organisations who are affiliated to BUSA. Labour is represented by the three largest worker federations who represent the interest of their union members. The State is represented by four key government departments. Community Constituency is represented by community Organisations who represent the interest of various community Organisations. The Community Constituency includes the South African Youth Council (SAYC), South African National Apex Cooperative (SANACO), South African National Civic Organisation (SANCO), Women's National Coalition (WNC), Disabled People of South Africa (DPSA), and Financial Sector Campaign Coalition (FSCC).

It is reported that informal economy participates in NEDLAC and are represented at the Working Group for Implementation of R 204. This is a significant development. The report by this Working Group notes that:

"While these and other informal worker organisations have been recognised as part of the Community Constituency in NEDLAC and are active in the ILO Recommendation 204 process, they are often excluded from other policy processes, both at a national and local level", Alfers, Barrett, et al. 2018.

It is thus evident that to a very large extent the employers and employees in the informal economy are largely not part of the collaboration and development of policies. However, through the developments noted with regard to their participation at NEDLAC and the legislation review, it is hoped that the situation will change in the future.

Table 6.2 Mechanism of Cooperation at National level.

Mechanism for coordination, cooperation and collaboration	Scope of the mechanism	Membership and powers	Lines of communication	Any special attention to level of participation	Existing structures related to provincial or other territorial jurisdictions	Nature of cooperation and arrangements between different inspectorates/ departments
NEDLAC	Negotiating platform on key matters affecting stakeholders industry matters.	At Federation level.	Through Federations	Tripartite	None	Social dialogue with social partners
MHSC Board	Tripartite (Unions; Employers and the State) Advisory Body to the Minister of the DMRE	Full and alternate members. Powers as per Governance principles and the Companies act.	Open through the secretary	Tripartite	Regional Tripartite structures that reside in the Provinces.	Social dialogue with social partners
ACOHS	Tripartite (Unions; Employers and the State) Advisory Body to the Minister of the DEL	Full and alternate members. Powers as per Governance principles and the Companies act.	Open through the secretary	Tripartite	None	Social dialogue with social partners

Table 6.3 Mechanism of Cooperation at Enterprise level.

Mechanism to ensure coordination, cooperation and collaboration among all the social partners	Scope	Membership and powers	Lines of communication	Existing structures related to provincial or other territorial jurisdictions	Nature of cooperation and arrangements between different inspectorates/ departments
Health and safety representatives	Specific workplace	In the mining environment, they can withdraw workers from a workplace they consider dangerous (in terms of MHSA).	Workers and supervisors	No provincial structures	Health and safety representatives can report health and safety issues to the occupational safety and health inspectors.
Occupational health and safety committees	Occupational health and safety issues at work	Full time employees. nominated by employees and appointed by employer	Structured regular meetings	Not applicable	Bipartite, with the employer and among employees

6.1.2 The Advisory Council for Occupational Health and Safety

Section 4 of the OHSA has made provision for the establishment of the Advisory Council for occupational Health and Safety (ACOHS). In ACOHS, the interest of employers is represented by six persons. The six persons are nominated by employers' organisations or federations of employers' organisations. The interest of employees is represented by six persons who are nominated by trade unions or federations of trade unions. In addition, ACOHS may, with the approval of the Minister establish one or more technical committees to advise the Council on any matter regarding the performance by the Council of its functions. ACOHS advises the Minister of DEL on OSH matters in industries. ACOHS has the following tripartite technical committees:

- Technical Committee 7: A tripartite committee that is responsible for the development and proposals on OSH chemical related legislation
- Technical Committee for Noise Induced Hearing Loss, Environmental Regulations for Workplaces and Ergonomics
- HBA Technical Committee: responsible for hazardous biological agents
- Technical Committee on Driven Machinery Regulations
- Technical Committee for Pressure Equipment Regulations 7:
- Technical Committee for Government Certificate of Competence and General Machinery Regulations

Reports from the DEL are that once a plan has been approved by ACOHS for legislation to be reviewed, each regulation will have a Technical Committee. Nominations for Technical Committees (TCs) are made by the constituencies and experts can be co-opted to serve on the TCs but will have no voting power while serving on the TC. The committee terms of reference are established by ACOHS.

6.1.3 The Mine Health and Safety Council

Section 41 of the MHSA provides for the establishment of tripartite institutions. These institutions include the Mine Health and Safety Council (MHSC), whose duties are listed in Section 43, as well as the permanent committees (Mining Regulation Advisory Committee, Mining Occupational Health Advisory Committee, and Safety in Mines Research Advisory Committee). The MHSC constitutes of five members representing owners in the mining industry; five members representing employees in the mining industry; four members representing various government departments. The Chief Inspector of Mines chairs the Council.

The MHSA has provision for tripartism in the South African mining industry (SAMI). Tripartism requires co-operation between government, employers and employees towards improving the safety and health conditions at the mines. For example, the MHSC mandated the development of the South African Mines' Occupational Hygiene Programme (SAMOHP); which provides for a centralised system, to record, track, correlate, and manage exposures to occupational hazards in mines.

The MHSC advises the Minster of DMRE on OSH matters in the SAMI. Technical committees that report to the MHSC include the Safety in Mines Research Advisory Committee (SIMRAC), Mining Regulations Advisory Committee (MRAC), Mining Occupational Health Advisory Committee (MOHAC), Mining Industry TB and HIV/AIDS Advisory Committee (MITHAC), and Culture Transformation Advisory Committee (CTAC). Recently, the Women in Mining Committee examines issues facing women in mining. These committees are also a tripartite arrangement and include technical specialists. In line with the ILO principles and conventions, both the ACOHS and MHSC and their technical committees are tripartite structures.

6.1.4 Collective Bargaining Councils

Bargaining Councils play a critical role in various labour matters, including workplace safety and health. Bargaining Councils (BCs) operate at sectoral level, where agreements are made. The agreements at the sectoral level are binding to the constituencies of the BC. The Labour Relations Act (LRA) provides for establishment of Collective BCs to deal with collective agreements, solve labour disputes, establish various schemes and comment on labour policies and laws. BCs are bipartite structures constituted of employer and employee representatives; may be public and private sector BCs. There is a large number of BCs, generally each sector has a BC.

6.2 Collaboration at Enterprise Level

6.2.1 Collective Bargaining Agreements

According to Chapter 3 of the MHSA, employers are required to enter into a health and safety collective agreement with workers, through a representative trade union in the mine. Parties to the agreement are the manager and the representative mine trade union. However, before concluding the collective agreement with the representative trade union, the manager is required to consult with all other registered trade unions that have members at that mine.

The agreement must be signed with a union/s that is/are recognized in the mine. The collective agreement prescribes the process and numbers of worker-elected/selected health and safety representatives, and the constitution of the bipartite mine OSH committee. In addition, the agreement includes the requirement that workers at the local mine be consulted when drafting, reviewing, and entering into agreement on the OSH policy and procedure, as well as the including the mine site procedure for the right to refuse dangerous work (Coulson, Stewart, & Saeed, 2019).

Section 17(2) of the OHSA requires an employer and his employees or their representatives to consult in good faith regarding the arrangements and procedures for the nomination, period of office and subsequent designation of health and safety representatives. Section 17(2) further stipulates that if such consultation fails, the matter be referred for arbitration to an inspector, whose decision shall be final. However, arbitration by an inspector is subject to the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965). Consequently, a failure of the consultation contemplated in that subsection shall not be deemed to be a dispute in terms of the LRA.

6.2.2 Occupational Health and Safety Committees

Occupational Safety and Health (OHS) Committees bring about collaboration on workplace Safety and Health, between the employer and employees. At this level the engagement is bipartite. ILO Convention 176, which South Arica has ratified, provides the existence of health and safety representatives that are selected by workers in the mining workplaces. OHS committees are established in workplaces in terms of the occupational health and safety legislation, the OHSA and the MHSA. Section 25(1) of the MHSA requires every mine with 20 or more employees to have a health and safety representative for each shift at each designated working place at the mine. Section 27 prescribes the process for designating working places. Section 25(2) requires every mine with 100 or more employees to have one or more health and safety committees.

Section 17 (1) of the Occupational Health and Safety Act requires every employer who has more than 20 employees in his employment at any workplace, to designate in writing for a specified period a Health and Safety Representatives for such workplace, or for different sections thereof. Section 17 (2) requires that the employer and the employees or their representative shall consult in good faith with regard to nomination, appointment and period of office for Occupational Health and Safety (OHS) Representatives.

Section 17(5) prescribes the number of OHS Representatives that must be appointed for different workplaces. Section 18 outlines the functions of OHS Representatives. Section 19 of the OHSA stipulates that where there are 2 or more OHS Representatives the employer will establish a Health and Safety Committee or Committees. Experts can be co-opted into the committees to assist. The section further stipulates that at every meeting of the OHS Committee the employer will consult with the committee with a view of initiating, developing and promoting measures to improve the OSH of employees. OHS Committees are an important OSH consultation, coordination and collaboration mechanisms of implementation at an enterprise level. In the mining industry, there are two kinds of OHS Representatives. The first kind are based in a designated work area of a mine and perform health and safety duties over and above their fulltime job in the mine. The second kind are full-time OHS Representatives, who are employed on a fulltime basis for this responsibility only. In industries other that the mining industry, and in terms of the OHSA, OSH Representatives are full time employees in the company, but they are not employed fulltime to perform this function.

6.3 Business Response to Emergency and Disasters

The Disaster Management Act, Act No. 57 of 2002 (DMA), provides for:

- an integrated and coordinated disaster risk management policy that focuses on preventing or reducing the risk of disasters, mitigating the severity of disasters, preparedness, rapid and effective response to disasters, and recovery
- the establishment of National, Provincial and Municipal Disaster Management Centres
- disaster risk management volunteers and matters relating to these issues

The Act calls for the active participation of all stakeholders, including the private sector, NGOs, technical experts, communities, traditional leaders and volunteers. Disaster risk management planning, operations and specific arrangements should be implemented to ensure the integration of stakeholder participation, to harness technical advice and to adopt a holistic and organised approach to the implementation of policy and legislation. The DMA provides for the establishment of Disaster Management Advisory forums at different spheres of government: National, Provincial and Municipal Disaster Management Advisory Forums.

The experience on this is solely from the COVID-19 pandemic. Many Businesses have responded quite actively and proactively to the current disaster of the COVID-19 pandemic. This has happened at an organised employer level (organisation of employers) providing support to their members with guidelines) as well as at the level of each business. Employers have responded positively to government directives. Examples include training of employees conducted at enterprise level, conducting risk assessments for COVID-19, liaison and seeking guidance from experts including the National Institute for Occupational Health (NIOH) and from professional bodies such as SASOM, SASOHN, SAIOSH, and SAIOH. Most big companies and some small ones have COVID-19 information on their websites and refer to national guidelines.

7. NATIONAL REVIEW MECHANISMS

The three main ministries that are responsible for occupational safety and health are the: DEL, DMRE and the DoH. As mentioned earlier, the DMRE and DEL have the MHSC and the ACOHS that advise respective Ministers on OSH matters and legislation. Both Councils have Technical committees as outlined in the previous chapter.

Table 7.1 The process for DEL legislation review under ACOHS.

Step	Process
1	The Approval and establishment of a Technical Committee (by submission of business case and SEIAS Phase 1 to ACOHS)
2	Review/ Drafting of regulations
3	Obtaining ACOHS (Advisory Council on Occupational Health and Safety) approval on Draft
4	Ministerial Approval for public comment on Draft
5	Publish Draft for 90 day period in the Government Gazette
6	Consolidate and consider public comment
7	Resubmit new Draft and present to ACOHS
8	Obtain legal opinion from State Law Advisors
9	Draft to undergo language check and editing
10	Socio-economic Impact Assessment System (SEIAS) Phase 2
11	Final ACOHS Approval
12	Promulgation by the Minister: approval and sign off
13	Presented to parliament and signed by President

Source: Department of Employment and Labour.

The DMRE follows a similar process in the review of legislation on OSH in the SAMI.

8. EDUCATIONAL, TRAINING AND AWARENESS RAISING STRUCTURES

South Africa has various paths to qualifications. The South African National Qualifications Framework (NQF) provides practical, alternative education and training to traditional tertiary formats through the NQF levels 1- 10. The NQF consists of 10 levels divided into the following Levels:

- 1 to 4 equate to high school grades 9 to 12 or vocational training,
- 5 to 7 are college diplomas and technical qualifications,
- 7 to 10 are university degrees. Higher Certificates and Advanced National (vocational) Certificates.

Occupational Health and Safety courses fall into the following categories:

- General and Further Education and Training
  - Courses are offered by training and vocational education colleges
- Higher Education
  - Courses are offered by universities and universities of technology at NQF level 7 to 10.
- Trades and Occupations
  - Occupationally directed courses

8.1 University and College Courses Related to OSH

Occupational Safety and Health related courses offered by universities are from NQF level 5 and above. OSH training is generally post basic training and this is certainly so for nurses and doctors. For Occupational Hygienist, the route has traditionally been through a basic science degree and many had basic training as a national Diploma or degree in Environmental Health which is followed by post graduation training. There are now undergraduate training programmes specifically for occupational hygiene as Bachelor of Health Sciences and Master of Exposure Science. There are also courses offered as basic courses such as the National Diploma.

8.2 Categories of Health and Safety Professionals and courses

Table 8.1 is a breakdown of different categories of professionals and training that institutions provide. This list excludes information from the institutions that did not provide the information. Further information on OSH training is provided in section 10 of this report.

Table 8.1 Categories of Health and Safety Professionals and Courses.

Category of Professionals	Name of Course	Duration (Minimum)
Medical Doctors	Fellowship or M Med in Occupational Medicine	4 yrs – postgraduate
	Diploma in Occupational Health	2 yrs postgraduate
Nurses	Bachelor of Technology in Occupation Health Nursing	2 yrs postgraduate
	Diploma Occupational Health Nursing	1 yr postgraduate
Employee Assistance Practitioners	Employee Assistance Coordinator	NQF-6 National Certificate Level
	Employee Assistance Practitioners	Bachelors' degree Level
	Employee Assistance Professional	Honours Level
	Employee Assistance Specialist	Masters Level
Ergonomics Practitioners	Ergonomics Practitioner Student	Bach Degree
	Certified Ergonomics Associate	Bach Degree Training 1 year
	Certified Ergonomics Professional	Masters plus Training
Environmental Health	National Diploma Environmental Health	2 yrs
	Bachelors' Degree Environmental Health (replaced B. Tech Environmental Health)	3yrs Bachelors' degree
	MHSc Environmental Health	2 yrs post Bach Degree
	MPH Environmental and Occupational Health	2 yrs post Bach Degree
	PhD Environmental Health and PhD Public Health	2 yrs post Maters
	Bachelor of Health Sciences in Occ. Hygiene	4 yrs Bachelors' degree

Category of Professionals	Name of Course	Duration (Minimum)
Occupational Hygiene	Master of Health Sciences in Occ. Hygiene	2 yrs post Bachelor' degree
	Doctor of Health Sciences in Occupational Hygiene	2 yrs post Masters' degree
	Legal Knowledge (Requirement Occ. Hygiene practice)	1 week

Occupational Hygiene Training

Legal Knowledge Course

The Occupational Hygiene Legal Knowledge short course is compulsory for occupational hygiene practitioners who want to work for Occupational Health and Hygiene Approved Inspection Authorities. Currently, there are only four institutions of higher learning that are recognized by the DEL to offer this course. As shown in table 8.2, the institutions are: University of Pretoria, North-West University, Durban University of Technology and Cape Peninsula University of Technology. The estimated number of candidates who receive Legal Knowledge Certificate per year based on 2019 estimates.

Table 8.2. Institutions that offer Occupational Hygiene Legal Knowledge Courses.

Course	Females	Males
University Pretoria**	10	3
Durban University of Technology	60	10
North-West University	10	10
Cape Peninsula University of Technology*		

*Information not provided. ** Estimates from previous year

The South African Universities of Technology offer part-time tertiary qualifications (BTech degree) in Occupational Hygiene. They are:

- Durban University of Technology (DUT)
- Cape Peninsula University of Technology (CPUT
- Tshwane University of Technology (TUT)

Universities offering Honours and Maters in Occupational Hygiene

- of North-West University (BHSc Occupational Hygiene)
- Tshwane University of Technology (BTech in BH)
- University of Pretoria (Hons in BH)
- University of Kwa-Zulu Natal (UKZN) (BSc Hon's and MSc)
- Witwatersrand University (MPH in BH; MSc in Exposure Science)
- North-West University (BHSc Occupational Hygiene; MHSc Occupational
- Hygiene; PhD Occupational Hygiene).

North-West University (NWU) Figures.

NWU is one of the universities offering Occupational Hygiene training in SA. It offers undergraduate Bachelor of Health Sciences (BHSc) in Occupational Hygiene, a postgraduate Masters' in Occupational Hygiene and a PhD in Health Sciences with Occupational Hygiene. Tables 8.3 to 8.8 show qualifications and student enrolment from various universities, disaggregated by year and gender.

Table 8.3. North-West University Student Enrolment by Gender and Year.

Course	2016		2017		2018		2019		2020	
	F	M	F	M	F	M	F	M	F	M
BHSc Occ Hygiene	15	10	20	11	16	7	12	4	17	9
MHSc Occ Hygiene	8	0	5	3	5	5	6	4	4	4
Doctor (PhD) Occ Hygiene	5	1	5	1	5	0	5	0	5	0
Estimated Total	33	11	30	14	26	12	23	8	26	13
Graduated PHD	0	0	0	0	0	1	1	0	-	-

Table 8.4. North-West University Students Graduating by Gender and Year.

Course	2016		2017	
	F	M	F	M
BHSc Occ Hygiene (First graduation in 2020 – 17 females and 10 males)				
MHSc Occ Hygiene	5	0	3	1
Doctor (PhD) Occ Hygiene	0	0	0	0

Table 8.5. Occupational Hygiene Training, North-West University, Enrolled Students 2016 to 2020.

Course	2016		2017		2018		2019		2020	
	F	M	F	M	F	M	F	M	F	M
BHSc Occ Hygiene									17	10
MHSc Occ Hygiene	5	0	3	1	5	5	6	4	4	4
Doctor (PhD) Occ Hygiene	0	0	0	0	5	0	5	0	5	0
Graduated PhD	0	0	0	0	0	1	0	0		

Table 8.6. Occupational Hygiene Training, Wits University, Enrolled Students 2014 to 2018.

Course	2014		2016		2018	
	F	M	F	M	F	M
MPH Occ. Health and Hygiene	2	8	6	2	6	6
MSc Exposure Science	2019 Only				6	2
Graduated from 2014 class					1	5

Table 8.7. Environmental Health Registered Students Nelson Mandela University and Tshwane University of Technology.

Environmental Health Course	Institution of Higher Learning	F	M
Degree in Environmental Health	Nelson Mandela University	12	10
Bachelor of Environmental Health	Tshwane University of Technology	23	13
National Diploma Environmental Health	Tshwane University of Technology	42	

Table 8.8. Environmental Health Registered Students – University of Johannesburg.

No. Registered students	2020	2019	2018	2016	2015
N Dipl (281-1)	1	18	67	177	170
B Degree (B9ENV1)	186	137	97	N/A	N/A
B Tech (609-1)	6	89	75	88	65
No. of Graduates	**2020**	**2019**	**2018**	**2017**	**2016**
N Dipl (281-1)	1 (PH)	15	49	49	54
B Degree (B9ENV1)	23 (PH)	N/A	N/A	N/A	N/A
B Tech (609-1)	6 (PH)	79	69	91	60

Post Graduate Diploma in Occupational Health Nursing

A large number, close to 20 of universities, including universities of technology offer a Postgraduate Diploma or Bachelor of Technology in Occupational Health Nursing. These universities include all those mentioned, offering Occupational Hygiene training and close to 10 additional others. They are situated all over the country and in all provinces.

Occupational Medicine

The College of Public Health Medicine offers a Fellowship of the College of Public Health Medicine of South Africa - Occupational Medicine: FCPHM(SA) Occupational Medicine or M Med. The fellowship or Diploma in Occupational Health training can be through the 7 universities. Available occupational health training includes a post-graduate Diploma in OH (UCT, Wits), MMed in Occ Medicine (UCT, Wits, KZN), an MPhil Occ Health (UCT), and a PhD, which are shown in table 8.9. Table 8.10 shows the training that the University of Cape Town provides for occupational health doctors.

Table 8.9. Available Occupational Health Training Courses.

