

Cloth masks

8. (1) The main benefit of everyone wearing a cloth mask is to reduce the amount of virus containing droplets being transmitted by those with the infection and transmitted to others and to surfaces that others may touch. Since some infected persons may not have symptoms or may not know they are infected, the Department of Health requires that all persons wear cloth masks when in a public place.
- (2) For the reasons underlying the Department of Health's requirement, every employer must—
- (a) provide each of its employees, free of charge, with a minimum of two cloth masks, which comply with the Recommended Guidelines Fabric Face Masks,²² for the employee to wear while at work and while commuting to and from work; and
 - (b) require any other worker to wear masks in the workplace.
- (3) The number and replaceability of cloth masks that must be provided to an employee or required of other workers must be determined in accordance with any sectoral guideline and in the light of the employee or worker's conditions of work, in particular, where these may result in the mask becoming wet or soiled.
- (4) Every employer must ensure that workers are informed, trained, instructed and supervised as to the correct use of cloth masks.
- (5) The general requirement for workers to wear masks does not derogate from the fact that, where a risk assessment indicates that specific personal protective equipment is required, those categories of workers must be provided with the accredited personal protective equipment in accordance with Department of Health guidelines.

Measures in respect of workplaces to which public has access

9. (1) The principal purpose of the measures contained in the following clause is to protect workers from being exposed to the virus through their interaction with the public and to protect members of the public from being exposed to virus through their interaction with workers or other persons present in such a workplace.
- (2) Depending on what is reasonably practicable, given the nature of the workplace contemplated in subdirection (1), every employer must—

²² Department of Trade, Industry and Competition: *Recommended Guidelines Fabric Face Masks* - see the link in Annexure A.

- (a) determine the floor area of the workplace in square metres in order to determine the number of customers and workers that may be inside the workplace at any one time with adequate space available;
- (b) arrange the workplace to ensure that there is a distance at least one and a half metres between workers and members of the public or between members of the public;
- (c) put in place physical barriers at counters or provide workers with face shields or visors;
- (d) undertake symptom screening measures of persons other than its employees entering the workplace with due regard to available technology and any guidelines issued by the Department of Health;
- (e) display notices advising persons, other than employees entering the workplace, of the precautions they are required to observe while in the workplace;
- (f) require members of the public, including suppliers, to wear masks when inside their premises;
- (g) take steps to ensure that customers queuing inside or outside the workplace are able to maintain a distance of one and half metres from each other;
- (h) provide hand sanitizer for use by the public at the entrance to the workplace; and
- (i) assign an employee as a compliance officer to ensure that these measures are complied with and that all directions in respect of hygienic conditions and limitation of exposure to persons with COVID-19 are adhered to.

Ventilation

10. Every employer must—

- (a) keep the workplace well ventilated by natural or mechanical means to reduce the SARS-CoV-2 viral load;
- (b) where reasonably practicable, have an effective local extraction ventilation system with High-Efficiency Particulate Air filters that-
 - (i) is technically assessed to be functioning effectively;
 - (ii) is regularly cleaned and maintained;
 - (iii) does not recirculate the air;
- (e) ensure that ventilation vents do not feed back in through open windows; and
- (f) ensure that ventilation filters are cleaned and replaced in accordance with the manufacturer's instructions by a competent person.

Specific personal protective equipment

11. Every employer must check regularly on the websites of the National Department of Health²³, National Institute of Communicable Diseases²⁴ and the National Institute for Occupational Health²⁵ whether any specialised PPE for COVID-19 is required or recommended in any guidelines given the nature of the workplace or the nature of a worker's duties and the associated level of risk.

