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Legislative requirements for the SA Construction industry - the Occupational Health and Safety file for projects



The OHS file is an approved Health and Safety file compiled by a trained and competent OHS practitioner or team.

As stated in a previous blog regarding the *various challenges that small and medium business entities (SMEs) and business owners face in the South African construction industry*, drafting of an Occupational Health and Safety (OHS) file is regarded as one of those challenges. The OHS file is an approved Health and Safety file compiled by a trained and competent OHS practitioner or team. Once again, no South African contractor will or should in terms of legislation be allowed access to a construction site without the proper file or documents in place.

However, it is unfortunately a well-known fact that South Africa struggles with unemployment, poverty and proper education, and that some small entrepreneurs who are starting out do not have the finance and appropriate knowledge to ensure proper OHS implementation, execution and compliance. Due to a lack of knowledge and training, many do not even realise the importance thereof.

In this blog we are not referring to the industry giants who do not necessarily face the same obstacles as the smaller companies; we will rather take a look at the challenges faced by our small and medium business owners in terms of the OHS files required for construction projects.

Do I need an Occupational Health and Safety (OHS) File for my project?

The South African construction industry legislation leaves no question as to whether or not an OHS file is required when working on a construction site. Various legal documents are required before working on site – whether for one day or one year. Typically, the Principal Contractor will set out the requirements for the OHS file according to the Health and Safety Specification drafted by the Principal Contractor themselves, taking into consideration the size, duration and works performed during the project as well as the relevant legislation. This OHS Specification, which sets out the OHS requirements and legal documents for a specific project, is then issued to the Sub-Contractor.

These legally required documents are so voluminous that, when put together, they form a whole file. When doing maintenance on a project – be it a private home, office building or construction site – an OHS file will be required. An OHS file has to be available on site before any construction work can commence. In fact, the OHS file must be approved by management and signed by all personnel working on site before work can commence.

Can I compile my own OHS file?

Compiling an OHS file on your own might be possible if you are familiar with the business's daily activities. There are, however, several documents which in terms of legislation must be compiled and approved by a “competent” person with specific certification. For example, a Fall Protection Plan is required when working at heights and is compiled by a certified Fall Protection Plan Developer.

What does a general OHS file look like?

Most OHS files follow a similar pattern and, depending on the daily activities performed by employees, will generally include, although not limited to, the following:

- Baseline Risk Assessments and Task Specific Risk Assessments
- Occupational Health and Safety Management Plan
- Fall Protection and Rescue Plan
- Contractual Documents
- Safe Operating Work Procedures
- Emergency Numbers, Evacuation Plans and Other Emergency Related Documents
- Incident Reporting and Investigation Procedures
- COIDA Documents
- Employee Details (IDs, Drivers, Certificates, Medicals, etc.)
- Registers and Checklists of all equipment
- Daily Safety Talks, Planned Task Observations, Daily Safety Task Inspections
- Company Policies
- All other management plans relevant to work performed.

The Importance of an Occupational Health and Safety File

While the compilation and communication of an OHS file might seem overwhelming for smaller or merely maintenance projects, it might be advisable to heed that without the proper paperwork in place, and in the event of an incident or accident, both the employee and employer could face serious consequences.

Firstly, the employer has a legal obligation to ensure that he/she provides a safe work environment to all employees. This includes ensuring that proper procedures are in place to create said safe work environment. Whenever an employer fails to implement the necessary procedures and processes in order to create a safe working environment, both the employer and employee are exposed to extreme risk – the employer being exposed to substantial legal sanctions such as hefty fines and imprisonment, and the employee facing the prospect of serious physical injury, or even a fatality.

You can also follow the links to previous articles about [*Legal Liability and Employer Responsibilities in the Workplace.*](#)

Secondly, employees have a duty to inform employers of any unsafe work conditions. Failing to do so is in contravention of the law, as stated in section 14(d) of the Occupational Health and Safety Act 85 of 1993. *Duties of an Employee at Work* refers to all aspects of the employee's responsibility in terms of OHS.

In light of the above, it is the *duty of the employee to report any unsafe acts or conditions to his or her employer*. This includes unsafe practices such as not having any procedures in place to address occupational health and safety – which translates into not having a safety file in place when it is required.

If, however, the employee is not even aware of the OHS requirements due to lack of education, training or knowledge, how will he/she be able to report this unsafe act or condition to the employer? Will the employee have the courage to address the matter with the employer? And how will the employee be able to rectify the situation if the employer does not have the financial means to prioritise or discharge his or her duty of care in order to ensure that the unsafe condition is rectified?

These are the struggles faced by many companies in South Africa today. Employers and employees are not even aware of the OHS requirements, let alone the way in which to comply with them. Additionally, employers don't have the financial capacity or know-how to address these matters, or some don't really care since production, revenue and bottom-line profits seem more important.

In conclusion

Familiarising yourself with various applicable legislation, regulations and by-laws will equip you as employer to understand the demands of the industry better. Key legislation to consider includes the OHSA, Construction Regulations 2014, General Safety Regulations and General Administrative Regulations.

SERR Synergy assists business owners with a comprehensive OHS service to create and continuously develop a health and safety culture and system within the business that align with the business's internal policies and goals. We have a dedicated and qualified team that implements health and safety legislation, and assists with small- to large-scale OHS projects, concerns or aspects.

About the Author: Inge-Marie joined our team in August 2018 and currently holds the title 'Occupational Health and Safety Officer'. She is registered with SACPCMP as Candidate Construction Health and Safety Officer, holds a SAMTRAC certificate and is currently in her final year of completing a B.Com Business degree at UNISA. She has more than six years' experience in the construction and health and safety industry, specialising in roof work and working at heights. She is currently responsible for various industry-specific clients, including construction, manufacturing, chemicals and oil, as well as wireless internet service providers. She compiles OHS files, risk assessments and fall protection, emergency and evacuation plans and conducts regular internal audits for clients.

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