

DEPARTMENT OF LABOUR

NO. R. 64

27 JANUARY 2017

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993.

DRAFT ERGONOMICS REGULATIONS

INVITATION OF PUBLIC COMMENTS ON DRAFT ERGONOMICS REGULATIONS

I, Nelisiwe Mildred Oliphant, Minister of Labour, hereby give notice that I intend, in terms of section 43 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), to make the regulations in the schedule.

Interested persons who wish to comment on the draft regulations are invited to do so in writing within 90 days from the date of publication of this notice, in the prescribed format (see annexure A).

All representations and comments must be sent to the Director-General of the Department of Labour.

By hand: The Department of Labour – Attention: Bulelwa Huna

Laboria House

215 Francis Baard Street

Pretoria

By post: The Director General

Department of Labour – Attention: Bulelwa Huna

Private Bag X117, Pretoria 0001

By Fax: 012 309 4763

By email: clement.lekgetho@labour.gov.za ; warren.mallon@labour.gov.za or bulelwa.huna@labour.gov.za



NELISIWE MILDRED OLIPHANT

MINISTER OF LABOUR

01/12/2016

Annexure A**Comments / inputs on the Draft Ergonomics Regulations as proposed by the Department of Labour.**

Kindly provide inputs, corrections and/ or comments in writing on the proposed Draft Ergonomics Regulations in the following format:

Name and Surname:		E- mail		Phone number:	
Company name (if applicable)					
Government	Industry	Union	Consultancy	Private	Other

1	Regulation and/or sub regulation from the draft, referring to	Comment/ Input/ Correction/ Proposal Plus motivation
Will the proposed regulation have an impact on any other regulation? If so, which regulation and what will be the impact?		
2	Regulation and/or sub regulation from the draft, referring to	Comment/ Input/ Correction/ Proposal Plus motivation
Will the proposed regulation have an impact on any other regulation? If so, which regulation and what will be the impact?		
3	Regulation and/or sub regulation from the draft, referring to	Comment/ Input/ Correction/ Proposal Plus motivation
Will the proposed regulation have an impact on any other regulation? If so, which regulation and what will be the impact?		
General comments:		

Signature: _____

Date: _____

Provide inputs to Department of Labour by e-mailing this completed document to clement.lekgetho@labour.gov.za; warren.mallon@labour.gov.za and bulelwa.huna@labour.gov.za or by faxing it to 012 309 4763

Ergonomics Regulations

1. Definitions

Cognitive – The processing of stimuli from the environment and from within the individual.
These stimuli are relayed by the sense organs to the brain.

Cognitive ergonomics – Optimizing the relationship between cognitive factors and performance.

Competent Person in relation to ergonomics means a person who –

- (a) has in respect of the work or task to be performed the required knowledge, training and experience in the field of ergonomics and
- (b) is familiar with the Act and the applicable regulations made under the Act.

Designer means –

- (a) A competent person who:
 - i. Prepares a design
 - ii. Checks and approves a design
 - iii. Arranges for a person at work under his or her control to prepare a design, including an employee of that person where he or she is the employer; or
 - iv. Designs temporary work, including its components
- (b) An architect or engineer contributing to, or having overall responsibility for a design
- (c) A building services engineer designing details for fixed plant;
- (d) A surveyor specifying articles or drawing up specifications

Ergonomics – scientific discipline concerned with the fundamental understanding of interactions among humans and other elements of a system, and the profession that applies theory, principles, data and methods to design in order to optimise human well-being and overall system performance.

Ergonomics Risk Assessment - means a programme to determine any risk from exposure to ergonomics risk factors associated with the workplace in order to identify the steps that need to be taken to remove, reduce or control such hazard.

Ergonomics Programme – A systematic process for anticipating, identifying, analysing and controlling physical and cognitive ergonomics risk factors, which should include, but not be limited to, ergonomics hazards identification and risk assessment, risk controls, information and training, monitoring and evaluation and medical surveillance.

Ergonomic Risk Factors – Actions in the workplace, workplace conditions, or a combination thereof, which may cause or aggravate a Work-Related-Musculoskeletal-Disorder.

Musculoskeletal injuries and disorders: affect the body's muscles, joints, tendons, ligament and nerves by causing pain, numbness, tingling, swelling or loss of function.

Musculoskeletal system-the system of bones, muscles and connective tissues(tendons, ligaments, fascia, cartilage) which support and protect the human body and its organs, and are the basis of all motion

Physical ergonomics-is concerned with human anatomical, anthropometric, physiological and biomechanical characteristics as they relate to physical activity.