Small businesses

12. Employers with 10 employees or less must take the following measures:
- (a) If the employer is permitted to recommence operations under the Regulations, it must develop a basic plan for the phasing in the return of its employees taking into account those that are able to work remotely and those over the age of 60 years or who have comorbidities;
 - (b) arrange the workplace to ensure that employees are at least one and half metres apart or, if not practicable, place physical barriers between them to prevent the possible transmission of the virus;
 - (c) ensure that employees that present with the symptoms set out in direction 6(1)(a) are not permitted to work;
 - (d) immediately contact the relevant provincial inspectorate²⁶ for instruction and direct the employee to act in accordance with those instructions;
 - (e) provide cloth masks or require an employee to wear some form of cloth covering over their mouth and nose while at work;
 - (f) provide each employee with hand sanitizers, soap and clean water to wash their hands and disinfectants to disinfect their workstations;
 - (g) ensure that each employee while at work washes with soap and sanitizes their hands;
 - (h) ensure that their workstations are disinfected regularly; and

²³ <http://www.health.gov.za/>

²⁴ <https://www.nicd.ac.za/>

²⁵ <http://www.nioh.ac.za/>

²⁶ See the list of telephone numbers for provincial inspectorates in Annexure C.

- (i) take any other measures indicated by a risk assessment of the workplace, including such measures as are appropriate in direction 9(2), if the public has access to the workplace.

Worker obligations

13. In addition to the obligations of employees under the OHSA, every worker is obliged to comply with measures introduced by their employer, as required by these Directions.

Refusal to work due to exposure to COVID-19

14. (1) An employee may refuse to perform any work if circumstances arise which, with reasonable justification, appear to that employee or to a health and safety representative to pose an imminent and serious risk of their exposure to COVID-19.
- (2) An employee who has refused to perform work in terms of subdirection (1) must, as soon as is reasonably practicable, notify the employer, either personally or through a health and safety representative, of the refusal and the reason for the refusal.
- (3) Every employer that has been notified in terms of this paragraph must-
 - (a) after consultation with the compliance officer and the health and safety committee or, if there is no committee, a health and safety representative, endeavour to resolve any issue that may arise from the exercise of the right in terms of sub-direction (1);
 - (b) if the matter cannot be resolved internally, notify an inspector²⁷ of the issue within 24 hours and advise the employee and all other parties involved in resolving the issue that an inspector has been notified; and
 - (c) comply with any prohibition issued by an inspector in terms of section 30 of the OHSA.
- (4) Subdirection (1) applies whether or not the person refusing to work has used or exhausted any other applicable external or internal procedure.
- (5) No person may benefit from, or promise any benefit to any person for, not exercising his or her right in terms of subdirection (1).
- (6) No person may threaten to take any action against a person because that person has exercised or intends to exercise the right in terms of subdirection (1).

²⁷ Notification by contacting the relevant provincial inspectorate at the telephone numbers listed in Annexure C or at an address in <http://www.labour.gov.za/Contacts/Provincial-offices>

- (7) No employee may be dismissed, disciplined, prejudiced or harassed for refusing to perform any work as contemplated in subdirection (1).
- (8) If there is a dispute as to whether subdirection (2) has been contravened, the employee may refer the dispute to the Commission for Conciliation, Mediation and Arbitration or an accredited bargaining council for conciliation and arbitration in accordance with the procedures contained in section 191 of the Labour Relations Act, 1995 (Act No. 66 of 1995).
- (9) If the arbitrator, appointed as contemplated in subdirection (8), finds that the employer has contravened subdirection (2), the arbitrator may make any appropriate order contemplated in section 193, read with 194(3) or (4) of the Labour Relations Act, 1995.

No deduction from employee's remuneration

15. No employer may make any deduction from an employee's remuneration, or require or permit an employee to make any payment to the employer or any other person, in respect of anything which the employer is obliged to provide or to do in terms of these Directions.

Monitoring and enforcing Directions

16. (1) To the extent that this Direction gives effect to the OSHA, the Minister responsible for Employment and Labour may authorise local authorities to perform certain inspectorate functions in terms of section 42(3) of the OSHA.
- (2) If a person fails to comply with this direction, an inspector may perform any of the functions in section 29 of the OSHA and exercise any of the powers listed in section 30 of the OSHA in order to monitor compliance with this Direction.
- (3) In so far as any contravention of these Directions constitutes a contravention of an obligation or prohibition under the OSHA, the offences and penalties provided for in section 38 of the OSHA apply.
- (4) An inspector may, for the purpose of promoting, monitoring and enforcing compliance with the OSHA, advise employees and employers of their rights and obligations in terms of these Directions in accordance with section 64 of the BCEA.