Program	University	Enrolled last 2-5 yrs		Graduated last 2-5 yrs	
		F	M	F	M
Post Grad Diploma	University of Cape Town	13	26	13	26
	Wits University	28	24	25	21
M Med Occ. Med	University of Cape Town	3	4	2	3
	Wits University	2	0	2	0
	University of KwaZulu Natal	8	1	1	0
M Phil Occ Health	University of Cape Town	1	1	1	1
PhD	University of Cape Town	2	3	1	1

Table 8.10. Training for OH Doctors.

Training structure	Type of training	Skills delivered	Qualification	Number of persons trained per year	
				Females	Males
University of Cape Town	Diploma in Occupational Health	OMP competency (HRA, Daignosis and assessment of impairment of occupational diseases, occupational health services management, legal and ethical awareness)	DOH	10-12	10-12
University of Cape Town	MMed in Occupational Medicine	Clinical referral specialist skills, research competency, professional technical skills	MMed Occ Med	1-2	1-2
University of Cape Town	MPhil in Occupational Health	Research competency in designing and conducting and reporting on a research project in occupational health.	MPhil (Occ Hlth)	1-2	1-2
University of Cape Town	PhD	Skills expected of a doctoral student with a special focus on occupational health discipline.	PhD	2-3	2-3

Government Certificate of Competence

It is a requirement that supervision of machinery be done by a competent person, who holds a Government Certificate of Competence in Electrical or Mechanical Engineering. The MHSA and OHSA require these professionals to confirm their skill before taking responsibility of operations in the mines or factories for this appointment. The examination is administered by the Department of Higher Education and Training.

8.3. National Information Centres and OSH Advisory Services

The National Institute for Occupational Health (NIOH) is the centre for information and advice on occupational health as well as for research and special investigations and analysis. It supports the universities with training and related services. The NIOH has played a significant role in supporting different entities and sectors on occupational health and has played a critical role during COVID-19 pandemic. Its role is elaborated in another section of this document.

Institutions of higher learning provide technical and advisory support to various constituencies at local and national level. For example, the University of Cape Town also provides technical policy and programme support and capacity development to Western Cape Provincial Health Department for OSH of health workers in the public sector.

8.4 Training Conducted by Employers and Employers Organisation

Employers either individually or through their organisations, arrange for the training of their employees. Such training is often provided by private training institutions accredited with the relevant SETA for that particular industry or sector. There are a number of training courses and awareness initiatives on health and safety that employers arrange for their employees. These include the following:

• First Aid	• Safety Audits
• First Aid	• Safety Audits
• Fire fighting	• Hazardous Chemicals
• Working at heights	• HBA including COVID-19
• H&S Representatives	• Hazard Identification and Risk Assessment (HIRA)

With the COVID-19 pandemic, individual employers and employer organisations have conducted training for their employees from their budget. Part of this was legislated under the Disaster Management Act and the related COVID- 19 directives. Table 8.11 below is an extract of data on training conducted by an employer in a period of 1 year.

Table 8.11. Sample of Employer Training Data over a Period of one Year.

Training structure	Type of training	Target audience	Training capacity in persons per year	Female and male ration	
				Females	Males
External	Forklift License	Manufacturing/Supply Chain Maintenance	20	1	19
	Crane License	Manufacturing/Supply Chain Maintenance	60	3	57
	SHE Representative	All departments	34	2	32
	OHSALegal Liability	Manufacturing/Supply Chain Maintenance	46	3	43
	Confined Spaces	Manufacturing Maintenance	84	4	80
	Working at Heights	Manufacturing Maintenance	74	4	70
	First Aid L1	All departments	58	3	55
	Fire Fighting L1	Manufacturing Maintenance	58	3	55
	Fire Fighting L2	Manufacturing Maintenance	27	2	25
	HIRA	All department	33	2	31
	Safety Audits	All departments	56	3	53
	Hazardous Chemical	Manufacturing/Supply Chain Maintenance	5	1	4
	Spill Response	All departments	104	5	99
	Stack and Store	Manufacturing/Supply Chain Maintenance	56	3	53

Source: SAFA Steel.

8.5 Institutions Conducting Legally Required Training for OSH Specialists

The Health and Welfare Sector Education and Training Authority (HWSETA) and the Mining Qualifications Authority (MQA) are the primary sector education and training authorities that provides accreditation and keeps a list of accredited training providers that offer OSH qualifications and skills programs up to NQF level 7. The list includes the programs on OSH. Legally required training includes the GCC (both in terms of MHSA and OHSA), first aid, and legal knowledge for occupational hygiene. The Sector Education and Training Authorities such as the MQA, Transport Education Training Authority (TETA), and HWSETA collaborate with competent authorities to accredit training providers.

HWSETA: http://www.hwseta.org.za/accredited-service-providers/

MQA: https://www.mqa.org.za/quality-assurance-etqa/accredited-providers

8.6 Link and Collaboration with Regional and International Networks.

Through African Union Development Agency new Partnership for African Development (AUDA-NEPAD), South Africa has collaborative relationships with the African Union member states in the African continent. AUDA-NEPAD conducted information sharing and training sessions as part of minimizing the spread of COVID-19 and to prepare companies for safe return to work after COVID-19 lockdown. South Africa has collaboration with member states in the Southern African Development Community (SADC) on a number of projects. These include the SADC Communicable Diseases Project, which aims to combat and mange HIV and AIDS, tubercolosis (TB) and malaria in the SADC region. Professionals in OSH also participate in international OSH international professional bodies, such as the World Health Without Borders (WHWB), International Commission on Occupational Health (ICOH) and International Occupational Hygiene Association.

9. OCCUPATIONAL HEALTH SERVICES

"People are at the centre of sustainable development, and health is at the centre of human development and prosperity", Gro Harlem Brundtland.

In terms of article 1 of the International Labour Convention, Occupational Health Services Convention, 1985 (No. 161), the term occupational health services means services entrusted with essentially preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking on the:

- Requirements for establishing and maintaining a safe and healthy working environment which will facilitate optimal physical and mental health at work.
- Adaptation of work to the capabilities of workers in the light of their state of physical and mental health.

Occupational Health in South Africa

The OHSA defines occupational health to include occupational hygiene, occupational medicine and biological monitoring and these components of occupational health are legislated. Of critical importance to provision of the occupational health (OH) services and a meaningful OH program is a health risk assessment. The OHSA and the MHSA are the main legislation that provide the framework for OH services.

9.1 Occupational Medicine in terms of the OHSA

The industries that fall under the OHSA provide OH services in terms of this Act. The OHSA defines occupational medicine practitioner (doctor); occupational health practitioner (nurse); medical surveillance; and occupational medicine. The latter two definitions are stated below.

- Medical surveillance: "a planned programme of periodic examination (which may include clinical examinations, biological monitoring or medical tests) of employees by an occupational health practitioner or, in prescribed cases, by an occupational medicine practitioner".
- Occupational medicine: "the prevention, diagnosis and treatment of illness, injury and adverse health effects associated with a particular type of work".

Medical surveillance is conducted as part of occupational medicine. In terms of the OHSA, employers are to conduct medical surveillance where the activities at workplace may expose employees to certain hazards.

The requirements for medical surveillance are mandated by the Asbestos, Hazardous Chemical Substances, Hazardous Biological Agents, Noise Induced Hearing Loss, Lead and Construction Regulations. Medical surveillance examinations are conducted before placement (before an employee starts a job) where there will be exposure to the hazards; at regular intervals depending on the nature of exposure and the hazard; and upon work transfer or termination of employment, referred to as exit medicals.

Delivery of Occupational Medicine Services

The OHSA is clear on the need to conduct medical surveillance at the workplaces with the hazards mentioned and it places the responsibility on of this to the employer to ensure that the medical surveillance is conducted. Consequently, the employer also carries the associated financial burden of conducting medical surveillance. The public sector is expected in terms of the OHSA, to provide OH services. Tertiary level hospitals that are part of the training structure often have occupational medical clinics. Apart from these clinics mainly at referral hospitals, there are no other occupational health clinics in the public sector for public sector employees and for employees. The NIOH discussed below, only offers referral services. There is no primary health care structure for occupational medicine. The provision of occupational medicine and occupational health service as a whole is at company level. The delivery structure of the service is generally dictated by the conditions of a business which includes the size of the business, the number of employees, its financial standing and the location.

As described by Michell and Rispel (2017), there are three key models of occupational health services in South Africa. These are the in-house model, outsourced or external model and a walk-in facility model. In the in-house model an Occupational Medical Practitioner (OMP) and or an Occupational Health Practitioner (OHP) is employed by the company. In the outsourced model a service provider provides a service as and when required and will normally render services once a year, often using a mobile clinic and or mobile equipment. There are a few instances of an in-house service that is outsourced, and the employer only provides mainly the premises. In the walk-in model an independent service provider that is usually located near the workplace provides services on a fee for service basis.

9.2 Occupational Medicine under the MHSA

The MHSA is more stringent with the requirements on occupational medicine. Section 13 of the MHSA requires a Mine Manager to establish and maintain a system of medical surveillance of employees exposed to health hazards if:

- required to do so by regulation or a notice in the Gazette; or
- after assessing risks in terms of section 11 (1), it is necessary to do so.

Section 13(3) further requires the Mine Manager to keep the record of medical surveillance. The medical surveillance requirements of pre-placement, routine and exit medicals also apply to the mines. The requirements of the MHSA are that miners have to employ OMP either full time or part time and they will also have an OHP. Section 16 of the MHSA further requires the OMP to submit annual medical reports to the Medical Inspector of the DMRE. The report by an OMP on the employees at that mine, giving an analysis of their health based on the employees' medical records, without identifying employees. These requirements are followed by all registered mines; thus compliance with the OSH requirements in the mining industry is much higher.

9.3 National Institute for Occupational Health

The National Institute for Occupational Health (NIOH) provides key advice and guidance on occupational health services. To support occupational medicine, NIOH has an occupational medicine clinic that is a referral centre. It serves the private and public sector. OMPs may refer patients who present with conditions that need further assessment and diagnostic work up. It serves a specialised function and is thus not a service available for providing general occupational health services. In 2017, NIOH started consultations with several stakeholders to incorporate OH histories in the existing or new longitudinal surveillance programmes. The collaboration programme with the National Cancer Registry is essential in the creation of a national occupational cancer surveillance programme. The National Health Laboratory Service already has an Occupational Health and Safety Information System (OHASIS), which is an online reporting tool for all the NHLS injuries and diseases related to the work environment. The initiative to collaborate with DEL, DMRE, the MBOD and the Office of Health Standards Compliance to access relevant OH data for annual ongoing surveillance is good for enhancing OH coordination. NIOH played a critical role during COVID19 pandemic, and continues to collaborates with different stakeholders and disseminates information to stakeholders, including the employers and the OH professionals.

9.4 Occupational Health in terms of SAMSA and SACAA

Article 3 of the International Labour Convention C073- Medical Examination (Seafarers) Convention, 1946 (No. 73), requires that a person engaged for employment in a vessel to which this Convention applies must be in possession of a certificate attesting to his fitness for the work for which he is to be employed at sea. The certificate of fitness must be signed by a medical practitioner or, in the case of a certificate solely concerning his sight, by a person authorised by the competent authority to issue such a certificate. Although South Africa has not ratified C073- Medical Examination (Seafarers), section 92 (medical examination of cadets and apprentice-officers) of the Merchant Shipping Act, has specific requirements for people who work on board a ship. SAMSA has developed a procedure, POP-510- Accreditation of Medical Practitioners; who must be registered with HPCSA, have an OH training and experienced in dealing with maritime OH matters.

SAMSA keeps a record of Medical Practitioners who are approved to perform medical examinations in the marine environment. As of 19 July 2019, there were 87 approved Medical Practitioners who are distributed in the coastal provinces close to the harbours (Western Cape, Eastern Cape, KwaZulu Natal, and Windhoek in Namibia) and are also in Gauteng. SAMSA's Maritime Occupational Health and Safety (MOHS) Unit aims to improve health and safety standards in stevedore and ship repair industries through vessel inspections and legal compliance audits against the Safety Regulations.

Occupational Health for SACAA

The South African Civil Aviation Authority (SACAA) has implemented medical standards and policies that comply with the Standards and Recommended Practices stipulated by ICAO Chapter 6, Annex 1. SACAA has a department called the Aviation Medicine, which is responsible for the functions described below.

9.5 Occupational Hygiene

The OHSA as amended, defines occupational hygiene as "the anticipation, recognition, evaluation and control of conditions arising in or from the workplace, which may cause illness or adverse health effects to persons". The OHSA has made provision for Approved Inspection Authorities (AIA). An AIA is "an inspection authority approved by the chief inspector, and it is approved with respect to a particular service only". The following OHSA regulations require employers to conduct health risk assessment and occupational hygiene measurements:

Table 9.1. OHSA Regulations that Require Medical Surveillance.

Regulation	Health hazard to be measured
Asbestos Abatement Regulations	Asbestos in the work environment
Regulations for Hazardous Chemical Substances	Hazardous chemical substances
Regulations for Hazardous Biological Agents	Measurement of hazardous biological agents
Noise Induced Hearing Loss Regulations	Measurement of noise
Ergonomics Regulations	Measurement of ergonomics
Lead Regulations	Measurement of lead

Tables 1 and 2 of the Regulations for Hazardous Chemical Substances (HCS) list Occupational Exposure Limits for HCS. Section 12 of the MHSA requires the Manager to conduct occupational hygiene measurements.

Chapter 9 of the MHSA outlines the system of Occupational Hygiene Measurements. In terms of 9(2), the employer must establish and maintain a system of occupational hygiene measurements, as contemplated in section 12, of all working places where the hazard limits shown in table 9.2, below, prevail.

Table 9.2 with the exposure limits of the 3 hazards

Hazard	Exposure Limit
(a) Airborne pollutants	Particulates ≥ 1/10 of the occupational exposure limit.
	Gases and vapours ≥ 1/2 of the occupational exposure limit.
(b) Thermal stress- heat	>25,0˚C wet bulb and/or >32,0˚C dry bulb and/or >32,0˚C mean radiant temperature.
	Cold <10˚C equivalent chill temperature.
(c) Noise	≥ 82dBLAeq, 8h.

In terms of Section 9(2) of the MHSA, the Chief Inspector of Mines has also issued the following Guidelines:

- Guideline for the Compilation of a Mandatory Code of Practice for an Occupational Health Programme on Personal Exposure to Airborne Pollutants: Ref. No. DME 16/3/2/4-A1
- Guideline for the Compilation of a Mandatory Code of Practice for an Occupational Health Programme on Personal Exposure to Thermal Stress Ref. No. DME 16/3/2/4-A2]

Chapter 22: Schedule 22.9(2)(a) contains Occupational Hygiene Occupational Exposure Limits for Airborne Pollutants. Schedule 22.9(2)(b) contains Occupational Exposure Limits for Physical Agents (noise and thermal stresses).

Biological Monitoring

The OHSA defines biological monitoring as "a planned programme of periodic collection and analysis of body fluid, tissues, excreta or exhaled air in order to detect and quantify the exposure to or absorption of any substance or organism by persons". The Regulations for Hazardous Chemical Substances require employers to conduct biological monitoring for employees exposed to substances listed in Table 3 of the Regulations for Hazardous Chemical Substances. Therefore, biological monitoring is conducted as part of a medical surveillance program in the specific workplaces where there may be exposure to the specific hazardous substances.

10. OCCUPATIONAL HEALTH AND SAFETY LABORATORIES

The National Laboratory Association (NLA) evolved from the previous National Laboratory Accreditation service, when the South African National Accreditation System (SANAS) took over the overall responsibility for laboratory accreditation in 1998. The NLA represents the interests of a large number of laboratories in the Republic of South Africa. The laboratories include:

- Measuring,
- Testing, calibration,
- Verification and other bodies, as well as
- Laboratories which operate in well-defined areas of research and development in the natural and applied sciences.

The NLA represents accredited and non-accredited member laboratories. Occupational safety and health legislation requires that laboratory tests and analysis be conducted by accredited analytical laboratories. Similarly, the calibration results of instruments that are used to take or conduct health hazards measurements must be traceable to national or international standards. To satisfy this requirement, laboratories that provide analytical services and calibration of instruments are either accredited by SANAS, an agency of the Department of Trade and Industry or international accreditation bodies that are members of International Laboratory Accreditation Cooperation (ILAC). There are various levels of competencies and accreditation that laboratories have. There are laboratories that provide analytical services. These laboratories are accredited to the South African National Standard 17025. The same standard applies to laboratories that perform calibration of equipment, such as the sound level meters, that are used to take measurements. SANAS keeps and updates a list of accredited laboratories.

SANAS maintains a list of laboratories that are accredited to conduct Gases & Emission Testing, Ambient Air / Air testing, and Workplace Environment Hazards. Most of the laboratories are private commercial entities whilst others are government entities. They include laboratories for chemical hazards: analytical services, Physical hazards: calibration of testing and measuring equipment. The number of accredited laboratories is:

- SANAS accredited for Gases & Emission Testing: x10
- SANAS accredited for Ambient Air / Air testing: x17
- SANAS accredited for Workplace Environment Hazards: x9

There are also national laboratories such as the National Health Laboratory Service, National Institute for Communicable Diseases, National Institute for Occupational Health, National Metrology Institute of South Africa, Council for Scientific and Industrial Research. Table 10.1 shows the categories of laboratories and their scope of service / responsibility.

Table 10.1. Categories of laboratories and their scope of service/responsibility.

Institution	Responsibility / Scope of Service	Responsible department
National Institute for Occupational Health – pathology laboratory	Benefit medical examinations of mineworkers and ex miners	Department of Health
	Research, services and training to support occupational health services	Department of Health
	Analytical laboratory services	Department of Health
Private chemical laboratories	Chemical analysis of occupational hygiene air monitoring samples (workplace environment hazards)	Private and commercial
Private chemical laboratories	Laboratories that calibrate testing equipment such as noise level meters and personal noise dosimeters.	Private
Council for Scientific and Industrial Research	The CSIR rope testing facility is one of two approved testing authorities (ATA) mandated by the DMRE to carry out the statutory winder rope testing and is currently the only ATA accredited according to SANAS ISO 17025 standard. It has Rope Testing Laboratory Information Management System (LIMS)	Department of Science and Technology

The National Institute for Occupational Health has the following laboratories: pathology laboratory, the only Bioaerosol Monitoring Unit in South Africa and the Aspire laboratory, a novel initiative and the only one globally, and the Airborne Mycobacteria Tuberculosis Research Laboratory for airborne TB detection in workplaces. The South African National Accreditation System (SANAS) is the only national body responsible for carrying out accreditation of the following service in South Africa and Southern Africa through its extensive outreach activities and collaborations:

- Calibration Laboratories
- Certification Bodies
- Chemical and Microbiological Laboratories
- Physical and Mechanical Laboratories
- Proficiency Testing Service Providers
- Verification Laboratories
- Forensic Laboratories
- Inspection Bodies
- Medical Laboratories
- Producers of Certified Reference Materials
- Testing Laboratories

One of the main functions of SANAS is to accredit inspection bodies, which operate predominantly in the regulatory domain. Accreditation of inspection bodies provides stakeholders, which include regulators, the industry, and citizens, an assurance that inspections are conducted against set criteria, standards and regulations. SANAS has reported a growth in the field of inspection of steel structures and the inspection of fire protection systems, fire detection, alarm systems and gaseous suppression systems for buildings. In the field of major hazard installations (MHI) a new standard was published, SANS 1461:2018 Major hazard installations – Risk assessments. It has been incorporated into the revised MHI regulations, making it compulsory for all accredited MHI inspection bodies to implement it.

Table 10.2 below shows the different types of Approved Inspection Authorities (AIAs) that are accredited by SANAS and approved by DEL. There are 248 accredited inspection bodies and 203 accredited calibration laboratories (SANAS, Annual report 2018/2019). There are 1698 accredited organisations that operate and provide services in the fields of testing, inspection, calibration, certification and other conformity assessment services. Accredited facilities play a critical role in the implementation of OSH. Key national or designated bodies are responsible for carrying out analytical or assessment work related to the determination of worker exposure to various occupational hazards (such as: analysis of air samples, biological samples, audiometric testing). Information on level of technical capabilities.

Table 10.2. Different Types of AIAs that are accredited by SANAS.