Supplier - A person, who has control over the supply, importation or re-supply of:

- a) an item, or
- b) a workplace, or
- c) equipment

2. Scope of application

- 1) These Regulations will focus on a programme approach to manage physical and cognitive ergonomics in the workplace.
- 2) These regulations shall apply to:
 - a) an employer or a self-employed person who carries out work at a workplace which may expose any person to physical or cognitive ergonomic risk factors in that workplace; and
 - b) a person, who designs, manufactures, erects, installs or supplies machinery, equipment or articles for use at work.

3. Information and training

- 1) An employer shall, after consultation with the health and safety committee established in respect of a workplace under his or her control or the health and safety representatives designated for that workplace or for different sections thereof, establish for all employees and mandatories or persons other than employees who may be affected or potentially exposed to ergonomic risk factors a training programme that incorporates the following –
 - a) the content and scope of these regulations;
 - b) the potential sources of the exposure to ergonomic risk factors
 - c) the nature of the ergonomic risk factors;
 - d) the potential risk to health associated with ergonomic risk factors;
 - e) the level at which they may be at risk;
 - f) the control measures that are in place to prevent musculoskeletal injuries and disorders as a result of exposure to ergonomic risk factors;
 - g) the early reporting of potential discomfort or related symptoms to the health and safety representative or employer;
 - h) the precautions to be taken by an employee to protect himself or herself against the health risks associated with ergonomic risk factors;
 - i) the assessment of exposure, the purpose of monitoring, the necessity for medical surveillance and the long term benefits of undergoing such surveillance;
 - j) procedure for reporting defects in plant or equipment that could lead to musculoskeletal injuries and disorders;

- 2) The training contemplated in sub regulation (1) shall be conducted prior to the placement of the relevant employee.
- 3) Refresher training shall be conducted annually or at intervals that may be recommended by the health and safety committee and the health and safety representative.
- 4) The training contemplated in sub regulation (1) shall be provided by a person who is competent in ergonomic risk factors.
- 5) An employer or self-employed person shall ensure as far as reasonably practicable that his or her mandatories or persons other than employees who may be affected by ergonomic risk factors at the workplace are given adequate information, instruction and training.
- (6) An employer shall keep a record of any training that is given to an employee in terms of this regulation.

4. Duties of those who may be at risk of exposure to ergonomic risk factors

- 1) Any person who is exposed or may be exposed to ergonomic risk factors shall obey any lawful instruction given to him or her by the employer or self-employed person or by anyone authorized thereto by the employer or self-employed person, regarding-
 - a) the use of measures adopted to control ergonomic risk factors;
 - b) co-operation with the employer in his or her task of determining the employee's exposure to ergonomic risk factors;
 - c) the early reporting of potential discomfort or related symptoms to the health and safety representative or the employer;
 - d) the immediate reporting and procedure for reporting defects in plant or equipment that could lead to musculoskeletal injuries and disorders to the health and safety representative or employer;
 - e) the reporting for medical surveillance as required by regulation 9; and
 - f) information and training received as contemplated in regulation 3.

5. Duties of designers, manufacturers and suppliers

1) Designers of machinery, equipment or articles for use at work must:

- a) eliminate ergonomic risk factors from the design or, where this is not reasonable practicable, minimise ergonomic risk factors that workers may be exposed to in each possible use of (or interaction with) the items during performance of tasks;
- b) provide information about the ergonomic risk factors identified and controls to the manufacturer so that the manufacturer may take action during manufacture, where reasonably practicable, to eliminate or minimise residual ergonomic risk factors, and ensure that no further risks are introduced during the manufacturing process.
- c) provide information to the manufacturer (or supplier if the designer is also manufacturing the product) for potential users involved in each phase in the lifecycle of the product about the ergonomic risk factors he or she have not been able to eliminate and the conditions required for safe use.

(2) Manufacturers of machinery, equipment or articles for use at work must:

- a) manufacture items or building/structures that may be used at a place of work that are as safe as is reasonably practicable;
- b) use materials in workplace that reduce the ergonomic risk factors from handling during construction and when the products are used during manual tasks or building/structure;
- c) use and test the safety measures specified by the designer in manufacture/building/constructing; and,
- d) provide information to the supplier for users involved in each potential use for the product about the conditions required for safe use and the risks not eliminated at the design stage.

