

CIRCULAR 17 / 2020

**FROM : XOLILE GEORGE
CHIEF EXECUTIVE OFFICER**

**TO : EXECUTIVE MAYORS/MAYORS/SPEAKERS,
POLITICAL HEADS OF CORPORATE
SERVICES PORTFOLIO COMMITTEES,
CITY/MUNICIPAL MANAGERS**

DATE : 2 MAY 2020

SUBJECT: STATE OF NATIONAL DISASTER COVID-19 RETURN TO WORK GUIDELINES FOR MUNICIPALITIES

1. PURPOSE OF THE CIRCULAR

The purpose of this circular is twofold:

- (a) To advise municipalities on the stringent occupational health and safety measures that are prescribed in the Minister of Employment and Labour ¹Directive (the Ministerial Directive) which municipalities must adhere to as employers before employee return to work arrangements are implemented.
- (b) To advocate for a uniform and fairly cautious approach by municipalities given that the essence of the Ministerial Directive is to reduce and eliminate the escalation of COVID - 19 infections in workplaces.

2. BACKGROUND CONTEXT

¹ Government Notices •DEPARTMENT OF EMPLOYMENT AND LABOUR
479 Disaster Management Act (57/2002): Covid-19 Occupational Health and Safety Measures in Workplaces
Covid-19 (C19 OHS), 2020..... GG:
43257

While addressing the nation on 23 April 2020, President Cyril Ramaphosa announced an implementation of a risk adjusted strategy through which government will 'take a deliberate and cautious approach to the easing of lockdown restrictions in order to begin a gradual and phased recovery of economic activity. At that time the restrictions were pitched at Level 5, which is the highest level of lockdown restrictions. As of 01 May 2020, the level has been reduced to Level 4.

Some of the Level 4 implications include:

- Every business/organisation/employer is to adhere to detailed health and safety protocols to protect their employees;
- COVID - 19 ready workplace plans need to be put in place in advance to enable disease surveillance and prevent the spread of infections;
- Businesses/organisations/employers that are permitted to resume work will do so in a phased manner, by first comprehensively preparing the workplace for a return to operations followed by the return of the workforce in batches of not more than one – third ($\frac{1}{3}$), and
- Businesses/organizations/employers are to adopt a work from home strategy where possible.

3. STRATEGIC THRUST AND DISCUSSION

On 29 April 2020, the Department of Employment and Labour (DEL) Minister issued a range of occupational health and safety directives which are critical in supporting efforts to re-open economic activity in a phased manner while simultaneously ramping up efforts in business/organizations/employers to reduce and eliminate the escalation of COVID - 19 infections. This action is underpinned by the premise to balance the resumption of economic activity with the imperative to contain the virus and save lives. All of these directives apply with effect from 01 May 2020, the same day Level 4 restrictions were introduced and remain in force for as long as the declaration of a national disaster remains in force. Municipalities as employers are by implication also covered by these directive and guidelines.

Whilst appreciating that municipalities were on a partial lockdown due to some of the indispensable services delivered exclusively by the local sphere, the easing of restrictions by the regulations in one sector has a cascading effect necessitating us as municipalities to as well expand our scope of business continuity.

Various engagements with municipalities through member facing SALGA departments and business units have revealed signs of uncertainty and inconsistent implementation approaches by municipalities in preparing for and complying with these directives. It is with this in mind that SALGA through this circular wishes to draw your attention to these very stringent measures in order to assist municipalities to comply while also sustaining the municipal sectors' admirable contribution thus far to the national effort in fighting COVID - 19.

With an employee headcount in excess of 260 000, managing the return of $\frac{1}{3}$ of this workforce is a mammoth task and one that requires diligent preparation. It can therefore not be taken lightly nor can it be approached by placing reliance on only currently established Occupational Health and Safety (OHS) practices in municipalities. By this we mean the traditional ways of doing things.

Instead the advent of COVID - 19 and the introduction of these Ministerial Directives imposes a paradigm shift and step change on our municipal OHS management approaches, system investments and attitude. The municipal sector is definitely on the cusp of the new normal when it comes to the Human Resource Management (HRM) and OHS arena. This unique challenge is over and above statutory obligations generally set for municipalities as employers in terms of the Occupational Health and Safety Act, No. 85 of 1993 (the OHSA). While acknowledging this as a daunting task, it offers opportunities for organisational renewal and transformational change in our municipal employee engagement and wellness value proposition.

It should be further noted that all the measures contained in this directive apply to municipalities with the exception of those that are specifically reserved for small businesses. These are employers with less than 10 employees. This is because none of the 257 municipalities have a workforce of less than 10 employees so clearly all the

provisions within the purview of general application apply to all municipalities irrespective of size or category type.

3.1 Pre - Return to Work COVID - 19 Induced OHS Administrative Measures

In summary municipalities as employers of more than 500 employees, are obliged to undertake a risk assessment to give effect to a COVID - ready workplaces in the municipal sector.

A COVID - 19 ready workplace is characterized by a completed COVID - 19 Workplace Plan that is certified by the DEL (as per Annexure E, Regulation 16(6) (a - d) of the Disaster Management Act, 2002, Regulations issued under Government Notice No, 43258 on 29 April 2029 and more specifically as provided for under Regulations 16.1 - 16.11 of the Ministerial Directive that is the subject matter of discussion in this circular.