Approved Inspection Authority (AIA) Scope	Number	Voluntary / Regulated
QRAs on Major Hazard Installations	9	Regulated
Inspections Explosives Facilities	5	Regulated
Occupational health and hygiene	53	Regulated
Lift, Escalator and Passenger Conveyor Inspection	18	Regulated
Gas Test Stations (PER)	55	Regulated
Inspection of Fire Detection System and Sprinkler Systems	2	Voluntary
Inspection of Steel Structures	9	Voluntary
Inspection of X-ray Machines	16	Regulated
Pressure Vessel Inspections (PER	55	Regulated

There are about 500 registered MHI facilities and 300 plus Explosives facilities. AIAs are accredited and audited by SANAS and monitored by DEL. Some entities pay administration / registration fees. There are: 590 registered Lifting Machinery Entities; 88 Training Providers for Operators of Lifting Machinery and 16 Electrical and Mechanical Approved Inspection Authorities, all Registered under DEL.

11. SOCIAL SECURITY, INSURANCE AND COMPENSATION SERVICES

In South Africa there are two main compensation Acts: the Compensation for Occupation Injuries and Diseases Act (COIDA) and the Occupational Diseases in Mines and Works Act (ODMWA). The lung diseases that are listed in the ODMWA, including silicosis, asbestosis, coal workers' pneumoconiosis, obstructive airways disease, tuberculosis and progressive systemic sclerosis, are compensated under ODMWA. Other occupational diseases and injuries in miners are compensated under the COIDA. The diseases covered by ODMWA are considered to have been contracted while performing 'risk work' in the mines or related works. In cases where the condition is not covered under ODMWA, the COIDA or and Rand Mutual is liable.

This aspect of the legislation is complicated and has a lot of implications for the 3 different departments (DEL, DMRE and DoH), the service providers and most importantly for the beneficiaries as it is possible for one person to have an injury from the mine and also have a compensable lung disease. The unharmonised legislation also has complications for data collection, that is discussed elsewhere in this profile. The various ways of collecting OSH statistics include data that are collected through the unemployment insurance fund, compensation fund, and inspections. In addition, there is Rand Mutual Assurance (RMA) and the Federated Employers Mutual Assurance Company (FEMA) Proprietary Limited. Both the RMA and FEMA are licensed by DEL to administer claims for occupational injuries and diseases according to COIDA. RMA covers employees in the iron and steel industry and garages category as well as the mining, quarry and sand industry category. FEMA covers employees in the building industry.

11.1 The Compensation Fund Under COIDA

All employers are obliged to register with a carrier which is either the Compensation Commissioner of the Compensation Fund or a designated mutual association such as RMA or FEMA. COIDA governs the objectives of the Compensation Fund. At the end of October 2020, the total number of employers, inclusive of RMA and FEMA, registered with the Compensation Fund was 752 418. The total number of Class 4 employers (Mining Sector), included in 752 418, was 4 807. COIDA seeks to provide for compensation for disablement caused by occupational injuries or diseases in the course of employment, or related death.

COIDA sets a mechanism for compensation for employees who are injured or contract diseases through the course of their employment. COIDA determines how and by whom the fund is administered; and sets the conditions for eligibility for compensation. As it stands, COIDA excludes domestic, informally employed, independent and self-employed workers from compensation. The current COID Amendment Bill seeks to enhance the existing system of compensation and address what is regarded as the shortcoming of the current COIDA. The DEL Compensation Commissioner's main objective is to provide compensation for disability, illness and death resulting from occupational injuries and diseases.

According to the Electrical and Mechanical Engineering of the DEL, statistics collected by the department through Unemployment Insurance Fund (UIF), Compensation Fund (CF) and inspections conducted, reveal that the iron and steel sector records the highest numbers in fatalities, injuries and diseases. The Department of Employment and Labour continues to offer services that either shield the workers from the worst of the effects of the pandemic or at worst, compensate workers who contract it at work.

11.2 The Compensation Fund Under ODMWA

ODMWA compensates only miners and only for certain lung diseases as indicated earlier. ODMWA also compensates ex-miners. The assessment for compensation is conducted by a panel of assessors at the MBOD. MBOD has a long history of compensation plus challenges with the heavy back log.

11.3 COVID-19 Compensation

On 23 July 2020, the Department of Employment and Labour (DEL) issued a revised directive on compensation for workplace acquired coronavirus disease (COVID-19). It deals with workplace acquired COVID-19 resulting from work related exposures; exposure to suspected or confirmed cases of COVID-19 in the workplace; or while travelling on an official trip to high risk countries or areas on work assignment or while performing any duty in pursuance of the employer's business. Table 11.1 shows the COVID-19 Claims Benefit Paid as of 12 October 2020.

Tale 11.1. COVID-19 Claims Benefit Paid as of 12 October 2020.

ORGANISATION	TOTAL CLAIMS	TTD (Rands)	PD LUMPSUM (Rands)	PD PENSION (Rands)	MEDICAL AID (Rands)	FUNERAL COSTS (Rands)	DEPENDENTS BENEFITS (Rands)
Compensation Fund	5895	709,554.25	0	0	1,535,110.59	0	0
Rand Mutual	2812	147,299.63	51,477.53	0	0	18,251.00	3,257,858.12
Federated Employers	261	180,993.35	0	0	47,201.56	0	0
TOTAL	8968	1,037,847.23	51,477.53	0	1,582,312.15	18,251.00	3,257,858.12

Source: DEL Compensation Fund.

12. STATISTICS OF OCCUPATIONAL ACCIDENTS AND DISEASES

It is well acknowledged that the collection, recording and notification of data concerning occupational accidents and diseases is an essential element for planning and management of OSH services. Furthermore, this information is important to identify and study the causes of accidents and diseases in order to develop preventive measures.

12.1 Recording and Notification of Occupational Injuries and Diseases

South Africa collects data on the occupational incidents and diseases in line with the 4 main pieces of legislation on OSH discussed earlier and the data are collected by the respective departments. Reporting of occupational incidents and diseases is mandatory. In terms of the OHSA, occupational incidents and diseases should be reported to the DEL. Section 24 of the OHSA requires employers to report certain occupational incidents, to an inspector as prescribed in the OHSA. This section of the OHSA, further puts a requirement that no person should interfere with the site at which a major incident occurred, such as a site where a person died or is likely to die or suffered the loss of a limb. The site may only be disturbed in the process of preventing further injury or to remove the injured person.

Section 25 of the OHSA requires a medical practitioner who examines or treats a person for a disease described in the OHSA or any other disease which he believes arose out of that person's employment, to report within the prescribed period and in the prescribed manner, the case to the person's employer and to the Chief Inspector, and inform that person accordingly.

The COIDA lists compensable injuries and the percentage of permanent disablement for various body parts. Schedule 3 lists compensable diseases and contains a list of 28 categories of diseases that are compensable. Schedule 4 makes provision for the manner of calculating compensation benefit. Benefits can be periodical payments for temporary total disablement, a lump sum for permanent disablement and fatality. In addition, there are funeral costs for fatality. Calculation of compensation benefit is dependent on the employee's salary, nature and degree of disablement as well as the nature of benefit.

12.2 Compensation Claims to the DEL

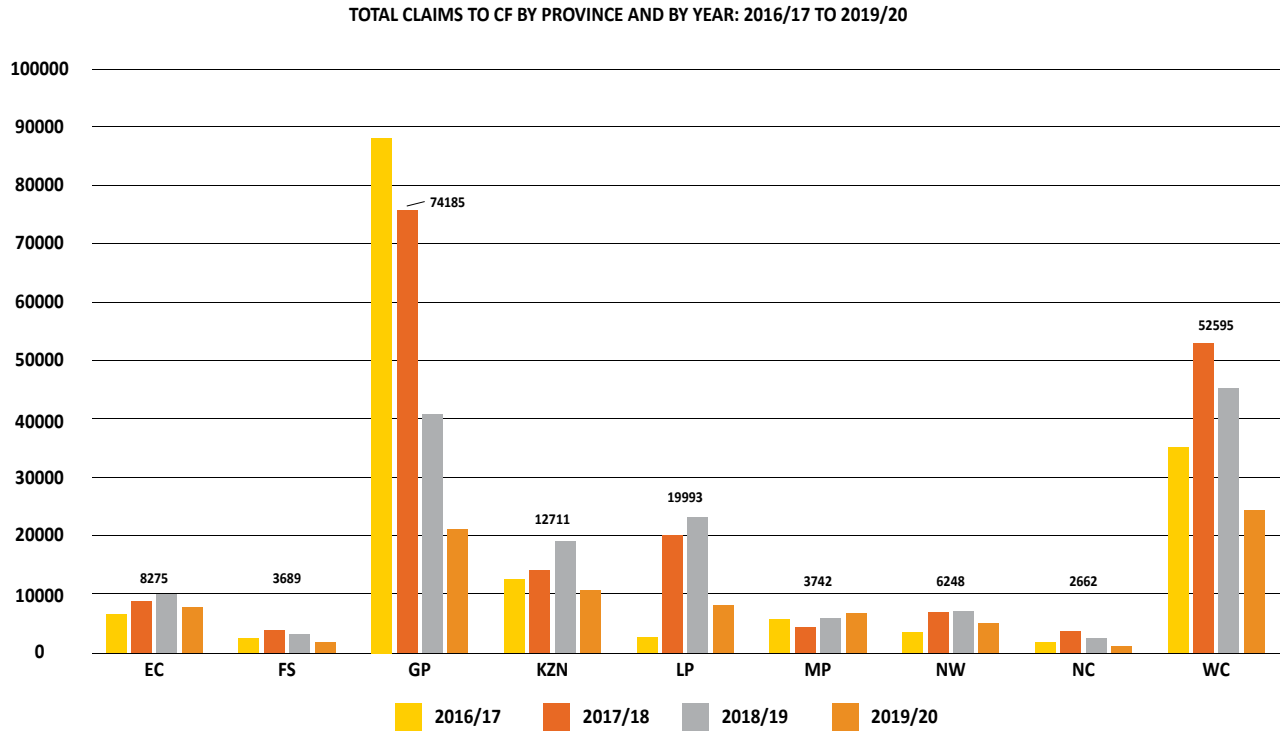
The DEL receives the reports of work incidents and diseases and the claims for the incidents from all sectors of the economy except for the mines. The statistics presented in table 12.1 was provided by the DEL, some of the information is also available on the annual reports of the DEL and the Compensation Fund. The DEL reports that from 2016/17 to 2019/2020 financial year, over a 4-year period there were 578 276 claims received for occupational injuries and diseases. The annual claims ranged from the lowest in 2019/20 at 82 526 to the highest total claims in one year of 184 100 in 2017/18. Gauteng has by far the highest number of claims allowed by Western Cape. The lowest number of claims is from Northern Cape (understandably because it is least populated province) and North West. See table below. The low number of claims from KwaZulu Natal in relation to the 2nd largest population of this province, close to twice that of Western Cape is worth noting.

Table 12.1 Compensation claims by Province for the last 4 years.

Province	2016/17	2017/18	2018/19	2019/20
Eastern Cape	6221	8275	10153	6350
Free State	2582	3689	3399	1445
Gauteng	88807	74185	41383	20629
Kwa-Zulu Natal	11600	12711	18203	10472
Limpopo	2056	19993	23584	7417
Mpumalanga	5151	3742	5836	6573
North West	3069	6248	6389	4323
Northern Cape	1174	2662	1839	774
Western Cape	34767	52595	45437	24543
Grand Total	**155 427**	**184 100**	**156 223**	**82 526**

The graphic presentation of the same data, in figure 12.1, clearly shows the high number of claims in Gauteng followed by Western Cape that is consistent over the years. There appears to be a decline in the number of claims, although it may be too early to draw conclusions.

Figure 12.1. The claims by province over the last 4 years.



Gender Breakdown

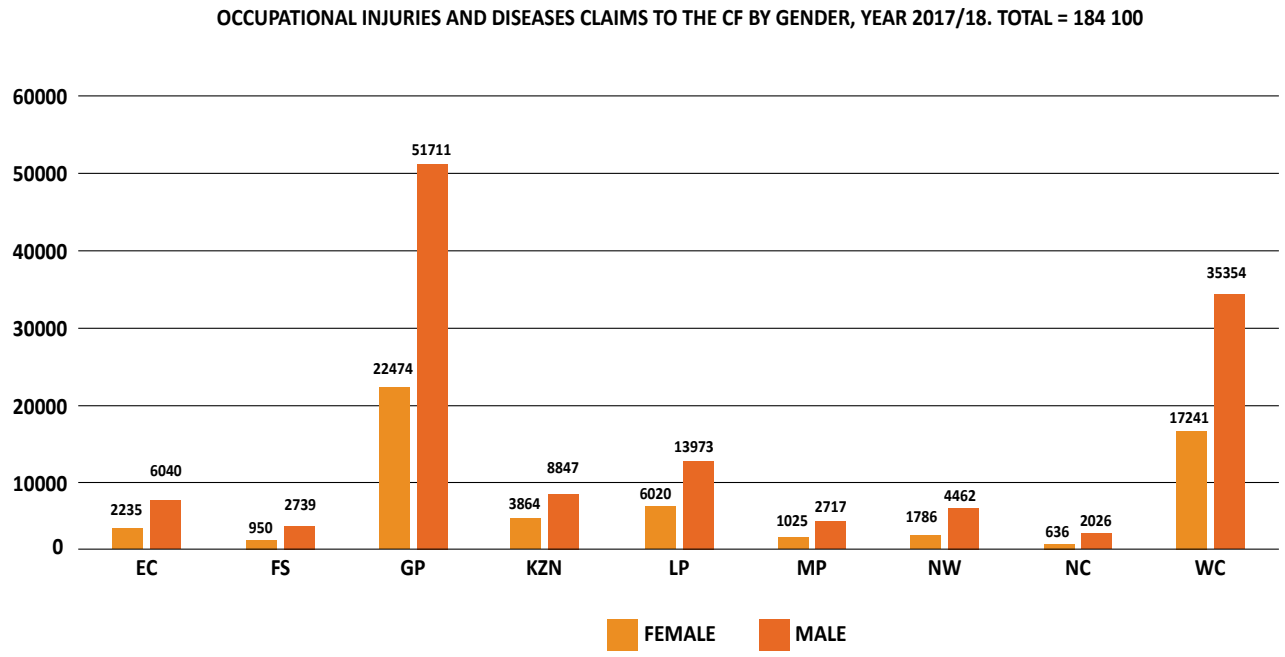
The gender breakdown of the claims is presented in table 12.2 below. The proportion of claims from women employees is about a third or less of the total claims, much less than that of men. This pattern is consistent across all provinces and over the years. This may be reflecting the larger proportion of men employed in the industries that are likely to have incidents.

Table 12.2. Gender breakdown of the claims.

Province	2016/17		2017/18		2018/19		2019/20	
	F	M	F	M	F	M	F	M
Eastern Cape	1475	4746	2235	6040	2978	7175	1807	4543
Free State	634	1948	950	2739	849	2550	373	1072
Gauteng	25462	63345	22474	51711	12918	28465	6432	14197
Kwa-Zulu Natal	3368	8232	3864	8847	5554	12649	3167	7305
Limpopo	603	1453	6020	13973	6913	16671	2296	5121
Mpumalanga	1248	3903	1025	2717	1592	4244	1897	4676
North West	669	2400	1786	4462	1783	4606	1367	2956
North Cape	211	963	636	2026	440	1399	194	580
West Cape	11003	23764	17241	35354	15120	30317	8097	16446
Grand Total	44673	110754	56231	127 869	48 147	108 076	25 630	56 892

The graphic presentation of the data by gender for the 2017/18 financial year, in figure 12.2, clearly shows that the number of claims, by women are less than half of the men.

Figure 12.2. Total claims by gender year 2017/18 that had the highest number of claims.



12.3 Occupational Injuries and Diseases

Types of Injuries and Diseases by Industry

Occupational injuries are the most commonly reported incidents and account for an overwhelming majority of claims. For example, in the 2016/17 year, occupational injuries accounted for 154 933 of the 155 427 claims. Similarly, in 2018/19 injuries accounted for 155 364 of the 156 223 claims. This amounts to 99,68% and 99,45% in 2016/17 and 2018/19 respectively. The most common injuries are mainly superficial injuries which may often be multiple. Open wounds of the hand are quite common, which may also involve the thumb and wrist. The hand is most commonly affected. Other common injuries involve the lower limbs, the legs, knees and sprain of ankle; eyes including the cornea and orbit, superficial injury of the head and neck, and sprain of the back. Occupational diseases are a small fraction with noise induced hearing loss and pulmonary tuberculosis for health care workers being the most common. The next common diseases are pneumoconiosis, occupational asthma, occupational dermatitis and chemical exposure. Table 12.3 lists and shows the trend of the common compensable incidents over the last 4 years.

Table 12.3 Common occupational diseases from 2016 to 2019.

Compensable Disease/Injury	2016/17	2017/18	2018/19	2019/20
Noise Induced Hearing Loss	145	279	249	118
Tuberculosis HWs	141	184	257	191
Occupational Asthma	24	28	27	20
Chemical Exposure	64	68	35	41
COID Injuries	104	232	252	161

Industries and occupational injuries and Diseases.

The industries that are most likely to report an incident are: food retail; tillage and forestry; security; meat products; builders, scrap metal and electrical contractors; hospitals and hospitality industries. The top companies that claim include Shoprite Checkers and Pick n Pay amongst food retail, South African Polices Services, the Metropolitan municipalities – Johannesburg, Ekurhuleni, City of Tshwane, Department of Health - Western Cape and Gauteng. Data on fatalities were not available.

Monetary Value of the Claims for Occupational Injuries and Diseases

The fund compensates for medical expenses and medical devices where appropriate; for lump sum compensation for injuries; and pension for those who are permanently disabled or who have died in the course of work, the pension is paid to dependents of the deceased. Table 12.4 below shows the value of the claims in the 3 categories that was paid from the 2014/15 to the 2017/2018 financial years.

Table 12.4. Value of claims over the last 4 years.

Type - Benefit	2014/15	2015/16	2016/17	2017/18
Medical	R 1075 745 759	R 2 669 979 385	R 2 963 708 265	R2 425 666 802
Compensation	R 89 656 048	R 133 567 436	R152 300 380	R167 090 873
Pension	R 463 534 420	R 958 831 503	R1 054 806 065	R1 084 052 713
Total	**R 1 628 936 227**	**R 3 762 378 324**	**4 170 814 710**	**R3 676 810 388**

There has been a progressive increase in the value of the claims which came down in the year 2017/18. It is worth noting that quite a high percentage of the total amount paid is for the medical costs. This amounted to 66% in 2014/2015 and 2017/2018 and in 2015/2016 and 2016/17 was much higher at 71%. The percentage paid towards pension was 29% in 2017/18 and 25% in 2016/17. The Compensation Fund reports that in the year 2017/18 a total of 184 100 claims were received, of which 179 689 were adjudicated. There were 751 364 medical invoices and of these 699 441 were processed within 60 days. These figures correlate with figures in Table 12.4 above from the Inspectorate division of the DEL.

Fatalities from Rand Mutual Assurance (RMA) and SAMSA

Rand Mutual is an assurance that is has a legislated authority to provide compensation fund for occupational injuries and diseases for the employees of its members. It covers 2 broad groups, which are the iron and steel group as well as the group that includes mine, quarry and sand. It is regulated under the COIDA and reports all its incidents and diseases to the DEL. RMA 2018 annual report claims to have 24 865 members and through these members cover 1 075 245 lives (employees). Figure 12.3 shows claims from 2015 to 2018, disaggregated by the two industry groups.