(3) Any person who supplies machinery, equipment or articles for use at work must:

- a) supply products that are as safe as is reasonably practicable;
- b) supply goods so that they can be transported, received, stored and handled safely;
- c) provide information and training for potential users involved in each identified use of the product about the conditions required for safe use and the ergonomic risks that factors have not been eliminated or minimised as far as is reasonably practicable at the design, manufacture or supply stages;

- d) install equipment or erect structures using safe materials and in a manner and in locations that ensure it/they can be operated safely; and
- e) communicate maintenance requirements needed to ensure safe use and operation.

6. Ergonomic Risk Assessment

1) An employer shall,

- a) before the commencement of any work which may expose employees to ergonomics risk factors, have an ergonomics risk assessment performed by a competent person in consultation with the relevant health and safety representative or relevant health and safety committee; and
- b) the results of the ergonomic risk assessment to be entered into records as required by regulation 11.

2) The risk assessment contemplated in sub regulation (1) must include:

- a) the identification of ergonomic hazards and ergonomic risk factors to which persons may be exposed to;
- b) an analysis and evaluation of the ergonomic risk factors and hazards identified based on a documented method;
- c) a documented plan and applicable safe work procedure to mitigate, reduce or control the ergonomic risk factors and hazards that have been identified;
- d) monitoring work plan; and
- e) a review plan

(3) An employer must ensure that all employees under his or her control are informed, instructed and trained by a competent person regarding any hazard and related work procedures and or control measures before any work commences, and thereafter at the times determined in the risk assessment monitoring and review plan

(4) An employer shall forthwith review the relevant ergonomic risk assessment made in accordance with sub regulation (1) if-

- a) there is reason to believe that such assessment is no longer valid;
- b) control measures are no longer efficient;
- c) technological or scientific advances allow for more efficient control methods;
- d) where changes are effected to the manner in which the work is done resulting in a change in the ergonomic risk factor profile; or
- e) when an incident occurred.

7. Risk control

- 1) An employer or self-employed person shall ensure that the exposure of a person to ergonomics risk factors is either prevented or, where this is not reasonably practicable, adequately controlled.
- 2) In order to comply with sub regulation (1) an employer or self-employed person shall, as far as is reasonable practicable, remove or reduce exposure to ergonomics risk factors by implementing control measures in the following order of priority:
 - a) engineering control measures to eliminate or reduce risk factors;
 - b) administrative control measures to limit the number of persons exposed and the duration of the exposure

8. Medical Surveillance:

- 1) An employer shall ensure that an employee is under medical surveillance if-
 - a) the results of the assessment referred to in sub-regulation 6 indicate that an employee has been exposed to high ergonomics risk factors.
 - b) the exposure of employees to ergonomic risk factors is such that;
 - i. an identifiable disease or adverse health effect may be related to the exposure;
 - ii. there is a reasonable likelihood that the disease or health effect may occur under the particular conditions at the workplace and there are techniques to diagnose indications of the disease or health effect as far as reasonable practicable; or
 - iii. an occupational medicine practitioner recommends that relevant employees should be under medical surveillance, in which case the employer may call upon an occupational medicine practitioner to ratify the appropriateness of such recommendation.
- 2) An employer shall ensure that the medical surveillance contemplated in sub-regulation (1) consists of-
 - a) an initial health evaluation, in the case of new employees, before the employee commences employment or within 14 days after a person commences employment in a high risk job, or in the case of all other employees in the employment of the employer, within 24 months of date of promulgation of this regulation. This is to include but not be limited -
 - i. An evaluation of the employee's medical and occupational history;
 - ii. Physical examination;
 - iii. Any other essential medical examination which in the opinion of the occupational medicine practitioner is necessary in order to enable a proper evaluation.
 - b) a periodic health evaluation in the form of standardised questionnaires to identify symptom cases in workers in high risk jobs, at intervals not exceeding two years, or at intervals specified by an occupational medicine practitioner: Provided that if symptom cases are indicated further evaluation should be done as contemplated in paragraph (a) (ii) and (iii).
 - c) An exit musculoskeletal examination.

- 3) An employer shall not permit an employee who has been certified unfit for work by an occupational medicine practitioner to work in a workplace or part of a workplace in which he or she would be exposed: Provided that the relevant employee may be permitted to return to work which will expose him or her if he or she is certified fit for that work beforehand by an occupational medicine practitioner.
- 4) The employer shall, in accordance with regulation 8 of the General Administrative Regulations, investigate and record all incidents that result in an employee developing a work related musculoskeletal disorders.
- 5) An occupational health practitioner shall submit to the health and safety committee and employer a written protocol for procedures to be followed when dealing with abnormal results.
- 6) An inspector may instruct an employer to conduct the periodic evaluations contemplated in (2) (b) over a shorter period.