Sectoral protocols and guidelines

17. (1) Sectoral or industry associations must, in the event of high health risks, develop sector-

specific health protocols in consultation with the Department of Health to limit the spread of COVID-19 in the sector including providing for those circumstances where a firm within the sector cannot stagger working hours or provide transport for its employees.

- (2) The Chief Inspector appointed in terms of section 27 the OHSA must facilitate the development of sector specific guidelines to supplement this Direction by engaging with the social partners through the offices of the National Economic Development and Labour Council.
- (3) The sector specific guidelines should include the matters referred to in Annexure B.

Amendment of footnotes Annexure A

18. The Minister may from time to time amend the footnotes and Annexure A and publish the amendments online without issuing an amended direction in order to update the links to any new applicable guideline or recommendation.

Withdrawal of Directions

19. The Directions issued in terms of regulation 10(8) of the Regulations made under section 27(2) of the Disaster Management Act and published under Government Notice No. 639 in *Government Gazette* No. 43400 of 4 June 2020 are hereby withdrawn.

Commencement of Directions

20. These Directions come into effect on the date of publication in the *Government Gazette*.
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Annexure A**DEPARTMENT OF EMPLOYMENT AND LABOUR LINKS*****Hazardous Biological Agents Regulations***

<https://www.gov.za/documents/occupational-health-and-safety-act-regulations-hazardous-biological-agents>

Directive on Compensation for Workplace-acquired Novel Corona Virus Disease (COVID-19)

https://www.gov.za/sites/default/files/gcis_document/202007/43540gen387.pdf

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION LINKS***Department of Trade, Industry and Competition: Recommended Guidelines Fabric Face Masks***

http://www.thedtic.gov.za/wp-content/uploads/Updated_Recommended_Guidelines_Fabric_Face_Masks_May2020.pdf

DEPARTMENT OF HEALTH LINKS***Guidance on vulnerable employees and workplace accommodation in relation to COVID-19 (Version 4: 25 May 2020)***

http://www.nioh.ac.za/wp-content/uploads/2020/05/20_2020-V4.-Guidance-on-vulnerable-employees-and-workplace-accommodation....pdf

Guidance note for workplaces in the event of identification of a COVID-19 positive employee (Version 5: 14 May 2020)

http://www.nioh.ac.za/wp-content/uploads/2020/05/guidelines_positive_worker_19_May_20.pdf

Clinical management of suspected or confirmed COVID-19 disease (Version 4: 18th May 2020)

<https://www.nicd.ac.za/wp-content/uploads/2020/05/Clinical-management-of-suspected-or-confirmed-COVID-19-Version-4.pdf>

Guidelines for symptom monitoring and management of workers for SARS-CoVID-2 infection (Version 5: 19 August 2020)

<https://www.nioh.ac.za/wp-content/uploads/2020/08/V5-Guidelines-for-symptom-monitoring-and-management-of-workers-for-COVID-19-19aug20.pdf>

Guideline on the submission of COVID-19 related health data from workplaces to the National Department of Health (Version 1, 19 August 2020)

<https://www.nioh.ac.za/wp-content/uploads/2020/08/Workplace-Data-Submission-Guideline-19Aug20.pdf>

National Department of Health: Practical Manual for Implementation of the National Infection Prevention and Control Strategic Framework, March 2020 (pp17-20)

<https://www.nicd.ac.za/wp-content/uploads/2020/04/Practical-Manual-for-implementation-of-the-National-IPC-Strategic-Framework-March-2020-1.pdf>

Cleaning and Decontamination of Workplaces in the Context of Covid-19 (10 June 2020)

https://www.nioh.ac.za/wp-content/uploads/2020/06/disinfection_ohs_academic_june-20.pdf