Figure 12.3. Claims Compensation data for Rand mutual by 2 categories of industry

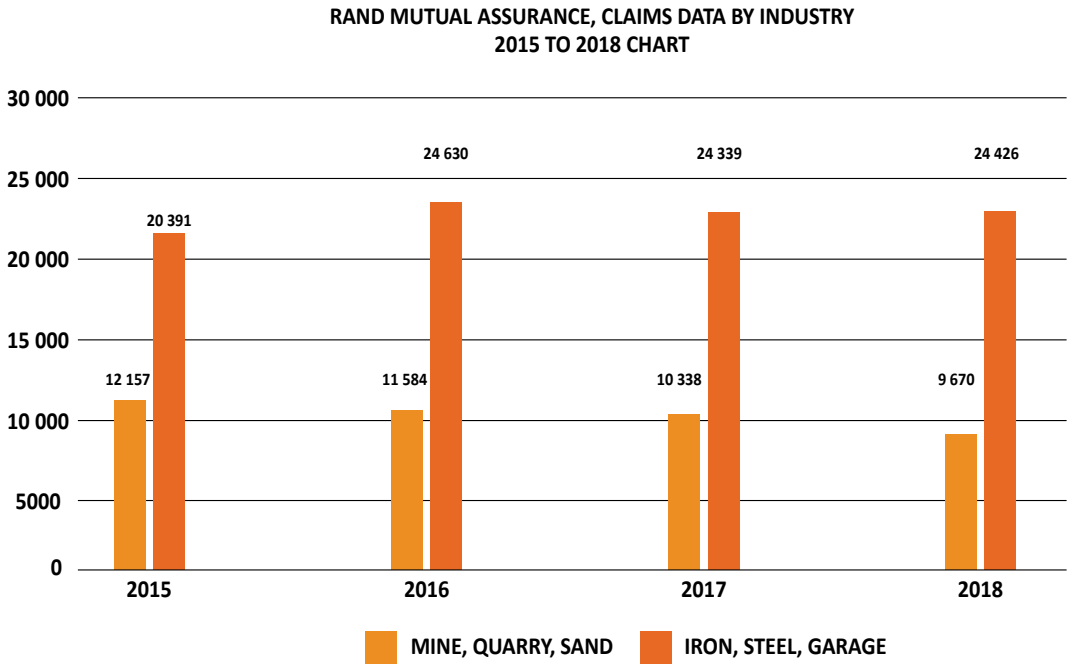


Table 12.5 below shows the injuries and diseases reported by industry category. The incidence of occupational diseases is much higher in the mine and sand industry, up to 5 times that of the iron and streel industry. However, the number of occupational injuries is much higher in the iron and steel industry. This is in keeping with the observation and reports from the Inspectorate officials of the DEL.

Table 12.5 Injuries and diseases reported by industry category.

Industry Category	2015		2016		2017		2018	
	Injuries	Disease	Injuries	Disease	Injuries	Disease	Injuries	Disease
Mine, Quarry, Sand	12 731	1 427	11 876	1 675	10 495	1 306	8 651	956
Iron, Steel, Garage,	17 429	211	24 252	325	23 954	367	23 796	341

Rand Mutual Assurance Reported Fatalities.

The report from Rand Mutual Assurance did not specifically report on fatalities but reported on lump sum pay-out to widows over the 4 years. This data was used as a proxy to estimate the number of fatalities over the corresponding period. Figure 12.4 below indicates the estimated fatalities per year, indicating 47 in 2015 and 90 in 2018.

Figure 12.4. Number of fatalities per year from 2015 to 2018.

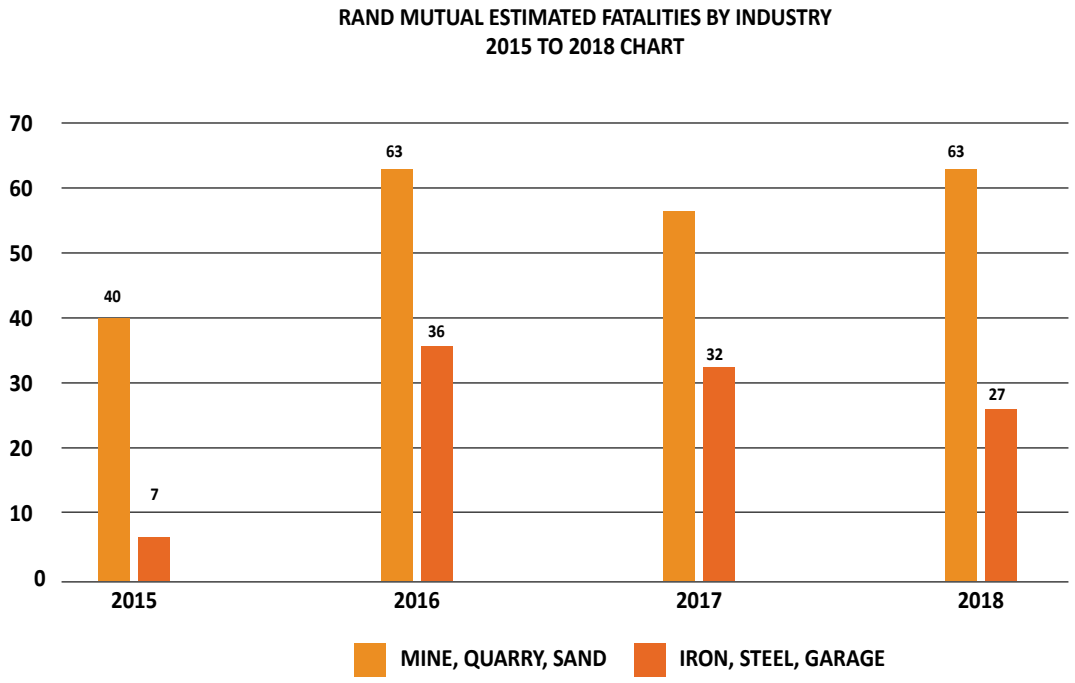


Table 12.6 Monetary Value of Rand Mutual Compensated Claims.

Category	2015	2016	2017	2018
Mine, Quarry, Sand	R 90 312 199	R 388 691 993	R 515 038 955	R 529 989 329
Iron, Steel, Garage	R 620 433 929	R 716 732 013	R 775 112 851	R 675 703 589
Total	**R620 433 929**	**R388 691 993**	**R515 038 955**	**R529 989 329**

Federated Employers Mutual Assurance (FEMA)

The Federated Employers Mutual Assurance (FEMA) covers the construction industry. According to the 2017 FEMA annual report, for the occupational health, safety and rehabilitation during the year 2016, FEMA provided financial assistance amounting to R14.9 million (2016 restated: R12.9 million) to the health and safety programmes of the various construction-industry associations. The accident statistics (over the period 2013 to 2017), shows a steady decrease in the number of work related injuries. There is an annual steady decrease of the accident-frequency rate which is the number of accidents over total employees insured, per 100 employees).

The South African Maritime Safety Authority

Data on Occupational Incidents and Fatalities.

The South African Maritime Safety Authority (SAMSA), which operates under the SAMSA Act, has a responsibility to enforce safety standards in the marines. To monitor safe practices, SAMSA conducts inspections to ascertain compliance with set conventions and legislative requirements. In addition, SAMSA has investigative and regulatory powers to review accidents and incidents, determine responsibility, and ascertain what corrective actions can be undertaken to promote safe practices and prevent future recurrence of all reportable incidents. SAMSA may impose an admission of contravention fee on ships for safety.

SAMSA annual report 2019, reported a total of 28 fatalities from 15 December 2018 to 10 March 2019. SAMSA reports fatalities and other serious injuries to the Compensation Commissioner under COIDA, for compensation purposes. Fatalities and injuries occurring onboard vessels fall outside the mandate of DEL Inspectorate.

Tables 12.7 and 12.8 respectively show the casualties and incidents as well as fatalities from 2014/2015 to 2018/2019. Figure 12.5 shows Fatalities occur in the SA Fishing Vessels.

Table 12.7. Casualties and Incidents: Casualties to Ship and Personnel.

Incidents Recorded	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019
TOTAL	100	87	116	14	149

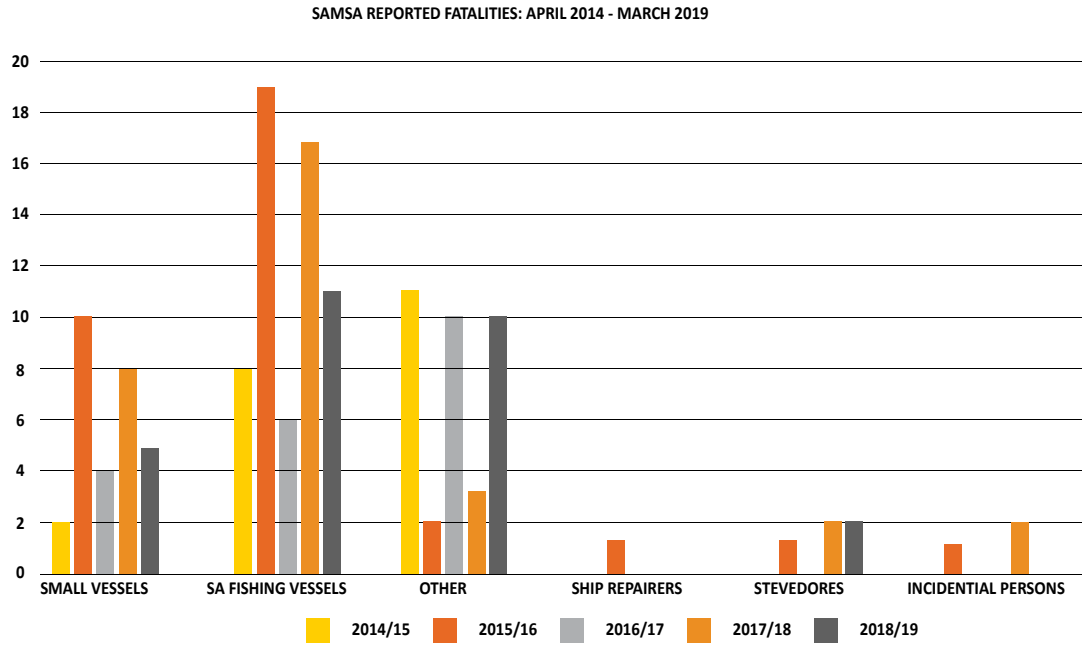
Source: SAMSA annual report 2018/2019.

Table 12.8. Casualties and Incidents: Fatalities.

Location of Fatalities	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019
Small Vessels	2	10	4	8	5
SA Fishing Vessels	8	19	6	17	11
Other	11	2	10	3	10
Ship Repairers	0	1	0	0	0
Stevedores	0	1	0	2	2
Incidental persons	1	0	0	2	0
TOTAL	**22**	**33**	**20**	**32**	**28**

Source: SAMSA annual report 2018/2019.

Figure 12.5 Fatalities reported by SAMSA by type of vessel or activity.

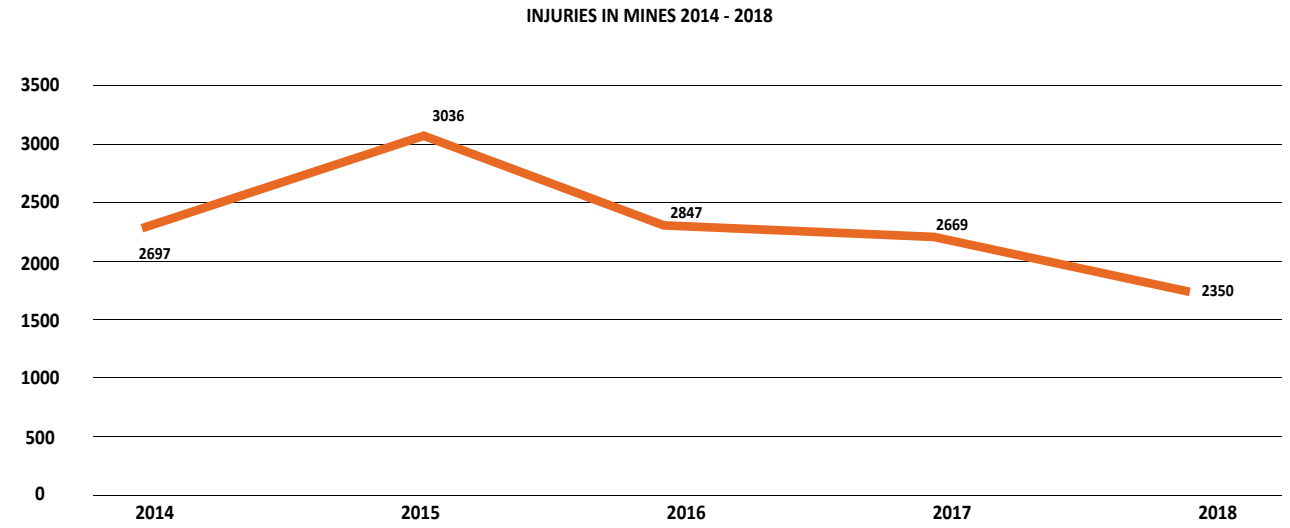


12.4 Occupational Injuries and Diseases at the Mines

South Africa has a long history of occupational diseases for miners, which includes court cases for mine workers and court cases on behalf of communities. There has been a number of research reports that documented occupational lung diseases of South African mine workers. The increase in the number of the research reports prompted and supported the advocacy for social protection benefits. Compensation for occupational diseases for ex-miners also increased (Kistnasamy, Yassi, Yu, Spiegel, et al. 2018). Nevertheless, there is legal protection for occupational diseases and injuries for mine workers as already elaborated earlier. Chapter 23 of the MHSA as amended, requires employers to report accidents and dangerous occurrences at a mine to the Regional Principal Inspector of Mines. Data is captured onto the South African Mines Reportable Accidents Statistical System (SAMRASS) database from which the information is analysed.

Data from the DMRE is presented in table 12.9 below. The data extracted from the DMRE annual reports and shown in figure 12.6 indicate a decline in injuries over the last few years. Injuries per 100 000 employees are: 547 in 2014, 663 in 2015, 621 in 2016, 574 in 2017, and 514 in 2018.

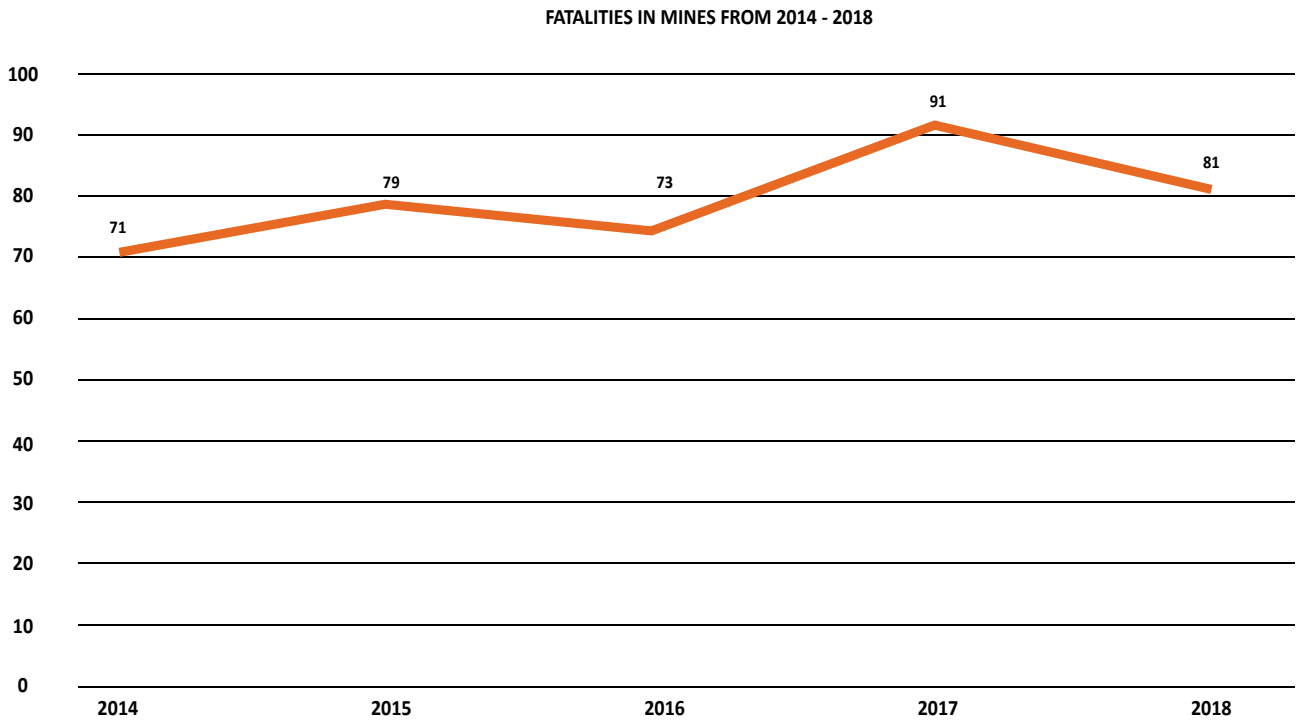
Figure 12.6. Injuries in mines over the last 5 years from 2014 to 2018.



Fatalities in the South African Mines

The graph in figure 12.7 shows the number of reported fatalities from the mines over the last 5 years. The fatalities stagger around 80, indicating an increase since 2014, which was reported as the year the lowest fatalities in the history of mining in South Africa (DMRE 2016/2017 annual report). Per 100 000 employees fatalities are: 14.4 in 2014, 17.3 in 2015, 15.9 in 2016, 19.4 in 2017, and 17.7 in 2018. The DMRE also shows a declining fatality frequency rate per million hours worked over the period 2007 to 2017.

Figure 12.7. Fatalities in the SAMI from 2014 to 2018.



The break down in table 12.9 shows the classification of fatalities per commodity in 2017 and 2018. Fatality rate per 100 000 employees is 31 for the gold commodity, 9 for the platinum commodity, and 10 for the coal commodity.

Table 12.9. Mining environment fatalities per commodity 2017 and 2018.

Mining sector	2017	2018
Gold	40	40
Platinum	29	15
Coal	10	9
Others (diamond, chrome, copper and iron ore operations)	11	20

The gold mines have the highest number of fatalities. During this period, platinum reported a 59% reduction in fatalities. The above picture of the annual fatalities represents a quite different scenario to what the fatalities were like in the past decades. The DMRE reports that between 1984 and 2005 more than 11 000 mine workers died in the course of their duty. This roughly amounts to over 600 deaths a year.

There was decline in the later years of this period, in 2003 fatalities had come down to about 270 fatalities a year. Evidently, the current figures represent a major reduction compared to the previous decades. It remains to be seen if there will be further reduction of fatalities in the mining industry.

Occupational Diseases in Mines

The ODMWA lists compensable diseases in the definition section of the Act. DMRE reports that important diseases that are commonly found in the mining industry include:

- Pneumoconiosis
- Silicosis
- Asbestosis
- Noise induced hearing loss
- Coal workers' pneumoconiosis
- Silico-tuberculosis
- Pulmonary tuberculosis

The Department further reports that the data shows a decrease in the number of occupational diseases in mines over the years and that in 2017 there were 4 483 occupational diseases and 4 632 in 2016.

12.5 Compensation for Mine Workers Under ODMWA

Occupational lung diseases in miners and ex-miners are compensated under ODMWA. In terms of the ODMWA, ex-miners are entitled to medical examinations and to claim for occupational diseases, which are mostly lung diseases. During the year 2018/19 a total of 15 590 medical examinations were conducted for miners and ex-miners throughout the country and in neighbouring states at: mines, mobile clinics and occupational health centres. The Medical Bureau for Occupational Diseases (MBOD) certified 10 305 claims. A total of 9 485 claims were paid R207 million. Sixty-nine (69) pensioners were paid R1 085 949 from voted funds (DoH Annual report, 2018/2019). Table 12.10 shows the total claims paid by the DoH Compensation Fund.

Table 12.10. Total claims paid by DoH Compensation Fund for miners for last 3 years.

Year	2017	2018	2019
Value	R 254 000 000	R207 000 000	R211 000 000
Claims Paid		9 485	7 291

13. NATIONAL LEVEL OF HUMAN RESOURCES ACTIVE IN OSH

13.1 Different Categories of OSH Professionals

The number of qualified persons that provide OSH were sourced from the different professional bodies of OSH professionals. There are at least 7 professional bodies for the different categories of OSH professionals as indicated in the table 13.1 below.

Table 13.1 Societies of the Different OSH Professional.

Name of Professional Body	Acronym	Professionals represented
South African Society of Occupational Medicine	SASOM	Occupational Health Doctors
South African Society of Occupational Health Nursing Practitioners	SASOHN	Occupational Health Nurses
South African Institute of Occupational Hygiene	SAIOH	Occupational Hygiene Professionals
Southern Africa Institute for Occupational Safety and Health	SAIOSH	Health and Safety Professionals
South African Qualifications and Certification Committee for Fire	SAQCC-Fire	Fire Service Technicians
South African Qualifications and Certification Committee- for Gas	SAQCC-Gas	Gas Practitioners
Institute for Working at Heights Professional Body	IWH	Working at heights Professionals
Employee Assistance Professionals Association	EAPA	Employee Assistance Practitioners
Ergonomics Society of South Africa	ESSA	Ergonomics Practitioners
Mine Medical Professionals Association	MMPA	Medical and Health Professionals in Mining industry
South African Council for the Project and Construction Management Professions	SACPCMP	Occupational /Construction Health and Safety Practitioners

Table 13.2 shows the OSH professionals disaggregated by gender. It also gives an estimate OSH professionals registered with professional bodies. However, the numbers may be an underestimate of the qualified and registered OSH practitioners because some individuals may not be members of the association, even though they are qualified. Some professional bodies, such as SASOM and SAQCC-Fire, have not categorized their members by gender.

