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Legislative requirements for the use of Hazardous Chemical Agents



In a previous article about *OHS legislative requirements for the South African Construction industry*, we identified five important legislative requirements that small business entities (SME's) and business owners should be aware of.

In this blog, we will explore different legislative requirements that are related to all industries within South Africa in specific the use of Hazardous Chemical Agents in the workplace.

Introduction to the Hazardous Chemical Agents Regulations

The Hazardous Chemical Agents Regulations (HCARs) of 2021 are applicable to all employers and self-employed individuals, as well as manufacturers, importers and suppliers exposed to hazardous chemical agents (HCAs) in workplaces. In this blog will delve into the finer (or hazardous) details of the HCARs.

Important amendments to the amended Hazardous Chemical Regulations (HCARs)

The HCARs were revised in 2021 and replaced the Hazardous Chemical Substance Regulations of 1995. Here are some of the amendments that should be taken note of:

Regulation 1 - New definitions that were added

- "BEI" or "biological exposure index"
- "CAS number" or "chemical identity"
- "Chemical agent"
- "GHS hazard classification"
- "Hazard category"
- "Hazardous chemical agent" or "HCA"

Regulation 3 - Information, instruction and training

HCARs place emphasis on “information, **instruction** and training”, specifically requiring employers are to ensure that the following are communicated and understood by all employees:

- Chemical substance regulations are in place and govern all aspects of HCAs used in the workplace.
- Duties of persons who are likely to be exposed to an HCA.
- Details of the HCAs to which the employee is likely to be exposed in the workplace.
- Work practices and procedures that must be followed for the use, handling, storage, transportation, spillage and disposal of an HCA, in emergency situations, as well as for good housekeeping and personal hygiene; and
- Precautions that must be taken by employees to protect themselves against health risks associated with exposure, including wearing protective clothing and using respiratory protective equipment.

Regulation 6 - Air Monitoring

Air Monitoring Measurement Programmes may only be conducted by approved inspection authorities.

Regulation 14 - Classification of Hazardous Chemical Agents (new)

Manufacturers and/or importers of chemical agents must do the following before chemical agents are supplied to a workplace:

- Determine whether the chemical agent is an HCA by conducting a hazard assessment, with reference to the cut-off values provided in Tables 4 and 5 of Annexure 1.
- If the substance, mixture or article is an HCA, ensure that a GHS (Globally Harmonized System) classification is carried out for the HCA.
- Review the GHS classification if a change is made to the composition of the HCA.

Regulation 14A - Safety Data Sheets (new)

No longer referred to as Material Safety Data Sheets.

- Manufacturers and importers must prepare a safety data sheet (SDS) before manufacturing the chemical agent, or immediately after manufacturing the HCA but before importing the chemical agent.
- The SDS must meet certain requirements and must be provided by manufacturers and importers to any suppliers of the HCA to a workplace and to any person who is likely to be affected by an HCA.
- The SDS must be presented using the 16 specific headings listed in the 2021 Regulations.

Regulation 14B - Labelling of HCAs (new)

Manufacturers and importers, suppliers, retailers and employers all have different responsibilities regarding the labelling of HCAs. These are outlined in this regulation.

Regulation 15 - Disposal of Hazardous Chemicals (new)

Employers must, as far as reasonably practicable, meet certain requirements when disposing of HCAs. For example, the employer must-

- recycle HCA waste.
- ensure that all collectable HCA waste is placed in containers that prevent the likelihood of exposure during handling.
- ensure that if the services of a waste disposal contractor are used, the contractor also complies with the provisions of these regulations.

Why are these amendments important?

The amendments made reflect an enhanced understanding of HCAs and a proactive approach to safeguarding health and the environment. The HCARs broaden the definition of HCAs to encompass a wider array of substances posing risks to human health or the environment. This expansion reflects advancements in scientific knowledge regarding chemical toxicity and exposure pathways.

- The amendments introduce more rigorous procedures for assessing and managing risks associated with HCAs. Employers and regulatory authorities are required to conduct comprehensive risk assessments, including identification of potential hazards, evaluation of exposure levels, and implementation of control measures to mitigate risks effectively.
- The protection of workers who handle HCAs is strongly emphasised. Employers are mandated to provide comprehensive training, personal protective equipment, and a *safe working environment* to minimise the risk of occupational exposure.
- The HCARs recognise the environmental impact of HCAs, and the amendments emphasise measures to prevent and mitigate pollution. This includes stringent guidelines for storage, handling and disposal of HCAs to minimise environmental contamination.
- And lastly, the HCARs ensure compliance and enforcement by empowering regulatory authorities to conduct inspections, impose penalties for non-compliance, and promote industry adherence to safety standards.

Overall, the HCARs of 2021 represent a proactive step towards enhancing chemical safety, protecting human health, and preserving the environment in line with evolving scientific understanding and best practices in regulatory governance.

In conclusion

Familiarising yourself with various applicable legislation, regulations and by-laws will equip you as employer to better understand the demands of the industry. Key legislation to consider includes the *OHSA, Construction Regulations* 2014, General Safety Regulations and General Administrative Regulations. In the next blog, we will examine each of the regulations mentioned above and take a deeper look at what the legislative requirements are.

SERR Synergy assists business owners with a comprehensive OHS service which creates and continuously develops a health and safety culture and system aligned to 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 medium-scale OHS projects, concerns or aspects.

About the Author: Inge-Marie joined our team in August 2018 and currently holds the title 'OHS Team Lead'. She holds a B.Com in Business Management from UNISA and is currently studying towards her Honours degree. 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 a team of professionals who work in various industries, including construction, manufacturing, chemicals and oil, restaurants, and transportation. As a certified internal auditor for Integrated Management Systems, ISO 9001, ISO 45001, and ISO 14001, she conducts internal audits for clients and assists with the development and implementation of Integrated Management Systems (Safety, Health, Environment and Quality).

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