9. Maintenance of controls:

- 1) Every employer or self-employed person shall ensure that anything that he or she provides for the benefit of employees in compliance with his or her duties under these regulations:
 - a) is fully and properly used; and
 - (b) is maintained in an efficient state and in good working order.

10. Record

- 1) An employer or self-employed person shall-
 - a) keep records of the results of all assessments and medical surveillance reports and of maintenance of control measures required by these regulations;
 - b) subject to the provisions of paragraph (c), make the records contemplated in paragraph (a) available for inspection by an inspector;
 - c) subject to the formal written consent of an employee, allow any person to peruse the records with respect to that particular employee;
 - d) make the records of all assessments available for perusal by the relevant health and safety representative or relevant health and safety committee;
 - e) keep all records of assessments for a minimum period of 40 years;
 - f) keep all medical surveillance records for a minimum period of 40 years and if the employer ceases activities, hand over or forward by registered post all those records to the relevant Chief Director: Provincial Operations: Provided that those records shall contain at least the following information:

- i) An employee's surname, forenames, gender, date, of birth, name of spouse or closest relative and, where available, permanent address and postal code;
 - ii) A record of the types of work carried out that caused exposure to ergonomic risk factors and, where relevant, their location, with starting and finishing dates and with average duration of exposure in hours per week;
 - iii) A record of any previous work-related ergonomic risk factors exposure prior to an employee's current employment; and
 - iv) The dates of medical surveillance and results; and
- g) keep a record of training given to an employee in terms of regulation 3(6) for as long as the employee remains employed at the workplace in which or she is being exposed to ergonomic risk factors.

11. Ergonomics' Health and Safety Technical Committee

- 1) The chief inspector must establish an ergonomics' health and safety technical committee which must consist of-
 - (a) a person who is to be the chairperson;
 - (b) two persons designated by the chief inspector from the employees of the Department of Labour;
 - (c) three persons designated by employer's organisations to represent employers who has a competency in ergonomics;
 - (d) three persons designated by employees' organisations' representing the federation of unions who has a competency in ergonomics;
 - (e) one person representing a professional body;
 - (f) persons who are competent in respect of the matters to be dealt with by the ergonomics health and safety technical committee who have been co-opted by the committee with the authorisation of the chief inspector.
 - (g) one person representing an educational institution; and
 - (h) one person representing occupational medicine.
- 2) The chief inspector must appoint members of the ergonomics health and safety technical committee for a period that he or she may determine at the time of appointment: Provided that the chief inspector may after having afforded a member a reasonable opportunity to respond, discharge him or her at any time, for reasons that are fair and just, and appoint a new member in his or her place.
- 3) The Ergonomics health and safety Technical Committee must -
 - (a) advise the chief inspector on ergonomic related codes, standards and training requirements;
 - (b) make recommendations and submit reports to the chief inspector of occupational health and safety regarding any matter to which these regulations relate;

- (c) advise the chief inspector of occupational health and safety regarding any matter referred to the ergonomics' health and safety technical committee by the chief inspector of occupational health and safety;
 - (d) perform any other function for the administration of a provision of these Regulations that may be requested by the chief inspector of occupational health and safety;
 - (e) conduct its work in accordance with the instructions and rules of the conduct framed by the chief inspector of occupational health and safety; and
 - (f) refer appeals against decisions of the ergonomics' health and safety technical committee to the chief inspector of occupational health and safety.
- 4) Any person affected by any decision of the ergonomics health and safety technical committee may appeal against the decision to the chief inspector within 60 days of such decision becoming known and the chief inspector shall, after having considered the grounds of the appeal and the ergonomics health and safety technical committee's reasons for the decision, confirm, set aside or vary the decision or substitute for such decision any other decision which the ergonomics health and safety technical committee's in the chief inspector's opinion ought to have taken.
- 5) Any person aggrieved by a decision taken by the chief inspector under sub-regulation (4) may, within 60 days after the chief inspector's decision was given appeal such decision to the Labour court

12. Offences and Penalties

Any person who contravenes or fails to comply with any provision of sub-regulations 3, 4, 5, 6, 7, 8, 9 and 10 is guilty of an offence and liable upon conviction to a fine or to imprisonment for a maximum of 12 months and, in the case of a continuous offence, not exceeding an additional fine of R200 or additional imprisonment of one day on which the offence continues: Provided that the period of such additional imprisonment will not exceed 90 days.