Table 13.2 Different OSH Professionals by gender.

Professional Group	Category of registration	Female	Male	Total
Occupational Hygiene Professionals (SAIOH)	Assistants- Registered	226	186	412
	Students	112	45	157
	Technologists	108	134	242
	Hygienists	67	148	215
	Fellows	01	05	6
Total Occ Hygiene total		**514**	**518**	**1 032**
SASOM Members ** Total				404
Professional Group	**Category of registration**	**Female**	**Male**	**Total**
SASOHN	Occupational Health Nurses	1 515	164	1 679
Safety and Health Professionals (SAIOSH)	**Category of registration**	**Female**	**Male**	**Total**
	Technical (Certificate)	1 799	4 789	6 588
	Graduate (Diploma)	1 256	1 882	3 138
	Chartered (Degree)	2	41	43
Total		**3 057**	**6 712**	**9 769**
Employee Assistance Practitioners Association (EAPA)	**Category of registration**	**Female**	**Male**	**Total**
	Employee Assistance Coordinator	12	2	14
	Employee Assistance Practitioner	49	16	65
	Employee Assistance Professional	72	26	98
	Employee Assistance Specialist	15	2	17
Total EAP		**148**	**46**	**194**

South African Council for the Project and Construction Management Professions	Female	Male	Total
Professional Construction Project Manager	17	81	98
Construction Health and Safety Manager	121	482	603

Construction Health and Safety Officer		543	1475	2018
Candidate Construction Health and Safety Agent		32	62	94
Candidate Construction Health and Safety Manager		7	27	34
Candidate Construction Health and Safety Officer		261	396	657
Total SACPCMP		**981**	**2 523**	**3 504**
Ergonomics Society of South Africa	**Category of registration**	**Female**	**Male**	**Total**
	Student Members	2	2	4
	Non-student/ Working Members	29	22	51
	Certified Ergonomics Associate	4	2	6
	Certified Professional Ergonomist #	7	3	10
	Certified Professional Ergonomists in training			2
Total Erg Practitioners		**42**	**29**	**71**
Mine Medical Professionals Association	Ordinary member			83
	Associate member			18
	Honorary member			5
	Total			106
SAQCC Gas	**Gas Practitioners**	**Females**	**Males**	**Total**
	Domestic/Commercial	69	1 813	1 882
	Industrial	35	6 236	6 271
	Specialised	5	77	82
	Automotive	1	117	118
Total		**110**	**8 243**	**8 353**

SAQCC- Fire * Fire Technicians	**Category of registration**			**Total**
	SAQCC Registered			1 882
	SAQCC Trainees			266
	SAQCC D & GS – registered persons			1 212
	SAQCC D&GS- trainees			125
Total SAQCC Fire total				**3 485**
Working at heights	**Category of registration**	**Females**	**Males**	**Total**
	Working at heights Practitioners	1 956	45 531	47 487
OTHER Officials that May be active in OSHOSH				
Environmental Health Professionals registered with HPCSA		2 564	1 606	4 170

Notes on above:

D&GS = Detection and Gas Suppression

*SAQCC – Fire, no breakdown but the source highlights that the vast majority is males.

** SASOM Members mostly Occupational Medical Doctors. Not all are doctors some are just members. No disaggregated figures, also not broken down by gender. Data based on 2019 SASOM membership. It is worth noting that it is only a fraction of Environmental Health Professionals are active in OSH.

The updated total number of Certified Professional Ergonomist (EPE) is 13. The gender of the four newly qualified has not been confirmed.

13.2 Human Resources for Inspectors.

Figure 13.1 shows the number of OSH inspectors employed by DEL, the provincial and gender as of October 2020. Figure 13.2 shows the vacant and filled posts.

Figure 13.1. Different Human Capacity of Inspectors of the DEL by province.

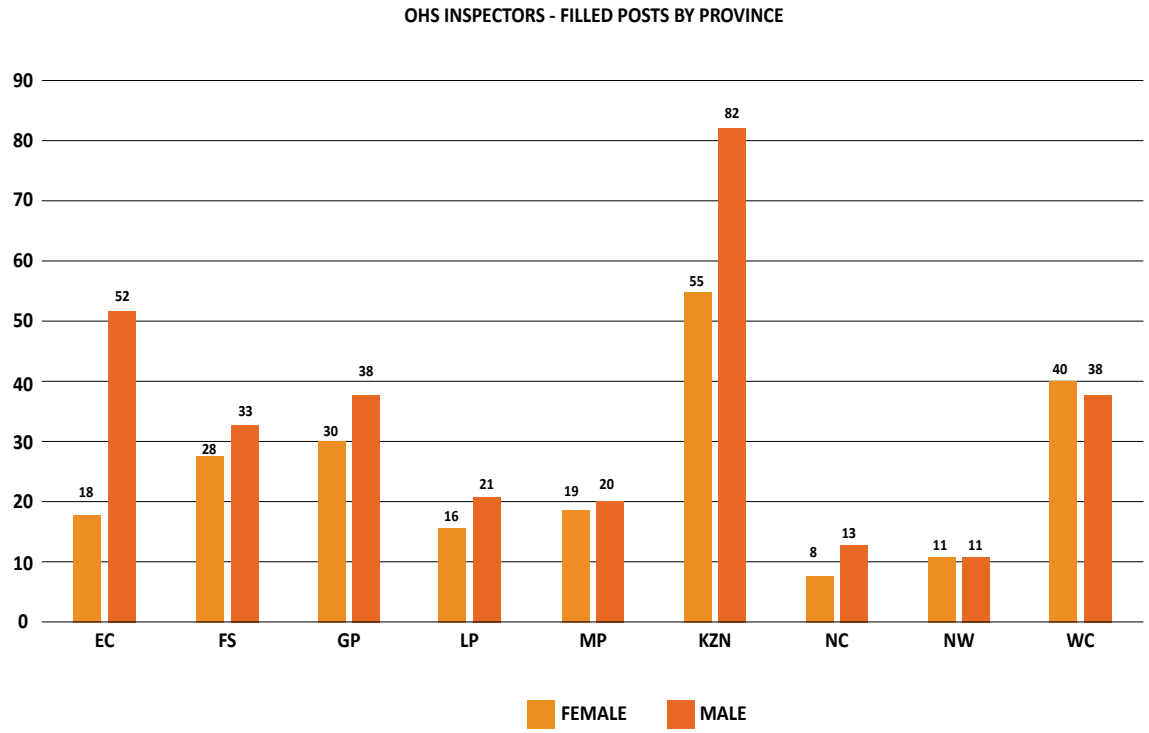


Figure 13.2. Number of OSH inspectors – filled and vacant posts.

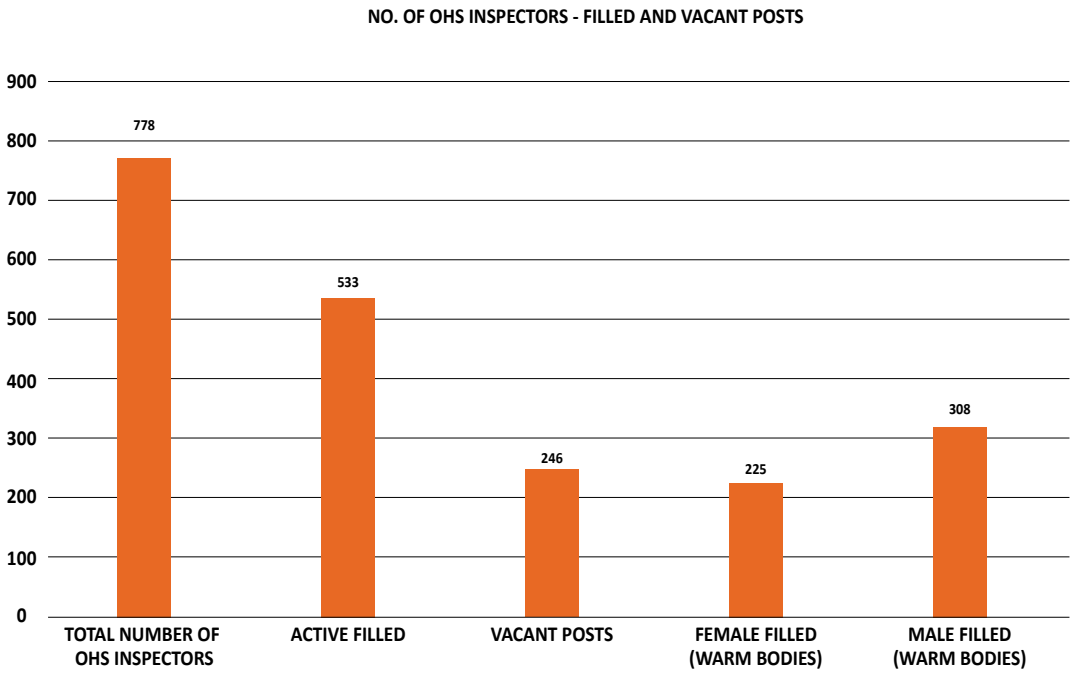


Table 13.3 Inspectors of Department of Mineral Resources and Energy.

Region	Male	Female
Eastern Cape Province	**3**	**0**
KwaZulu Natal	9	0
Limpopo	10	6
Western Cape	4	1
Northern Cape	5	0
North West	8	1
Mpumalanga	12	7
Free State	11	1
Rustenburg	14	3
Gauteng	23	4
Total gender breakdown	99	23
Total	**122**	

SAPS Inspectors in terms of the Explosive Act

Table 13.4 Inspectors of Department of Safety and Security by province and by gender.

Staff categories (Inspectorate)	Number of staff		
	Male	Female	Total
Chief Inspector of Explosives	1	0	1
Inspectors of explosives	11	7	18
Gauteng	37	6	43
Eastern Cape Province	18	8	26
KwaZulu Natal	31	8	39
Limpopo	13	8	21
Western Cape	19	2	21
Northern Cape	15	5	20
North West	19	4	23
Mpumalanga	12	5	17
Free State	10	4	14
Total inspectors of explosives	**186**	**57**	**243**

13.3 Gender Differences

The information available is not complete and not fully categorised by gender. However, one can cautiously reflect on the information that has gender categories. Despite the incomplete categorisation of data, excluding fire and gas technicians, who are predominantly men and the nursing professionals, who are predominantly women; what emerges is that men are over represented amongst OSH practitioners. There are basically 2 professional groups where women significantly outnumber men and these are the Ergonomics and Employee Assistance Professionals; where women are 59% and 76% respectively. Amongst the Inspectors for: DMRE, Explosives and DEL the percentage of women is 18%, 23% and 42% respectively.

It is worth noting that with the Occupational Hygiene professionals, although the total number of women for all different categories is about the same number as that of men, it is evident that women are in the lower skills category. There are more women than men who are in Occupational Hygiene Assistants and student categories, than then amongst Technologists and amongst Certified Hygienists in particular, men far outnumber women. This consequently has a bearing on their level of income. A similar pattern is observed with the OSH Professionals under SAIOSH. The gender difference at diploma level is not great, but at graduate level, there are only 2 females as opposed to 41 men; which is only 4,88% of the graduates in this group of practitioners are women. Amongst Construction Professionals, the few women are in lower levels.

However, there are indications of noteworthy trends that may change the current situation. For example, amongst Ergonomics, Employee Assistance and Environmental Health Professionals women significantly outnumber men. Furthermore, amongst the Occupational Hygiene students women outnumber men at a ratio of 3:2. The high proportion of women enrolling for the Legal Knowledge course, up to 4:1, is noteworthy. It can be expected that in a few years there will be more women graduating as Technologists and Hygienists. This observation is supported by the number of registered candidates for Occupational Hygiene training at the institutions that provided data.

The total number of OSH professionals in South Africa has to be viewed in relation to the working population of 14,15 million. Whilst this number is likely to be an underestimate, it is likely to be close to the real figure; considering that those professionals active in the field keep their registration active with the respective associations.

14. POLICIES, PROGRAMS OF EMPLOYERS AND WORKERS' ORGANISATIONS

"Every worker has a right to access occupational health and safety services, irrespective of the sector of the economy, size of the company, or type of the assignment and occupation."

WHO Global Strategy on Occupational Health for All: The Way to Health at Work

WHO, 1995

Employers' Organisations

Employer organisations have affiliate member companies that they normally assist and guide in terms of OSH programs. The employer organisations also have their own OSH policies and assist member companies where they need guidance on the development of OSH programs. For example, Business Unity South Africa (BUSA) provides guidance to its member companies. However, the OSH policy statements of the employer organisations do not mention issues of gender equality. The member companies may have gender equality programs and targets but they are not part of the OSH program or policy. Employer organisations have OSH units that are staffed with OSH specialists or advisors. The members of these units play a critical role in empowering and training member companies on specialist areas of OSH. OSH issues have not been prominent on the collective bargaining agreements. This has been reduced to mainly personal protective issues. Large employer organisations are represented through their mother employer organisation at NEDLAC.

Worker organisations

Worker organisations are trade unions that represent their members at bargaining tripartite structures. Similar to employer organisations, they have well developed OSH policies. They also belong to a federation, who normally support them and represent them at NEDLAC. They are organised by sectors and regions. Their OSH units empower and train their members at enterprise level, the shop stewards and make them aware of the developments in OSH. They have different committees such as the social policy committee and the health and safety committee. Their OSH policy statements do not mention gender equality. However, they have gender equality as part of other programs, and they include such issues in their constitution.

Associations of Informal Economy Workers or units

According to the World Health Organization's 'Health for All" principles and the ILO conventions on Occupational Safety and Health (C 155) and Occupational Health Services (C 161), every worker has a right to access to OSH services, irrespective of the sector, size of the company, or type of the assignment and occupation. It is therefore, important that the structures, including policy and legislation cover the OSH of workers in the informal economy. It is worth noting that organisations of workers in this economy have taken up initiatives to guard their interest, including OSH.

Informal work is commonly defined as work that is without legal or social protection, including provisions for environmental and OSH (Lund & Naidoo, 2016). About 30% of total employment in South Africa is in the informal economy. In addition, almost 24% of employment in the 8 major metropolitan areas is in the informal economy (WIEGO, February 2019). There are 2,92 million people employed in the informal (non-agriculture) sector and 1,32 million people employed in private households. This amounts to 25.85% of the employed population. This working population in SA is not adequately covered by OSH, social protection measures or schemes such as workmen's compensation and medical aid. Domestic workers are now covered by the Unemployment Insurance Fund (UIF) but the level of compliance with the UIF Act in the domestic sector is unknown and is likely to be poor. Associations of informal economy workers are organized according to sectors. They are organised at national level under the South African Traders Association. They do not have OSH policies. As shown in table 14.1, they mainly rely on external organisations to train them and empower them on OSH. Organisations such as StreetNet and WIEGO play a critical role in empowering the associations of informal economy workers on numerous aspects, including OSH. They are currently represented at NEDLAC through the community constituency.

The support these organisations have given to members is noteworthy with COVID-19. StreetNet International made available to their members the COVID-19 Health Guidelines for Informal Traders, which were jointly developed with the Women in Informal Employment: Globalizing & Organizing (WIEGO).

Table 14.1. Table of Stakeholders and the OSH Policy and Programmes.

Stakeholder	Existence of OSH policy	Gender equality	Structure for policy implementation (OSH Unit, OSH Committee)	Program including capacity building to members	OSH elements in the collective bargaining	Participation in the national tripartite dialogue
Employers' Organisations	Have OSH policy	No mention of gender in the policy	Have Safety Health Environment Risk and Quality departments	Training units and members of the OSH team provide training to members.	Currently restricted to minimal basic issues	Participate in all tripartite and bipartite structures
Workers' Organisations	Has OSH policy	No mention of gender in the policy	Have OSH departments. In some instances, part of social policy units	Training units and members of the OSH team provide training to members.	Currently restricted o minimal basic issues	Participate in all tripartite and bipartite structures
Associations of Informal Economy Workers or units	Generally, do not have OSH policy	N/A	Relies on external Organisations to capacitate members	Reliant on international Organisations such as WIEGO and SreetNet	Not part of collective bargaining	Very minimal involvement and mainly only at NEDLAC, through SAITA. Participation is increasing through assistance from international Organisations such as WIEGO and SreetNet

15. REGULAR AND ONGOING ACTIVITIES RELATED TO OSH

National Level Initiatives

The Department of Employment and Labour (DEL) Compensation Fund Consultation have plans and a program to conduct outreach sessions with provinces. These outreach sessions are advocacy and information sharing sessions around the country targeting employers, employees and organised labour. There is a set target of the number of sessions to conduct per quarter and information sessions are conducted right through the year. The Compensation Fund also conducted information sharing sessions on the new assessment model and Public hearings on COID amendment Bill. The Fund also receives and attends to requests to share information from various organisations.

Activities by the Department of Employment and Labour (DEL)

The DEL conducts workshops and seminars generally every year with stakeholders including the employers, insurers, universities, other government departments and professional bodies. DEL also participates in the conferences organised by these stakeholders. Examples include:

- Workshops on Draft Asbestos Abatement Regulations in March & April 2018;
- Workshops on the Draft Regulations for Hazardous Chemical Agents during October and November 2019.
- Ergonomics workshops in 2015, 4 in 2017 (as part of the public comment phase of drafting the regulation), 2 in 2020 (for the launch of the regulations). 2020 workshops were attended by 400 delegates
- Occupational Health and Hygiene (OHH) strategic planning workshop in November 2018, attended by stakeholders of the Directorate: OHH (SAIOH, ESSA, RMA, FEMA, CF, Inspectorate and universities)
- Two Diving workshops in 2020 to inform the stakeholders about the draft commercial diving regulations as part of the public comment phase.
- Virtual meetings attended to present the draft Hazardous Biological Agents regulations to stakeholders as part of the public comment phase.

Activities in the Mining Industry

The national initiatives at the mines include:

- The National Day of Health and Safety in Mining was spearheaded by the Minerals Council South Africa and launched in 2018. It is celebrated yearly and aims to demonstrate and support the mining industry's recommitment to the shared imperative of Zero Harm, under the Khumbul'ekhaya strategy.
- World Day for Safety and Health at Work, which is an international campaign to promote safe, healthy, and decent work. This day is also celebrated by the ILO to stress the prevention of accidents and illnesses at work and capitalize on the strengths of tripartism and social dialogue. In addition, the 28th of April is celebrated by the world's trade union movement to commemorate victims of occupational accidents and disease.
- World TB Day is celebrated yearly by the mining industry.
- Silicosis Awareness Campaign by the Minerals Council South Africa
- Masoyise Health Programme for the mining industry is a multi-stakeholder initiative with representatives of: Minerals Council; trade unions; government Departments (DoH) & DMRE; NIOH; UNAIDS; ILO; and WHO. It was launched in 2018 as a 3-year health programme to run up to 2021. It focuses beyond TB and HIV and incorporates non-communicable and occupational lung diseases. It follows on its precursor the Masoyise iTB (Lets Beat TB)
- The Southern African Institute of Mining and Metallurgy (SAIMM) organises an annual conference called the International Mine Health and Safety Conference This is an annual event, and the main participants represent different stakeholders from SA.

16. INTERNATIONAL COOPERATION

There are a few international cooperation initiatives mainly with International governmental organisations. These include the cooperation with the International Atomic Energy Agency (IAEA) and the cooperation with the Swedish Chemicals Agency. South Africa ratified the Convention on Nuclear Safety (CNS) in 1996, and its obligations commenced on 24 March 1997. The IAEA cooperation covers agreements on privileges, protection, safety with regard to nuclear material as well as the conventions related to nuclear accidents, where the agency must be notified as soon as possible should a nuclear accident occur.

The agreement with the Swedish Agency KEMI is on implementation of the Globally Harmonised System (GHS) for Classification and Labelling of hazardous substances. The cooperation covers amongst others, capacity building in relation to comprehensive chemicals legislation. This cooperation enhances collaboration amongst government departments such as the Department of Environment, Forestry and Fisheries (DEFF), DEL, Department of Agriculture, and Land Reform and Rural Development (DALRRD). Through the cooperation, there has been training for OSH inspectors. Tale 16.1 shows some of the international Organisations that have cooperation agreements with SA.

Table 16.1. International cooperation with international agencies.