Annexure B
SECTORAL GUIDELINES

1. **Workplace Risk assessment**
 - 1.1 Identify high risk exposure work processes
 - 1.2 Identify high risk work practices

2. **Engineering controls**
 - 2.1. Ventilation
 - 2.2. Physical barriers
 - 2.3. Adaptation of workstations to increase social distance

3. **Administrative controls**
 - 3.1. Screening/ reporting of symptoms/ sick leave
 - 3.2. Minimising contact
 - 3.3. Rotation and shift work
 - 3.4. Work-at-home strategies
 - 3.5. Communication and information strategies
 - 3.6. Role of health and safety committees and representatives
 - 3.7. Education and training
 - 3.8. Reporting of incidents for regulatory purposes
 - 3.9. Reporting for purposes of public health, contact tracing, screening, testing and surveillance
 - 3.10 Management of COVID-19 positive employees and workplace contacts (symptomatic and asymptomatic)
 - 3.11 Management of vulnerable employees and special measures for their protection, including protection against unfair discrimination or victimisation

4. **Healthy and safe work practices**
 - 4.1. Disinfectants, sanitisers and personal hygiene
 - 4.2. Other

5. **PPE**
 - 5.1. Masks
 - 5.2. Gloves
 - 5.3. Facial shields
 - 5.4. Other

6. **Provision of safe transport for employees**
 - 6.1. Personal hygiene
 - 6.2. Social distancing
 - 6.3. Arrangements to minimise exposure associated with commuting

- 6.4. Cloth masks (if commuter)
 - 6.5. Employer provided transport
 - 6.6. PPE (driver/conductor of employer-provided transport)
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Annexure C

List of Contact Details for Provincial Inspectorates

	Name and Surname	Office	Cell Number	Position	Address
1.	Michael Msiza	Gauteng IES - IES	0829008131	PCI	239 Nana Sita Streets, Pretoria
2.	Lesibe Raphela	Gauteng IES - IES	076 764 9964	OHS Specialist	
3.	Ivan Vass	Northern Cape - IES	082 802 6796	PCI	Cnr Compound and Pniel Road, Kimberley
4.	Isaac Mohapi	Northern Cape - IES	0724693689	OHS Specialist	
5.	Phaswane Tladi	Limpopo - IES	0845043801	PCI	42A Schoeman Street, Polokwane
6.	Carol Mthethwa	Limpopo - IES	071 684 9584	OHS Specialist	
7.	David Esau	Western Cape - IES	082 791 4485	PCI	6th Floor, West Bank Building, Cnr Riebeeck and Long Streets, Cape Town
8.	Fezeka Ngalo	Western Cape - IES	0827916244	OHS Specialist	
9.	Bojkie Mampuru	Northwest - IES	082 908 2308	PCI	2nd Floor, Provident House, University Drive, Mmabatho
10.	Lucia Ramusi	Northwest - IES	082 490 0808	OHS Specialist	
11.	Lucky Mkhonto	Eastern Cape - IES	082 908 2318	PCI	3 Hill Street, East London, 5201
12.	Kulungile Nkanjeni	Eastern Cape - IES	060 992 7332	OHS Specialist	
13.	Manelisi Luxande	Free State	066 304 3469	PCI	Laboria House, 43 Charlotte Maxeke Street, Bloemfontein
14.	Makalo Khoele	Free State	076 047 0282	OHS Specialist	
15.	Pearl Dyalvani	Mpumalanga	072 463 2575	Acting PCI	Labour Building, Cnr Hofmeyer Street and Beatty Avenue, Witbank
16.	Nhlanhla Mbuyazi	Mpumalanga	0724617999	OHS Specialist	
17.	Mncedisi Edward Khambula	KwaZulu Natal	0609859286	PCI	267 Anton Lembede (Smith Street), Royal Building, 11th Floor, Durban, 4000
18.	Sandile Kubeka	KwaZulu Natal	0609942436	OHS Specialist	