These strict obligations can be summarized as follows:

- A formal assignment of the risk assessment and coordination responsibility by a Municipal Manager, to a risk manager or officer who must work together with the health and safety management team of the municipality.
- ²Submission of the risk assessment conducted together with a written policy to DEL and confirmation of the established Health and Safety Committee of the municipality.
- Notification of employees about the contents of the Ministerial Directive and how a municipality intends to implement it;
- Notification of employees that if they are sick or have COVID - 19 symptoms they must not come to work;
- Appointment of a manager in the workplace to address employee or workplace concerns;
- creation of employee awareness in any form or manner, and
- A demonstrable undertaking by the employer that there will be strict compliance with the risk assessment plan through monitoring and supervision.

It is self-evident from the afore - mentioned provisions that adhering to each and every one of these prescribed terms is a non - negotiable before a municipality can contemplate communicating to the affected employees instructing them to return to work. Any such communicate without prior adherence amounts to non - compliance by a municipality.

In addition consultation meetings with employees prior to their return to work will have to be organized and convened through virtual meeting applications in

² Submission must be made to the Provincial Chief Inspector at <http://www.labour.gov.za/About-Us/Ministry/Pages/IES0320-7398.aspx>

order not to contravene applicable lockdown restrictions, which still apply even before employees resume workplace attendance.

The leadership in municipality is urged to exercise vigilance when deciding on the 1/3 cohort of employees that should return to work as dictated by the national risk adjusted strategy and regulations in respect of vulnerable employees. In this regard and based on currently available information it is recommended that the following general principles be considered, that:

- Caution should be exercised when assigning employees who are officially known by the municipality to suffer from immunocompromised or underlying serious medical condition/s;
- A pre-screening, facilitated by the municipality should be undertaken through completing a questionnaire by every employee identified as part of the 1/3 returning to work cohort. The self-test can be modelled according to the Cooperative Governance and Traditional Affairs department guideline accessible on the CoGTA's GovChat COVID-19 pre – screening self-assessment tool.
- The age profile of employees should be considered as it has been reported that persons aged approximately 60 and above have been found to be at a higher risk of severe illness and higher mortality rate from COVID-19;
- Employees who can productively work from home should be permitted so as to minimize the number of workers on site at any given time.

Employees should receive formal communication from the municipality before the return to work date, setting out important information about the process of onboarding under the regime governed by these ministerial directives. .

3.2 Workplace Onboarding COVID - 19 Induced OHS Measures

Even during the onboarding of returning employees, a range of additional measures must have already been in place and also adhered to going forward, underpinned by prescribed protocols relating to social distancing, symptom screening, sanitizers, disinfectants, cloth masks, public access control, ventilation and PPE provision.

As all the aforementioned measures are an integral part of any COVID - Ready Workplace Plan, it follows therefore that municipalities will be required, as per the dictates of this plan, to follow a strict regime of diligent compliance guided by regular supervision and monitoring by municipal management and leadership. In addition employees at all levels in the organization and to whom this Plan applies are equally obliged to comply with these measures as required by the applicable directive.

For purposes of monitoring and enforcement of the Ministerial Directive as envisaged in Section 28 of the OHSA, Inspectors from DEL have been designated to perform such functions. In as far as any contravention of the Ministerial Directive constitutes a contravention of an obligation or prohibition under the OHSA, the offences and

penalties provided therein apply. Municipalities are therefore encouraged to make a concerted effort to embrace the obligations set out under this directive and in so doing contribute to high levels of compliance in the ongoing fight against the coronavirus.

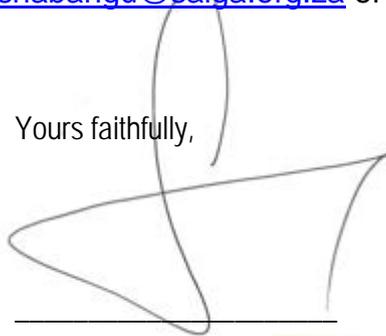
The COGTA Disaster Management Act, 2002, Regulations Notice No. 43258 (dated 29 April 2020) and the Department of Employment and Labour COVID - 19 Occupational Health and Safety Measures in Workplaces COVID - 19(C19 OHS), 2002 Notice No. 43257(dated 29 April 2020) have been incorporated as attachments to this circular for cross referencing and to deliberately draw attention of municipalities to all the detailed occupational health and safety provisions contained therein. The documents and other information can also be accessed through the links/shortcut below:

- [Regulations pertaining to COVID-19](#)
- <http://www.nicd.ac.za>

Municipal / City Managers are humbly requested to ensure that this circular is distributed widely including to municipal employees and councillors at large in order to achieve extensive awareness about these important COVID – 19 occupational health and safety measures.

For further enquiries on this circular and/or related matters, you are encouraged to contact Ms. Fikile Tshabangu as the designated SALGA official on email address ftshabangu@salga.org.za or via cell phone on 082 802 2098.

Yours faithfully,



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