Name of organisation	Programme or project name	Level of resources	Contact information
United Nations Agencies such as the ILO	There are various programs	Capacity building and financial support	www.un.org
World Bank	Occupational lung disease outreach	Initial investments and analytical work towards a comprehensive and integrated occupational health services for ex-mineworkers in southern Africa Funding of work on tuberculosis and other occupational lung diseases.	Dr Barry Kistnasamy https://www.oldcollab.co.za/resources/working-group-statements/2018/85-world-bank-president-dr-jim-yong-kim-visits-occupational-lung-disease-outreach
	Southern African TB and Health Systems Support. Training of inspectors	South Africa participates by giving support in terms of labour, mines, NIOH, MBOD, SAIOH. Training of OSH professionals, such as doctors, occupational hygienists. Clinical part (looks at the public health clinical health issues) and prevention part of it (done by NEPAD, including buying equipment). Center of excellence in Zambia in the process of being set up.	Partnership between the World Bank and AUDA-NEPAD. www.satbhss.org
Global Fund	TB in the Mining Sector in Southern Africa (TIMS)	There were two phases (TIMS 1 and 2). TIMS 2 is finishing in December 2020. Then we move to TIMS 3 in 2021 to 2023. Global fund provides funds to the region. The funds ae used to address various issues of OSH. Support includes training of inspectors, development of policies and programs	AUDA-NEPAD. SADC secretariate to take over. www.timssa.co.za
World Bank, SADC, Global Fund	Stop TB Partnership	Advocacy, policy development and support	http://www.stoptb.org/getinvolved/resmob/tbmining.asp
NEPAD	Primary Health Care Systems Strengthening. Part of DoH	To strengthen OSH side of primary health care. Renovation of Clinics, train nurses (to provide OSH services) in rural and underdeveloped areas. Revamping technology, including equipment, putting up systems to ensure the primary health clinics include OSH. Includes providing equipment that can be used for both OSH and primary health. Malawi, Ethopia, Niger, Uganda, Tanzania. South Africa is providing support.	www.nepad.org
International Atomic Energy Agency (IAEA)-	Multilateral agreements: for example on the privileges and immunities if the IAEA and physical protection of nuclear material	Facilitates the establishment of international conventions on nuclear safety.	
The Swedish Chemicals Agency (KEMI)	National chemicals management awareness strategy	Initially 50 000 USD Revised budget due to COVID-19: 30 000 USD	https://chemicalwatch.com/84438/swedens-international-chemicals-programme-targets-countries-in-africa-asia
International Diving Regulatory and Certification Forum (IDRCF).	Commercial Diving Regulation and Certification		
ILO	National Program on Elimination of Silicosis		Department of DEL- CI

17. PROMOTION OF ELIMINATION PROGRAMMES

a. Elimination of hazardous child labour

South Africa has operationalised ILO Convention 182, Worst Forms of Child Labour, 1999, and ILO Convention 138 – Minimum Age Convention 1973, by embedding children's rights in the Constitution (Section 28 (1)(e) and Section 28 (1)(f); in the Children's Act, Act 38 of 2005; in Sections 43(1), 43(2), and Subclause 44(2) of the BCEA, as amended; and the Sub-clauses 25(1) and 25(2) of Part F Sectoral Determination 13. In addition, Farm Worker Sector and Paragraph 15 of the Guidelines requires an employer to verify the age of an employee from the identity document or birth certificate.

Section 31(1) of the South African Schools Act, Act 84 of 1996 stipulates that a learner must attend school until the last school day of the year in which he/she reaches the age of 15 or grade nine, whichever is first. In terms of the LRA, employers are not allowed to employ children below the age of 15 years. South Africa embarked on the National Child Labour Programme of Action, Phase IV (2017–2021. The programme promotes government activities by outlining the mandate of each agency to combat child labour. It provides a referral mechanism through which SAPS informs DEL of suspected child labour cases. The main agencies that are part of the program are DEL, Basic Education, Justice and Constitutional Development, Social Development, Water and Sanitation, SAPS, the National Prosecuting Authority; and Statistics SA.

There is also the Prevention and Combating of Trafficking in Persons National Policy Framework. This policy outlines the development of new procedures and training programs for police and labour inspectors on human trafficking for labour exploitation. With effect from 16 August 2004, no person may employ a child in advertising, artistic and cultural activities, except in terms of a permit granted in terms of this Determination. Section 43 of the BCEA prohibits employment of children under the age of 15 years, unless granted permission by the Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities. This Determination applies to the employment of children under 15 years of age in the performance of advertising, artistic and cultural activities. An employer that has been granted such a permission must comply with this Determination.

b. Elimination of silicosis and asbestosis diseases

- Participation in the Global Program on Elimination of Silicosis
- National chemicals management awareness strategy (Multistakeholder Committee on Chemicals Management)
- National Strategy for elimination of asbestos risk in South Africa

One of the MHSC milestones in the SAMI is elimination silicosis. The MHSC aims that by December 2024, 95% of all exposure measurement results should be below the milestone level of respirable crystalline silica of 0.05% mg/m^3. Using present diagnostic techniques, no new cases of silicosis will occur amongst previously unexposed individuals (that is new people entering mining industry in 2009).

South Africa aligns its programs with the global instruments, which are UN high level global instruments, such as the Sustainable Development Goals (SDGs), General Practice Extraction Services (GPES), Global strategy to Stop TB, and the universal health coverage. Some of these programs such as the SDGs have been adopted by the Africa Union Commission and incorporated into Africa's Agenda 2063, for the *"Africa We Want*." South Africa has also implemented is the Mining Protocol, which is a political declaration to end TB in the SAMI. South Africa is also part of the SADC TB Code of Conduct, which is the SADC declaration in the mining sector - to deal with determinants of TB (i.e, mining).

c. Elimination of violence and sexual harassment at work

In line with ILO Convention 190, a Code of Good Practice on the Prevention and Elimination of Violence and Harassment in the workplace, is out for public commen.

d. Elimination of Persistent Organic Pollutants (POPs)

The Dept of Environment, Fisheries and Forestry (DEFF) and DEL have a Multi-stakeholder Committee on Chemicals Management (MCCM). As part of the DEFF's commitment to the Stockholm Convention on Persistent Organic Pollutants (POPs), South Africa keeps and regularly updates a national inventory of the POPs.

e. Elimination of drug abuse.

The fourth South African National Drug Master Plan (2018-2022) was developed by the Central Drug Authority. It is South Africa's strategy to fight against drugs abuse. Various government departments, at national and provincial level contribute and play a role in the fight against the substance abuse.

f. Promotion of work-related welfare facilities

The Facilities Regulations GNR 924 promulgated under the OHSA, require employers to provide and maintain facilities in a clean, hygienic, safe, whole and leak-free condition and in a good state of repair. The facilities include sanitation, facilities for safekeeping personal items, change-rooms, dining-rooms, drinking water and seats.

g. Promotion of well-being programmes including healthy lifestyles and stress prevention

Employee Health and Wellness Strategic Framework for the Public Service was developed in 2008 and reviewed in 2012. It encompasses issues of HIV and AIDS, sexually transmitted infections (STI) and TB, chronic diseases and occupational injuries and diseases, environmental and quality management in the public service. Private companies have wellness assistance programs that are integral to their health and wellness promotion.

The Employee Assistance Professionals Association of South Africa (EAPA-SA) promotes the interest of the wellness professionals. It promotes wellness by hosting professional Eduweek events, manages the standards and ethics. It also offers training and other resources to fulfil its mission.

h. Application of programmes to combat HIV and TB at the workplace.

The Masoyise Health Program approved in November 2018 by the Minerals Council South Africa Board has vision: "A mining industry that protects and maximises the health and wellness of its employees". Its goal is "To reduce the impact of TB, HIV, occupational lung diseases and noncommunicable diseases as occupational health threats in the mining sector".

South Africa participated the first ever United Nations High Level meeting of Heads of State, to discuss Tuberculosis, on 26 September 2018 in New York. This was part of the Stop TB Partnership Board Campaign and endorsed global commitment, including, the drive to end TB. SA is expected to contribute R1 million towards the drive to find 40 million TB infected persons by 2022 globally. (DoH Annual report, 2018/2019).

South Africa is part of the South African Development Community (SADC) Health Protocol, which was drafted in the terms of the SADC Treaty.

It was accepted by Member States in February 1999 and submitted to the Council of Ministers in August 1999. The objective the Protocol is to promote cooperation and harmonisation among SADC Member States on health-related matters. It includes provisions for the

promotion of health education, development of information systems and measures for treatment of HIV/AIDS (Parliamentary Monitoring Group meeting report, 27 October 1999). The SADC Health Protocol entered into force in August 2004 (Sexual and Reproductive Health Strategy for the SADC Region, November 2008). It is cornerstone for health development in the SADC region (Penfold, 2015).

One of the MHSC milestones is the reduction and prevention of TB, HIV and AIDS. Through this milestone, the MHSC aims that by December 2024, TB incidence rate should be at or below the National TB incidence rate. In addition, 100% of employees should be offered HIV Counselling and Testing (HCT) annually, with all eligible employees linked to an antiretroviral therapy (ART) programme as per the national strategic plan. As part of advocacy, awareness creation, and education about the impact of TB South Africa celebrates the annual World TB day.

i. Promotion of programmes on gender equality, maternity protection and tackling violence and harassment in the world of work.

South Africa has an annual campaign against gender-based violence. The campaign is mobilized under the banner of 16 days of activism against gender-based violence. The BCEA and specific Sectoral Determinations have made provisions for social protection of genders, and women in particular. On 1 and 2 November 2018, there was a Presidential Summit Against Gender-Based Violence and Femicide (GBVF). Subsequent to that, the Cabinet established an Inter-Ministerial Committee to undertake work relating to the institutional arrangements and coordination to ensure the effective implementation of the National Strategic Plan (NSP) on GBVF, 2020-2030. The Inter-Ministerial Committee aims to fast-track the establishment of a National Council on GBVF to eradicate Gender-Based Violence and Femicide. http://www.women.gov.za and http://www.gbvf.org.za.

j. Programme for application of Globally Harmonised System (GHS) for classification and labelling of chemicals and Chemical Safety Data Sheet

South Africa is benefitting from a Strategic Cooperation in Chemicals Management (Chemical safety) agreement with KEMI. (see section on international cooperation) The SABS has developed a standard on Classification and Labelling - SANS 10234-2008-A: List of classification and labelling of chemicals in accordance with the Globally Harmonised System (GHS). The Supplement to SANS 10234 List of GHS classification and labelling of chemicals consists of an alphabetical list of chemicals classified in accordance with the GHS and a numerical list of the reclassified chemicals in accordance with the Chemical Abstracts Service (CAS) Registry number. In addition, there is a Safety Data Sheets standard, SANS 11014:2010 for chemical products. The Regulations for Hazardous Chemical Substances are under review. Part of the review is to align these regulations with the GHS classification and labelling of chemicals and Chemical Safety Data Sheet.

k. Support mechanisms for progressive improvement of OSH conditions especially for hazardous sectors or agents, including COVID-19:

l. Agricultural sector

The DEL has created a brochure that is targeting the agriculture workplaces. The brochure provides information and guidance on health hazards and risks in the sector as well as information on OSH in agriculture. The DEL has issued a BCEA Sectoral Determination 13: Farm Worker Sector, which emphasizes the rights of farm workers and issues of gender and social protection, such as maternity leave and working time.

ii. Construction sector

The Construction Regulations target the construction sector and provide detailed information on the OSH programs that the sector needs to put in place to minimize illnesses and injuries and improve health and safety. In addition, as part of the program of elimination of silicosis by 2030, companies that potentially expose employees to silica must annually report the results of employee exposure to silica to DEL.

iii. Chemicals

The Regulations for Hazardous Chemical Substances target control of employee exposure to hazardous chemicals. The regulations apply to all industries where there could be exposure to chemicals. The Major Hazard Installation Regulations also target facilities that have major hazard installation on site.

iv. SMEs,

According to the White Paper on the Transformation for the Transformation of Health Systems in South Africa: Towards a National Health System, published by the Department of Health, in General Notice 667 of 1997 https://www.gov.za/sites/default/files/gcis_document/201409/17910gen6670.pdf. The provincial health departments have a role in the provision of occupational health services to small and medium-sized enterprises, the public and informal sectors.

v. The informal economy

R204 - Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). A task team has been set up to initiate recommendations on the practical measures that government must take to meet its obligations in terms of this Recommendations.

vi.

The Minerals Council South Africa has useful information and resources dedicated to improving OSH in mining. https://www.mineralscouncil.org.za/work/health-and-safety

The MHSC, through its committees, has dedicated resources towards improving OSH in mining. The initiatives include research projects that are aimed at improving health and safety in the South African Mining Industry

https://www.mhsc.org.za/research/research-projects

vii. Health

The National DoH has a guideline entitled: "OH Services for Health Care Workers in the National Health Service of South Africa A Guideline Booklet". In May 2003, the Department of Health produced a booklet that is proposals for the development and implementation of occupational health services for the health care workers. Although this is a national document, this document can be assessed at: http://www.kznhealth.gov.za/occhealth/OHmanual.pdf

viii. Food and Retail

"Hospitality: A Guide to Health and Safety" is a DEL guide to the hospitality industry aimed to improve safety and health in this industry.

ix. Education

The Department of Basic Education initiated a program to phase out and eliminate asbestos in school buildings by 2023. The program identified all schools in the country that have asbestos and identified those that should be prioritised.

x. Manufacturing

There is a program that is focused on reduction of incidents and injuries in the iron and steel sector is driven by the DEL.

xi. Public sector including government departments

The Office of Health Standards Compliance was set up to focus on compliance to standards, including health and safety, in the public and private health care sector.

18. PREVALENCE AND RESPONSE TO COVID-19

18.1 Summary on Extent of COVID-19 and Specific Sectors

South Africa responded swiftly to the outbreak of COVID-19. The country declared a national state of disaster due to COVID-19 on the 15th of March 2020. The state of disaster was declared in terms of the Disaster Management Act (DMA). Subsequently, several restrictions were introduced with the objective to curb the spread and transmission of COVID-19. However, the cases of COVID-19 continued to increase significantly. On 25th March 2020, the Minerals Council Board adopted the standard operating procedure (SOP) for addressing cases of COVID-19, in a bid to advise its members on how to manage the unfolding epidemic.

On the 26th March 2020, SA declared a complete or hard lockdown, which was planned to last until the 16th of April 2020. However, due to the increase in the number of cases the complete lock down had to be extended. The Department of Health has published a website www.sacoronavirus.co.za which is regularly updated with latest COVID-19 information and figures. This site is South Africa's official COVID-19 online news and information portal. Table 18.1 below shows the number of COVID-19 cases and tests conducted as on the 4th of November 2020.

Table 18.1. Prevalence of COVID-19 in South Africa.

Tests conducted	Positive cases identified	Recoveries	Deaths
4,868,610	728,836	529,259	19,539

Sector	Total tested	Percentage	New tested	Percentage
PRIVATE	2 800 843	58%	11 288	72%
PUBLIC	2 067 767	42%	4 404	28%
Total	**4 4868 610**	**100%**	**15 692**	**100%**

Source: https://sacoronavirus.co.za

Information Sharing on COVID-19

AUDA-NEPAD together with ILO initiated webinars to train and empower various stakeholders during lockdown and in preparation for safe opening of workplaces. Government departments embarked on massive awareness campaigns on the pandemic and intervention measures. The DoH used different platforms and communication channels, which included Radio, TV, websites, and WhatsApp chat group. A number of big corporates and other institutions followed suite and held webinars, distributed pamphlets.

The Role of NIOH During COVID-19

The NIOH played a critical role in disseminating credible information and holding training sessions for OSH Practitioners, trade unions, and Employers. The NIOH, as the designated centre for collection of data on workplace transmitted COVID-19 infections, continues to support professionals and employers on COVID-19 related matters. It is the designated centre for collection of data on workplace transmitted COVID-19 infections. NIOH has classified its information sharing into 3 different categories as outlined below.

Occupational health category 1: COVID-19 Online Zoom Webinars (09 March to 29 October 2020), 58 webinars and 35 552 participants. The training targeted and empowered various stakeholders, such as OSH professionals and specialists, government officials, education officials and teaching staff, employers and management, frontline healthcare workers, and employees in general. Some of the training webinars were sector specific. They covered various OSH and COVID-19 topics.

Occupational health category 2: COVID-19 Online Informational Fact Sheet, Posters, Infographics, and OccuZone Newsletters. NIOH has developed several factsheets and transformed some of them into posters and infographics and made them available in the NIOH website. These have been welcomed by stakeholders, who, during interviews, indicated appreciation for them. NIOH utilised several platforms to get through to various stakeholders. The platforms included Twitter, YouTube and its website, which has been zero-rated by Vodacom, Telkom, MTN, Rain, MWeb & Internet Solutions. As a result, no data charges are applied for users of these mobile network providers. Through these factsheets, NIOH has created awareness on its training sessions, educational videos and audio, as well as presentations and posters.

Occupational health category 3: Online Informational Videos on the NIOH's Twitter handle and the website, link https://www.nioh.ac.za/educational-video-resources/. The videos cover various topics such as: What employers need to know about risk assessment, Who should be wearing medical N95 respirators during the Covid-19 pandemic, and Steps employers can take when a worker is symptomatic or tests positive for Covid-19 at work.

Sector specific guidelines and notices.

Various sectors issued sector specific guidelines for different sectors to operate safely during different levels of alert level lockdown. These include the Marine Notice No. 46 of 2020 Conduct of Eyesight Tests during the COVID-19 Lockdown and the SAMSA notice to all Seafarers, SAMSA Examiners and Ship Operators on the 16th of September 2020. The aim of the notice was to provide for the conduct of Seafarers' Eyesight Examinations to be conducted by Optometrists or Ophthalmologists registered with the Health Professions Council of South Africa (HPCSA).

Workplace Acquired COVID-19 Compensation Claims

Workplace acquired COVID-19 is compensable. There needs to be a full report that points to exposure to a confirmed or suspected case at the workplace and the chronological sequence of events should support the claim of a workplace acquired infection. The data on COVID-19 claims received are discussed under compensation in this report.

18.2 National and Sector Specific Responses to COVID-19 in Workplace.

In response to the lockdown, and in line with government's call for social solidarity, the DEL repurposed the Unemployment Insurance Fund (UIF) to provide income support to temporarily laid-off workers (and their families). The 2020/2021 budget vote as delivered on the 21st of July 2020, shows that R34 billion in benefits had been distributed through employers in 7.4 million payments to recipients. This was in line with the commitment to provide income support for three months. In addition, R4 billion was disbursed in normal UIF benefits in 677,000 payments to beneficiaries.

Through NEDLAC, the DEL, business and labour were to disburse bulk COVID-19 benefits via employers and bargaining councils. The NEDLAC's COVID Rapid Response Unit played a key leadership role during the pandemic. For example, it contributed to the development of directions and regulations in all fields, including health and safety, transport and social development. It also contributed to the sourcing of personal protective equipment and medical equipment.

On the 30th of July 2020, the Minister of Employment and Labour issued a directive on compensation for workplace acquired COVID-19, Department of Employment and Labour Notice 387 of 2020, Government Gazette No. 43540. This directive was issued under the COIDA. (see earlier discussion on the compensation section). The directive classified occupations according to risk categories: very high exposure risk occupations, high exposure risk occupations, medium risk exposure risk occupations, and low exposure risk occupations. However, the directive stipulates that all employees, regardless of occupations, are entitled to make a claim for compensation in the event that they contract COVID-19 at the workplace. Under this directive, the benefit includes temporary total disablement, permanent disablement, medical aid, and death benefit. The DEL also issued various guidelines for various sectors. The most recent Direction is the Consolidated Directions on Occupational Health and Safety Measures in Certain Workplaces. This Direction was issued on the 28th of September 2020.

19. GENERAL COUNTRY DATA

19.1 Demographic Data

The 2020 mid-year population of South Africa is estimated to be 59,62 million (STATS-SA, mid-year estimates). Females account for 30,5 million (51,1%) of the population and 49,9% is male. Table 19.1 shows the population disaggregated by provinces. Life expectancy at birth for 2020 is estimated at 62,5 years for males and 68,5 years for females. The infant mortality rate for 2020 is estimated at 23,6 per 1 000 live births. The estimated overall HIV prevalence rate is about 13,0%. The total number of people living with HIV is estimated at approximately 7,8 million in 2020. The prevalence of HIV amongst the adults aged 15–49 years is about 18,7% of the population.

Table 19.1. Total population in South Africa and in 3 provinces.

Total Population mid-year 2020 estimates		59,62 million
	51,1% (30,5 million)	48,9%
Population by province and age group		
In Gauteng	15,5 million (26,0%)	
In KwaZulu-Natal	11,5 million (19,3%)	
Northern Cape	1,29 million (2,2%)	
Other provinces	31,30 million (52,5%)	
Younger than 15 year	17,05 million (28,6%)	
Of those younger than 15 years of age, the majority reside in KwaZulu-Natal (21,8%) and Gauteng (21,4%)		
60 years or older	9,1% (5,4 million)	
Of the elderly (those aged 60 years and older), the highest percentage 24,1% (1,31 million) reside in Gauteng		

Source: STATSSA, Mid-year population estimates, media release, 9 July 2020.

Working Population

Table 19.2 shows the overall employment statistics Q1 and Q2, 20220. The total working age population (age 15 to 64) in Q2 is 39,021 million. According to the Quarterly Labour Force Survey (QLFS) – Q2: 2020, published on 28 September 2020, the official unemployment rate is South Africa is 23,3%, a decrease from the first quarter unemployment rate of 30,1%. In the second quarter of 2020 (Q2) the labour force is 18,4 million, a decrease of about 5 million from the 23,5 million in the 1st quarter.

Table 19.2 Overall employment statistics Q1 and Q2 20220.

Total Population mid-year 2020 estimates		Quarter 1 (Jan-Mar 2020)	Quarter 2 (Apr-Jun 2020)
Population 15–64 yrs		38 874	39 021
Men		19 249	19 325
Labour Force		23 452	18 443
Employed		16 383	14 148
	Formal sector (non-agricultural)	11 282	10 064
	Informal sector (non-agricultural)	2 921	2 280
	Agricultural	865	799
	Private Households	1 316	1 005
Unemployed		7 070	4 295
Not economically active		15 422	20 578
	Discouraged work-seekers	2 918	2 471
	Other (not economically active)	12 504	18 107
Rates (%)			
	Unemployment rate	30.1	23.3
	Employed/population ratio (absorption)	42,1	36,3
	Labour force participation rate	60,3	47,3

Source: STATSSA Quarterly Labour Force Survey, 28 September 2020.

The official number of employed population is 14,1 million, which is a decrease of about 2 million from 16,4 million in the 1st quarter (STATSSA QLFS, September 2020). As at the second quarter of 2020 there are 4,3 million unemployed people. Employment per formal and informal sector is outlined in table 19.3 below.

Employment by industry

According to Statistics South Africa, informal employment identifies persons who are in precarious employment situations, irrespective of whether or not the entity for which they work is in the formal or informal sector. Persons in informal employment, therefore, comprise all persons in the informal sector, employees in the formal sector, and persons working in private households who are not entitled to basic benefits such as pension or medical aid contributions from their employer, and who do not have a written contract of employment.

The informal sector has the following two components:

i) Employees working in establishments that employ fewer than five employees, who do not deduct income tax from their salaries/ wages; and

ii) Employers, own-account workers and persons helping unpaid in their household business who are not registered for income tax or value-added tax.

Table 19.3 Men and women by sector Q1 and Q2 2020.

	Quarter 1		Quarter 2	
Category	**Males**	**Females**	**Males**	**Females**
Population 15–64 yrs	**19 249**	**19 625**	**19 325**	**19 696**
Labour force	12 755	10 697	10 236	8 207
Employed	9 149	7 234	7 978	6 170
Formal sector (non-agricultural)	6 451	4 831	5 727	4 337
Informal sector (non-agricultural)	1 789	1 132	1 466	814
Agriculture	577	287	528	271
Private households	332	984	257	748
Unemployed	3 607	3 463	2 258	2 037
Not economically active	6 494	8 928	9 089	11 489
Discouraged work-seekers	1 351	1 567	1 194	1 276
Other (not economically active)	5 143	7 361	7 895	10 212
Unemployment rate	28.3	32.4	22.1	24.8
Employed population ratio (absorption)	47.5	36.9	41.3	31.3
Labour force participation rate	66.3	54.4	53.0	41.7

Table 19.4 shows young men workers (15 to 24 and 15 to 34 year old), who are not in in employment, education or training (NEET).

Quarter	**Quarter 1**		**Quarter 2**	
Age	**15 to 24 yrs**	**15 to 34 yrs**	**15 to 24 yrs**	**15 to 34 yrs**
Total Population (million)	**10 273**	**20 446**	**10 266**	**20 474**
%NEET	34,1%	41,7%	33.9	44.7
Females				
%NEET	35,9%	45,4%	35.0%	47.9%
Males				
%NEET	32,2%	38,1%	32.7	41.7%

The distribution of employed population by industry Q1 and Q2 is shown table 19.5 below. Table 19.6 and 19.7 respectively show women and men employed by sector in Q1 and Q2 of 2020.

Table 19.5 The employed population by sector in Q1 and Q2 of 2020.

	Apr-Jun 2019	Apr-Jun 2020	Year-on-year Percentage Change	
	Thousand	Thousand	Jan-Mar 2020	Apr-Jun 2020
Both sexes	16 313	14 148	-13,3	-13,3
Agriculture	842	799	-5,1	-5,1
Mining	381	373	-2,1	-2,1
Manufacturing	1 789	1 456	-4,2	-18,6
Utilities	151	113	-22,9	-25,4
Construction	1 363	1 066	0,3	-21,8
Trade	3 429	2 946	-0,7	-14,1

	Apr-Jun 2019	Apr-Jun 2020	Year-on-year Percentage Change	
	Thousand	Thousand	Jan-Mar 2020	Apr-Jun 2020
Transport	983	885	-2,9	-10,0
Finance	2 495	2 234	0,0	-10,5
Community and social services	3 622	3 244	5,2	-10,4
Private households	1 251	1 005	1,2	-19,7
Other	6	27	52,6	382,4

Table 19.6 Women employed by sector in Q1 and Q2 of 2020.

	Apr-Jun 2019	Apr-Jun 2020	Year-on-year Percentage Change	
	Thousand	Thousand	Jan-Mar 2020	Apr-Jun 2020
Women	7 133	6 170	0,6	-13,5
Agriculture	248	271	3,3	9,3
Mining	52	63	1,7	21,4
Manufacturing	577	517	-4,4	-10,4
Utilities	48	35	-14,8	-28,7
Construction	147	138	-5,6	-6,3
Trade	1 622	1 361	1,4	-16,1
Transport	175	174	-11,3	-0,6
Finance	1 016	894	0,1	-12,1
Community and social services	2 270	1 958	4,0	-13,7
Private households	974	748	-2,0	-23,2
Other	2	11	111,7	-382,2

Table 19.7 Men employed by sector in Q1 and Q2 of 2020.

	Apr-Jun 2019	Apr-Jun 2020	Year-on-year Percentage Change	
	Thousand	Thousand	Jan-Mar 2020	Apr-Jun 2020
Men	9 180	7 978	0,5	-13,3
Agriculture	594	528	3,3	-11,1
Mining	329	310	4,9	-5,8
Manufacturing	1 212	939	-4,1	-22,6
Utilities	103	78	-26,1	-23,8
Construction	1 216	939	1,1	-23,7
Trade	1 806	1 585	-2,5	-12,2
Transport	808	711	-0,9	-12,0
Finance	1 479	1 341	0,0	-9,3
Community and social services	1 352	1 286	7,1	-4,9
Private households	277	257	11,9	-7,3
Other	3	16	-53,1	349,2

Table 19.8 shows the breakdown of employed population by sector and gender.

Table 19.8 Workforce employed by sector in Q1 and Q2 of 2020.

Economic Sector	Labour Force Employed Per Sector		Year-on-year Percentage Change			
			Men		Women	
	Apr-Jun 2019	Apr-Jun 2020	Apr-Jun 2019	Apr-Jun 2020	Apr-Jun 2019	Apr-Jun 2020
Total	16 313	14 148	56,4	56,4	43,7	43,6
Agriculture	842	799	70,5	66,1	29,5	33,9
Mining	381	373	86,4	85,6	13,6	33,9
Manufacturing	1 789	1 456	67,7	64,5	32,3	35,5
Utilities	151	113	68,3	69,0	31,8	31,0

Economic Sector	Labour Force Employed Per Sector		Year-on-year Percentage Change			
			Men		Women	
	Apr-Jun 2019	Apr-Jun 2020	Apr-Jun 2019	Apr-Jun 2020	Apr-Jun 2019	Apr-Jun 2020
Construction	1 363	1 066	89,2	87,1	11,4	12,9
Trade	3 429	2 946	52,7	53,8	45,7	46,2
Transport	983	885	82,2	80,3	19,5	19,7
Finance	2 495	2 234	59,3	60,0	42,1	40,0
Community and social services	3 622	3 244	37,3	39,6	62,7	60,4
Private households	1 251	1 005	22,1	25,6	77,9	74,4
Other	6	27	50,0	59,3	50.0	40,7

Table 19.9 shows the elementary school level of ability to read and write in a national language. As of 2017, South Africa's total literacy rate was around 87.05 percent, which means about 87 percent of all South Africans could read and write.

Table19.9 Literacy rate on South Africa from 2012 to 2017

Year	Literacy Rate	Percentage Change
2017	87.05%	-7.32% from 2015
2015	94.37%	+0.23% from 2014
2014	94.14%	+0.41% from 2012
2012	93.73%	+0.63% from 2011

Source: Macrotrends.

Labour force with at least elementary school level and ability to read and write in national language.

Table 19.10 shows that about 5,9%% of the labour force either has less than primary education or no schooling at all. About 94,1% of the labour force has completed primary education and higher and therefore, has the ability to read and write.

Table 19.10 Labour force by literacy in Q1 and Q2 of 2020.

		Apr-Jun 2019	Apr-Jun 2020	Year-on-year Percentage Change
		Thousand	Jan-Mar 2020	Apr-Jun 2020
Labour force		22 968	18 443	-8,0
No schooling	Unemployed	80	36	-55,0
	Employed	295	165	-43,9
	Total	375	201	-46,4
Less than primary completed	Unemployed	353	205	-41,9
	Employed	961	685	-28,7
	Total	1 314	890	-32,3
Primary completed	Unemployed	270	163	-39,6
	Employed	624	479	-23,2
	Total	894	642	-28,2
Secondary not completed	Unemployed	3 102	1 879	-39,4
	Employed	5 361	4 443	-17,1
	Total	8 463	6 322	-25,3
Secondary completed	Unemployed	2 224	1 561	-29,8
	Employed	5 347	4 846	-9,4
	Total	7 571	6 408	-15,4
Tertiary	Unemployed	596	415	-30,4
	Employed	3 531	3 390	-3,5
	Total	4 127	3 805	-7,8
Other	Unemployed	30	35	-16,7
	Employed	214	139	-35,0
	Total	244	174	-28,7

20. ECONOMIC DATA

"A high standard of occupational health and safety correlates positively with a high GNP per capita. The countries investing most in occupational health and safety show the highest productivity and strongest economy, while the countries with the lowest investment has the lowest productivity and the weakest economies",

World Health Organization Global Strategy on Occupational Health for all.

20.1 Gross Domestic Product

The South African economy is divided into the primary, secondary, and tertiary economic sectors indicated in table 201.1 below.

Table 20.1 Division of the economy by Primary, Secondary and Tertiary Sectors.

Primary economic sectors	Secondary economic sectors	Tertiary sectors
Agriculture, forestry and fishing industry	Manufacturing industry	Trade, catering and accommodation industry
Mining and quarrying industry	Electricity, gas and water industry	Transport, storage and communication industry
	Construction industry	Finance, real estate and business services
		General government services
		Personal services

The Gross Domestic Product (GDP) in South Africa has been on a downward trend since the year 2006 (World Bank). It reached a low level of -2.0% in 2009. Table 20.2 shows the GDP trend from the year 2014 to date. Poor economic growth and the negative economic outlook have negative implications for the ability of government to fight poverty, inequality, and unemployment.

Table 20.2 Table on the GDP and the and growth rate from 2014 to 2020.

Year	Gross Domestic Product at Market Price ('000000)a	Growth Rate % Year on Year at Market Price ('000000)a
2014	3 028 090	1,8
2015	3 064 237	1,2
2016	3 076 466	0,4
2017	3 119 983	1,4
2018	3 144 539	0,8
2019	3 149 337	0,2
2020 Quarter 1	3 129 488 (seasonally adjusted and annualised)	-1,8 (seasonally adjusted and annualised)
2020 Quarter 2	2 617 664 (seasonally adjusted and annualised)	-51,0 (seasonally adjusted and annualised)

Source: STASSA Statistical Release P0441 Gross Domestic Product Second Quarter 2020 (8th September 2020).

According to the STASSA Statistical Release P0441 the GDP of Second Quarter 2020 (8th September 2020), GDP in South Africa fell by just over 16% between the first and second quarters of 2020. This brought the GDP to 2 617 664 000 in the second quarter of 2020 from 3 129 488 000 in the first quarter of the same year. The second quarter fall is the biggest fall in GDP since 1960. This decline translates into an annualized growth rate of-51%. The largest negative contributors to growth in GDP in the second quarter were the manufacturing, trade and transport industries. The agriculture, forestry and fishing industry were the only positive contributors to GDP growth.

Annual Per Capita Income.

The seasonally adjusted and annualized GDP for South Africa during the second quarter of 2020 was R2,617 billion. At an estimated 2020 mid-year population of 59,62 million people, this translates to approximately 2 582 USD per capita. This is a significant drop from the 2019 GDP per capita of 6 001 USD, 6 374,03 USD in 2018 and a peak of 8 007 USD in 2011.

21. OTHER RELEVANT INFORMATION

Each of the national institutes as well as the authorities established under the respective legislation, that are responsible for the implementation of OSH produce annual reports. The most recent reports are for the financial year 2018/2019.

22. OTHER RELATED ISSUES

22.1 Policies that may Impact on OSH Development and Delivery Systems

South Africa has recently adopted the ILO Recommendation R204 - Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). A task team has been set up to start working on recommendations on the implementation of this Recommendation. This will mean that more workers will be covered by OSH, which will require more resources and adequate skills to deal with this economy.

The current National Health Insurance (NHI) Bill will have implications for the national social security. Its impact on the treatment of people are injured at work will unfold as it becomes implemented. In addition, the impact of the National Social Security Fund will become clearer with the implementation of the NHI.

22.2 OSH Issues on International Trade that may Impact on the Country

The recent COVID-19 outbreak and lockdown restrictions on travel to certain countries will have an impact on South Africa's international trade. The National Nuclear Regulator for Compulsory Specifications (NRCS), an agency of the Department of Trade and Industry, continuously monitors the socioeconomic impact of each legislation before it is passed.

23. SPECIALISED TECHNICAL, MEDICAL AND SCIENTIFIC INSTITUTIONS

23.1 Poison Centers

In South Africa there are only two national poison information centers (three are listed but the number does not go through). Both are in the Western Cape: the Red Cross Children's Hospital Poisons Information Centre (RCCHPIC) at pediatrics department of the University of Cape Town and the Tygerberg Poison Information Centre (TPIC) at Tygerberg Hospital. Their main focus is public health. The University of Cape Town and the University of Stellenbosch both use the Western Cape Poisons Telephone Service, 0861 555 777, which is a 24 hour telephone service. They are members of the WHO International Program on Chemical Safety Program.

23.2 Standardising Bodies

Standardising bodies, i.e., bodies that produce technical standards, or provide the expertise necessary to certify the conformity of machines, processes and other mechanisms with regulatory requirements concerning safety. Examples include certification of pressure vessels, electrical tools and machines and machine guarding equipment.

The three key institutions that play a critical role in the developing standards, promoting public health and safety, environmental protection and ensuring fair trade, and proving accreditation to conformity assessment bodies are the:

- South African Bureau of Standards,
- National Regulator for Compulsory Specifications, and the
- South African National Accreditation System. They are all entities of the department of Trade and Industry.

The South African Bureau of Standards (SABS)

SABS is an agency of the Department of Trade and Industry, responsible for developing voluntary standards. These standards formulate basic requirements and are guidelines for various needs of users. The standards include OSH standards, which the DEL may find it necessary to enforce.

Once the DEL expresses a need to enforce a particular standard, the standard goes to the National Regulator for Compulsory Specifications (NRCS), who initiates the process of developing requirements for that standard. NRCS was established in accordance with the National Regulator for Compulsory Specifications Act, Act 5 of 2008. The NRCS has a mandate to promote public health and safety, environmental protection and ensuring fair trade. The legal frameworks for NRCS is:

- The national Regulator for Compulsory Specifications Act, Act 5 of 2008.
- Legal Metrology Act, Act 9 of 2014.
- National Building Regulations and Building Standards Act, Act 103 of 1977.

The DEL has found it essential to enforce some of the OSH standards that the South African Bureau of Standards developed. As a result, the DEL has incorporated these standards, in terms of Section 44 of the OHSA. Once they are incorporated, the standards are of similar status as the regulations. The DEL has made provision for Approved Inspection Authorities (AIAs) that must perform some occupational health and safety inspections. Some of the AIAs must be accredited to prove their competence to perform the conformity assessments. In addition, legislation requires some AIAs to be SANS 17020 accredited. The AIAs include:

- Occupational hygiene
- Lift, Escalator and Passenger Conveyor Inspection
- Electrical Inspections
- Gas Test Stations (PER)
- Pressure Vessel Inspections (PER)
- Inspection of Fire Detection System and Sprinkler Systems
- Inspection of Steel Structures
- QRAs on Major Hazard Installations (MHI)
- Inspections Explosives Facilities
- Inspection of Xray Machines

The South African National Accreditation System

The South African National Accreditation System (SANAS) is the only body in the Republic of South Africa that is recognized by the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, Act 19 of 2006 (AACGLPA). The AACGLPA

gives authority to SANAS to formally recognise facilities that are competent to perform specific activities. The facilities include laboratories certification bodies, inspection bodies, proficiency testing scheme providers and good laboratory practice test facilities require in order to practice as Conformity Assessment Bodies. SANAS keeps a list of accredited facilities, which are regularly updated.

23.3 Institutions Specialised in Occupational Hazard and Risk Assessment

Approved Inspection Authorities that are accredited by SANAS and approved by the DEL, for workplace inspections. Approval is specific to specific occupational hazards. Specialised laboratories that are SANS 17025 accredited, conduct specialised analysis of occupational samples that are collected by AIAs. The laboratories are an important component of employee exposure monitoring in the workplace. Institutions and laboratories specialised in occupational hazard and risk assessment related to chemical safety, toxicology, epidemiology, product safety, etc. List designated and private bodies separately. The National Laboratory service is a network of government laboratories (NHLS). The NIOH is part of the NHLS and has specialised laboratories.

23.4 Emergency Preparedness, Warning and Response Services

Emergency preparedness, warning and response services, such as Civil Defense, Fire brigades, communicable disease epidemic and pandemics, chemical spill responders training to deal with major emergencies. There are 278 municipalities in South Africa, which include eight metropolitan, 44 district and 226 local municipalities. The municipalities have Municipal Disaster Management Centers (MDMCs) and Municipal Disaster Management Advisory Forums (MDMAFs). At the MDMAFs, there is active participation of all stakeholders, including the private sector, NGOs, technical experts, communities, traditional leaders and volunteers, in disaster risk. The Directorate: Fire Services (Dir:FS) is responsible for the administration of Fire Brigade Service Act, Act 99 of 1987 (FBSA). The FBSA is one of the key mandates of the Department of Cooperative Governance, including the management and handling of disasters. Fire Services Regulations presented in table 23.1 below.

Table 23.1 Regulations pertaining to fire services and emergencies.

Regulation	Government Notice
Regulations as to the Functions of a Category of Authorized Persons	GNR 1464
Major Hazard Installation Regulations,	GNR 692
Regulations to the Prescribed Manner in which a Service may Apply to be Recognized as a Designated Service and the Prescribed requirements for Recognition as a Designated Service	GNR 2579
Regulations: Fire Brigade Reserve Force	GNR 78

Emergency management and preparedness at enterprise level includes procedures and regulations for road and rail transport of dangerous goods. Companies are required to prepare disaster and business continuity plans. The MHIs, testing of emergency systems, and responses, consider local community, fire drills, display emergency contact numbers, different types of emergencies, procedures, Emergency Management Team and appointments: Emergency Controller, Evacuation Coordinator, Fire Fighting Coordinator, First-Aid Coordinator, Evacuation marshal / officer, Fire fighter, First aider, Incident Investigator, compliance officer (COVID). The National Institute for Communicable Diseases (NICD) is part of the National Health Laboratory Service, which is a Department of Health Agency. The NICD coordinates outbreak and reporting of notifiable diseases to prevent the spread of communicable diseases.

The Chemical and Allied Industries Association (CAIA) is a voluntary Organisation that provides information and training on chemical management to its members and the community. CAIA has a Responsible Care program, through which member organisations and companies commit to handle chemicals in a responsible manner. CAIA also holds seminars and training on the transportation of dangerous goods. Non-Governmental bodies involved in OSH related activities, such as Professional associations with activities directly linked to aspects of OSH such as OSH specialists, occupational physicians, chemists, safety engineers. Professional associations are critical in the development of the profession of occupational health and safety including professional development of professionals that are practicing in the field.

Some of the professional associations, such as SAIOSH and SAIOH, are recognized by SAQA as professional associations that represent the interest of their members mentioned earlier. Even though, most of the professional associations are voluntary and not statutory bodies, they play a key role because legislation requires that members of some professions be registered with a recognized professional body.

Information on OSH Mechanisms

Occupational health Southern Africa Journal is a peer reviewed journal that focuses on publishing occupational health research in Southern Africa. Institutions of higher learning also has research centers that conduct research in occupational health. Research includes many aspects of workplace hazards identification, evaluation, and control. OSH data is not categorised by gender dimensions and analysed to highlight any gender differences in impact and working conditions of women and men.

Occupational health Southern Africa is a peer reviewed journal that focuses on publishing occupational health research in Southern Africa. Institutions of higher learning also has research centers that conduct research in occupational health. Published research does not focus on the epidemiological, ergonomic and social science components, with the view of gaining a better understanding of gender issues in OSH. Research that is published in various peer reviewed journals support ongoing efforts that are directed at improving occupational health and safety in the workplaces. Employer Organisations, such as the Minerals Council have research centers and committees that are dedicated in improving knowledge on occupational health and safety and working conditions.

24. SITUATIONAL ANALYSIS AND RECOMMENDATIONS

A number of countries have developed country specific OSH profiles as required by international labour standards. In developing a country OSH profile, South Africa can learn from countries such as Germany. Germany proposes that developing countries should combine their best national traditions with universally accepted guidance provided by ILO Convention 187 (WHO, 2012). This section summarises key findings. of the situational analysis from interviews with stakeholders and literature review.

24.1 Legislative Framework

The results of this study are that South Africa has a progressive and yet fragmented legislative framework of occupational safety and health. The use of different levels of appropriately registered occupational safety and health professionals is embedded in the legislation. Legislation covers both preventative and compensation aspects. The lack of a single agency with overall accountability for OSH has resulted in duplication of many functions and uncoordinated implementation of OSH programmes.

The various pieces of legislation are fragmentation, uncoordinated, overlap, and not harmonised. In addition, there are no incentives to those who comply and there is a perception that the system is more punitive than supportive. Although there have been initiatives to review legislation to address many of these challenges, the progress has been quite slow, as a result the desirable outcomes of these initiatives have not been achieved. Current legislation should be reviewed to include the informal workers. This is important considering the changing nature of work and the world of work. Stakeholder such as such local municipalities, informal workers associations, trade unions, and healthcare professionals, should participate in the implementation of OSH. Lund and Naidoo (2016) call these new stakeholders.

Enforcement: Based on Theme – Capacity to enforce)

Through partnerships, the capacity to enforce could be improved and this will strengthen partnerships. Involvement of other parties, or co-enforcement is not a new concept. For example, developed a framework to analyze the relationships between worker Organisations and state regulators that underpin co-enforcement4. In addition, partnerships may result in maximum and efficient utilization of resources.

Informal Sector not Covered

Leaving the informal economy workers is not in line with the recommendation of the international organisations that advocate for OSH for all working people, irrespective of the sector of economy, size of enterprise or mode of employment of the worker is of paramount important5.

Fragmented / Disjointed

In the critical analysis of the current South African occupational health law and hearing loss, Manning identified that the regulatory frameworks in South Africa were separate and unequal.6 There is also another level of disintegration and fragmentation which exists between the compensation legislation and the legislation that aims to prevent employee exposure to health hazards.

For the occupational health and safety legislation to be successful and effective in the prevention of workplace injuries and illnesses, it is essential that there be an effective political, economic, and organisational system (Maceachen, E., Kosny, A., Ståhl, C., et al., 2016). In addition, how OSH legislation and regulatory enforcement are planned and implemented is dependent on the OSH regulation formation, regulation challenges, inspector organisation, and worker representation (Maceachen, et al., 2016). The White Paper for the Transformation Systems of the Health Systems in South Africa (Department of Health, General Notice 667 of 1997) noted that:

"Occupational health and safety is a multidisciplinary activity and falls within the domain of a number of Government departments, business and labour".

The Leon Commission, 1995 of Inquiry into Safety and Health in the Mining Industry recommended that:

"The Mine Health and Safety Inspectorate should participate jointly with Other departments, including the Departments of Labour and National Health, in a National Health and Safety Policy Council".

A number of Commissions on OSH, including the Erasmus Commission of 1974, the Leon Commission of 19957,8, Abdullah Report of 1996 as well as the Benjamin and Greef Committee of Inquiry of 19979 have been established. Theculminations outcomes of these commissions and reports include the Cabinet Memorandum which initiated the investigation to establish a health and safety agency at national and provincial levels of government. The Department of Health also supported the Cabinet memorandum.

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24.2 Occupational Health and Safety Professional Bodies and Associations

Occupational health and safety professional bodies and associations are critical in the growth and development of the occupational safety and health profession. They represent the interest of their members and the interest of occupational safety and health in South Africa. A questionnaire that was customized to collect data on the occupational health and safety professional bodies and societies was sent to professional bodies whose primary focus was on occupational health and safety. Authority as professional bodies for their respective professions.

All professional bodies returned the questionnaire. One of the questions in the questionnaire was on the breakdown of membership in terms of gender. Analysis of data generally indicate that the majority of OSH practitioner groups are male dominated, with the exception of a few such as Ergonomics and Employee Assistance Practitioners, and the OH Nurses. It was most of the women practitioners were mainly at the entry level of these professional groups. However, data indicates that more and more women are taking up training courses and degrees in OSH.

Labour inspectors

The ILO has provided a benchmark for labour inspections (ILO Labour Report, 2006):

- One inspector per 10,000 workers in industrial market economies;
- One inspector per 20,000 workers in transition economies; and
- One inspector per 40,000 workers in less developed countries

The current DEL inspector to employed population ratio is 1:25 690. The SAPS employs 243 inspectors. The DMRE employs 122 inspectors, with a ratio of 1:3 689 workers (based on 2020 quarter 2 employment figures).

24.3 Main Strong Points

One of the main key strengths of the current OSH system in the Republic of South Africa is that OSH is well developed, and it is consultative in nature. The active involvement of social partners in the development and review of the OSH legislation means that more, diverse and inclusive voices participate in the process of development and review of legislation. With the signing of R204, there is hope that the informal economy workers will be covered in the OSH system.

- Implementation of OSH that is based on consultation and tripartism.
- Supportive and willing stakeholders
- Matured OSH legislation
- Existence of skilled and competent OSH professionals
- Existence of OSH professional bodies
- Existence of institutes that proved OSH training

24.4 Weaknesses and Gaps of the System

One of the main challenges of the OSH system in the Republic of South Africa is that it mainly covers workers who are formally employed. By default, a large proportion of workers, who are in the informal economy (close to 30%), are not covered in the current OSH system. In addition, OSH legislation is fragmented and there is much overlap in the inspection and enforcement among the various departments.

- Lack of national OSH policy and OSH strategy
- Fragmented and uncoordinated implementation of OSH
- Lack of integration
- Inadequate focus on gender issues
- Inadequate enforcement
- Lack of focus on SMMEs and the informal economy
- Prioritised more in private sector. Lack of adequate capacity. More for big businesses
- Lack of integration of OSH legislation with compensation legislation
- Different and unintegrated compensation systems
- Lack of compliance, mainly in the public sector, SMMEs, and informal sector
- Lack of enforcement, lack of consequence management
- Unequal level of OSH among different role players, lack of standardization
- OSH services are not part of the Primary Health Care (PHC) service, thus no OSH services at primary care level for public sector employees and for the public.

24.5 Infrastructure

There is a good and effective OSH infrastructure that includes: NEDLAC, MHSC, ACOHS, Tripartism (at national, provincial, regional, and workplaces), Compensation fund, advisory bodies such as NIOH, professional training institutions, OSH laboratories), OSH professional associations.

24.6 Skills and Capacities

South Africa has skilled and knowledgeable OSH professionals and professional bodies. This is backed by training institutions that offer specialised OSH training. With the demand for OSH services, there is a growing demand for competent, skilled, and specialised OSH professionals. OSH professional associations have made a meaningful contribution in the development of the OSH profession. The clauses in legislation, that require a level of education for OSH professionals have helped to ensure that OSH services are performed by skilled and knowledgeable OSH personnel. The continuous professional development system that professional bodies have implemented ensure that professionals that practice in the field of OSH are kept current with the latest developments as well as the trends in the field.

24.7 Gender and Informal Economy

There is a lack of focus on the specific OSH needs of different genders, especially women. in practice the current legislation does not cover all workers. Workers in the informal economy, which account close to 30%, when employees in the private households are included, are not covered by the current OSH legislation or form of OSH social insurance system. in addition, OSH services that are offered by commercial entities are inaccessible to the informal economy. The ratification of Recommendation R204 is a step that will facilitate inclusion of all workers in the OSH system. The task team that has already started with the process of developing the programs and recommendations for the implementation and operationalization of Recommendation R204 has developed practical and useful recommendations. With the current review of the OSHA, it is imperative that the articles of

Recommendation R204 are considered and covered in the new legislation or as legislation is reviewed. This applies to both the Act, regulations and policies and programs.

24.8 Preparedness and Response to Pandemics and COVID-19

South Africa has a well-developed Disaster management legislation. This was confirmed during the COVID-19 pandemic response, which was well-coordinated. Consequently, there was a quick response to the COVID-19 pandemic.

Numerous updates were issued as the COVID-19 situation developed. However, disaster management needs to be integrated into the OSH system. The current legislation needs to be to be strengthened to ensure that all companies implement disaster management plans as well as emergency preparedness and response.

Capacity building

There is a need to build on and continue with the momentum that has been created through the responses to COVID-19. The coordination among different authorities and the tripartite structures needs to continue. It is evident that OSH had been implemented out of fear and as a matter of complying with legislation. Not all enterprises implemented OSH as a business strategy to enhance productivity and sustainability. The role of OSH in providing advice to workers and enterprises in creating safe employment and new, attractive ways of working has been acknowledged[10].

The stakeholder responses on the strategic focus for the next 2 to 5 years are summarized as shown below.

Integration and cooperation and role of OSH professional bodies	Forums and communication
• Standardization • Amend and beef up legislation to give expression and powers to certain bodies. (time periods to differentiate situations and circumstances in terms of urgency). We need shorter periods in some instances. • Review of national OSH policy and legislation need to be developed. Mapping of the process is critical (ministers must agree before work of officials) • Get the various delayed bills sorted out. That is your OSH amendment bill but also the COIDA amendment bill. • Merge the compensation legislation • Promotion even amongst the 3 departments. There is a serious need for a coordinating body. • Overarching and ensuring there is implementation. • Develop a National Health and Safety Legislation. • Establish an inter-governmental forum of DMRE; DoEL; DoH. • Capacity and integration of policy • Health and safety professionals to be recognized in the act (must be in the act). Need to specify that professionals must be registered with a professional body. • Harmonise the various OSH related acts so that we do not have a specific set of requirements for one sector and then we leave the other sectors behind. • Strive for the harmonisations of OSH laws, regulations, standards operating procedures in the region to support the African Continental Free Trade Areas (ACFTA) • Eliminating fragmentations to enable the country to contribute towards Agenda 2063, sustainable development goals, universal health coverage, Africa Mining Vision, ILO/WHO Global Programme for the Elimination of Silicosis, End TB strategy by 2030, etc	• Powers need to sit around and discuss how to pull stakeholders in – indabas • Provincial and national indabas. • Establish a multi-stakeholder forum that includes civil society with a set agenda to influence the societal norms and values. • Communication and networking
Education and training	**The informal economy**
• Continuity in succession planning for the OSH system. Starting from the minister down to officials. Development and exposure. • Development of grassroots. Career paths within different aspect to We need people who have been exposed at grassroot level and develop and become capacitated.	• Focus on informal sector, bringing them into social protection framework. • Home builders and informal sector should receive guidance and assistance with implementation of OSH.

10 Godderis, L., & Luyten, J. (2020). Challenges and opportunities for occupational health and safety after the COVID-19 lockdowns.

Education and training	The informal economy
• HSE training to be rolled out (school level or programs for SMMEs). • Education is important. We need to invest and educate workers on the importance of workplace safety. We spend most our time in the workplace. Educate workers and employers for the need to keep workplace safe. Including both repos. Then there will be no need to keep calling enforcing compliance agencies. • Establish the Centre of Training and Development for workers across all levels of learning. • Develop skills in modernisation on health and safety for future work. • Increase within existing institutions cater for OSH training (e.g., hygienist, safety officers) not only just Occupational medicine. • Continuous education in the field of occupational hygiene ensuring a ethos in which health and safety is a priority in all working environments. • Government must commit money or funding for education and advocacy campaigns • Creating awareness of OH and Career opportunities from School level, and specifically at Tertiary level. And, in Engineering, Architecture, Construction, Occupational Health, etc. occupations. • Assisting Tertiary Institutions to develop and lecture on OH on a uniform curriculum and standard. • All training of high risk skills in the workplace to be regulated by Dept of Employment and Labour, and • Licensing of these high risk skills by SAQA registered Professional Bodies. • Professional development and upliftment of the Occupational Health practitioner through continuous and ongoing learning initiatives	• Accommodate issues of informal economy bring them on board. • The health and safety act needs to take into consideration not just formal sector, employees in the informal sector must have a form of expression. • Mechanisms of bringing involvement and maximizing the informal sector. • Have the National social cohesion programme. • Make consideration of affordability since it will be difficult for Organisations to comply • Broaden the definition of employees to include all workers so that they are covered by the relevant labour legislation because right now a lot of them are not, if you are self-employed, or you are a contractor or actor, uber drivers and others. • Providing OH services to the informal sector and SSME's on a type of pro- bono basis.
Relationships	**OSH as a business imperative**
• Improve relationships between inspectorate and employers. We need more open communication that we also see during COVID. • HS profession to transition to empowerment than to police. • Inspectors to transition to be able to assist and to make companies see them as of a partner • Great emphasis on professional bodies and recognition as part of requirement on OSH. Government need to make use of these professional bodies. • Focus on contributing to the regional growth of the occupational health and safety in the continent • Escalation of role / activities into SADC countries and Africa	• Business to prioritise bringing OSH into the center of business. • Focus on innovation and technology. Drive this culture in Organisations • The wellbeing of the citizens generally and workers in particular, should be a priority. Prevention should be high priority, making sure that there is prevention. • Prioritise the protection of workers at the workplace.
Access to information	**State OSH program**
• Accessibility of information • System to record accurate statistics nationally. • Robust awareness on prevention of diseases and so on. National awareness of all diseases injuries • ILO needs to promote the conventions within countries, follow up and check for compliance and follow on countries that have ratified. Promote the ILO conventions among government officials. Promote work of ILO taking place in RSA, ILO to include what is currently happening in RSA.	• Creation of state medical surveillance and other health services sector that can take care of the needs of the informal sector and SMMEs. • Focus on occupational hygiene capacity development of both mines and labour inspectors responsible for occupational diseases. • Focus on primary prevention interventions to reduce worker exposure to silica dust, diesel particulate matter, inhalable dust, coal dust as workplace place determinants of TB, Cancer, etc. • Outline the National Key Health and Safety issue of Covid-19 and how it interfaces with mental health issues • OSH legislation to incorporate the implication of a health and safety management programme i.e. ISO 45001 for employers employing more than 50 persons and the compulsory appointment of SAQA registered OSH professionals to implement and maintain these health and safety management programmes.

Leadership, mentorship, and guidance	Gender issues
• Role of leadership that must ensure that issues of consequence management are made public. • The minister of Employment and Labor to carry on the momentum • Continue with the momentum. The minister of DEL • DEL inspectors mentoring and guiding all level of employees in a project. • Focus on EI • Proper governance and sound ethics	• To ensure that issues of gender are not unclear. • Issue of gender. Need to be made clear in the legislation itself. They should be there and clearly defined together and the benefits • Do a bit of groundwork and see how we include issues of gender. LGBTQI community that is being marginalized in the workplaces too must find expression in our OSH
Accountability	**Research**
• Accountability and consequence management led by Ministers. We need to name and shame. • Also, look at enforcers, are they having enough powers and the tools to exercise those powers. • Enforcement should be seen to be biting not just parked and decorating our books to bring confidence	• Establish research capacity to give solutions to workplace challenges, such as the MHSC • To outline the National Key Health and Safety issue of Covid-19 and how it interfaces with mental health issues. It is still uncertain how long this health challenge will be with us and guidance is needed for the next five years. • Take into consideration the changing world of work. The workplace is no longer defined as a particular place.
Protection and integrity	**Transformation and participation**
• Protection of the public in so far as the procuring of professional services is concerned • Government to ensure that only registered professionals are appointed to work on the infrastructure projects • ensure maximum compliance in the Construction Health and Safety and to increase awareness for private clients who may not fully understand the reason for compliance • Ensure ALL persons working on gas are registered and properly trained. • Ensuring more stringent inspection and enforcement practices. A much closer partnership with legal services/practices between SAQCC Gas and DEL. • Promotion, adherence and delivery of the highest possible standards rendered in all occupational health practices • Advancing and protecting the corporate identify of SASOHN	• Procurement packages to be issued to service providers should embed the transformation imperatives as a very key deliverable in a stringent manner • International Labour Organisation (ILO) and EPWP Construction Specifications on Labour Intensive Works be invoked on all existing projects and specifications of Construction Project Works that are part of the Infrastructure Investment Plan.

SWOT Analysis

Strengths	Weaknesses
• Well documented legislation • Existence of tripartite structures: e.g., NEDLAC, ACOHS, MHSC • Supportive and willing stakeholders • Professional And academic training institutions • OSH professional associations • OSH laboratories • Research institutions • NIOH	• Fragmentation of legislation and data collection • Perceived lack of enforcement • Duplication of inspectorate activities • Perceived lack of harmonization of OSH legislation • Poor/no implementation and very slow progress with revised bills on OSH – Bills not taken to parliament. • Continued exclusion of other workers in the OSH system • Inadequate focus on gender issues • Limited collaboration amongst government departments • Poor or no implementation of Commissions' recommendations
Opportunities	**Threats**
• Existing communication channels and relationships among social partners • Agreement on the need to harmonise OSH legislation • Support from international organisation • Globalised world with easy access to information and support structures • Technology allowing ease of dissemination of information	• Lack of action on / implementing agreements • Not meeting stakeholders' expectations • Continued exclusion of other workers in the OSH system • New pandemics and epidemics • Changing world of work

RECOMMENDATIONS

The recommendations made here are in line with the findings of this project and most have been raised by the commissions of enquiry on OSH and related legislation.

- Develop a national policy on Occupational Safety and Health.
- Develop a national Occupational Safety and Health strategy.
- Revive, contextualise, and implement the Cabinet Memorandum 1 of 1999. In the process and integration of occupational health and safety competencies.
- Fast track the process of merging of legislation in line with the findings of this project and also in line with the previous commissions' findings.
- Prioritise and fast track the process of reviewing legislation currently underway.
- Implement articles of the ILO Conventions when reviewing legislation.
- Strengthen relationship between the preventative and compensation legislation.
- Develop a harmonised and intergrated data collection system on occupational injuries and diseases that will inform national policy and strategy on OSH.
- Consider the role of the South African Local Government Association in OSH, especially as it relates to the informal economy.
- Leverage on existing tripartite structures such as NEDLAC, ACOHS and MHSC and professional bodies/practitioners.
- Investigate the medical cost to the compensation fund.
- The cabinet should be informed of the findings of this project, especially as it relates to government departments being some of the significant non-compliant institutions, to sensitise ministers on this issue of grave concern.
- Capitalize on the opportunities brought by COVID-19 to advocate for and instill an OSH culture across all sectors and all departments.
- Develop collaboration mechanisms with institutions of learning to address development of human resources for OSH; the competent authorities to inform curriculum development to be responsive and relevant to OSH issues faced

CONCLUSION

South Africa has a comprehensive legal framework that has developed over the years. However, the legislation is fairly complex and fragmented, with the main legislation falling under three government departments and other regulatory agencies. There is limited collaboration among authorities that administer and enforce OSH legislation. This results in duplication of efforts and inefficient use of limited resources. In addition, the data collection systems do not allow for proper use of information to provide a view of the true picture of the burden and cost of injuries and diseases. The emphasis is now more than ever on the implementation of the recommendations.

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