



**REPUBLIC OF SOUTH AFRICA**

# **GOVERNMENT GAZETTE**

## **STAATSKOERANT**

### **VAN DIE REPUBLIEK VAN SUID-AFRIKA**

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#### STATE PRESIDENT'S OFFICE

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No. 2471.

29 December 1993

It is hereby notified that the Acting State President has assented to the following Act which is hereby published for general information:—

No. 181 of 1993: Occupational Health and Safety Amendment Act, 1993.

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#### KANTOOR VAN DIE STAATSPRESIDENT

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No. 2471.

29 Desember 1993

Hierby word bekend gemaak dat die Waarnemende Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 181 van 1993: Wysigingswet op Beroepsgesondheid en Veiligheid, 1993.

**GENERAL EXPLANATORY NOTE:**

- [ ] Words in bold type in square brackets indicate omissions from existing enactments.
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- Words underlined with a solid line indicate insertions in existing enactments.
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**ACT**

To amend the Occupational Health and Safety Act, 1993, so as to define certain expressions; to further regulate the constitution of the Advisory Council for Occupational Health and Safety; to further regulate the duty not to interfere with or misuse things; to further regulate the appointment and functions of health and safety representatives; to delete the proviso in regard to certain deductions; to provide that an employee must be informed of an occupational disease which he has contracted; and to further regulate the prohibition on victimization; and to provide for matters connected therewith.

(*English text signed by the Acting State President.*)  
*(Assented to 14 December 1993.)*

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 85 of 1993**

1. Section 1 of the Occupational Health and Safety Act, 1993 (hereinafter referred to as the principal Act), is hereby amended—

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(a) by the insertion in subsection (1) after the definition of “employer” of the following definition:

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“employers’ organization means an employers’ organization as defined in section 1 of the Labour Relations Act, 1956 (Act No. 28 of 1956);”;

(b) by the insertion in subsection (1) after the definition of “this Act” of the following definition:

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“trade union means a trade union as defined in section 1 of the Labour Relations Act, 1956 (Act No. 28 of 1956).”

**Amendment of section 4 of Act 85 of 1993**

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2. Section 4 of the principal Act is hereby amended by the substitution for paragraphs (f) and (g) of subsection (1) of the following paragraphs, respectively:

(f) six persons to represent the interests of employers from a list of the names of persons nominated by employers’ organizations or federations of employers’ organizations;

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(g) six persons to represent the interests of employees from a list of the names of persons nominated by trade unions or federations of trade unions;”.

**ALGEMENE VERDUIDELIKENDE NOTA:**

- [ ]** Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.
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- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.
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**WET**

Tot wysiging van die Wet op Beroepsgesondheid en Veiligheid, 1993, ten einde sekere uitdrukings te omskryf; die samestelling van die Adviesraad vir Beroepsgesondheid en Veiligheid verder te reël; die plig om nie met voorwerpe in te meng of dit te misbruik nie verder te reël; die aanstelling en werksaamhede van gesondheids- en veiligheidsverteenvoerdigers verder te reël; die voorbehoudsbepaling met betrekking tot sekere aftrekkings te skrap; voorsiening te maak dat 'n werknemer ingelig moet word van 'n beroepsiekte wat hy opgedoen het; en die verbod op viktimisasie verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Waarnemende Staatspresident geteken.)  
(Goedgekeur op 14 Desember 1993.)*

**D**AAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wysiging van artikel 1 van Wet 85 van 1993**

1. Artikel 1 van die Wet op Beroepsgesondheid en Veiligheid, 1993 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur in subartikel (1) na die omskrywing van "substansie" die volgende omskrywing in te voeg:  
“vakvereniging” 'n vakvereniging soos omskryf in artikel 1 van die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956);” en
- (b) deur in subartikel (1) na die omskrywing van “werkewer” die volgende omskrywing in te voeg:  
“werkgewersorganisasie” 'n werkgewersorganisasie soos omskryf in artikel 1 van die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956);”.

**15 Wysiging van artikel 4 van Wet 85 van 1993**

2. Artikel 4 van die Hoofwet word hierby gewysig deur paragrawe (f) en (g) van subartikel (1) deur onderskeidelik die volgende paragrawe te vervang:
- (f) ses persone, uit 'n lys van die name van persone deur werkgewersorganisasies of federasies van werkgewersorganisasies benoem, om werkgewersbelange te verteenwoordig;
- (g) ses persone, uit 'n lys van die name van persone deur vakverenigings of federasies van vakverenigings benoem, om werknemersbelange te verteenwoordig;”.

**Substitution of section 15 of Act 85 of 1993**

**3.** The following section is hereby substituted for section 15 of the principal Act:

**"Duty not to interfere with, damage or misuse things"**

**15.** No person shall intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health or safety.".

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**Amendment of section 17 of Act 85 of 1993**

**4.** Section 17 of the principal Act is hereby amended by the substitution for subsections (2) and (3) of the following subsections, respectively:

"(2) An employer and the representatives of his employees recognized by him or [their], where there are no such representatives, the employees shall consult in good faith regarding the arrangements and procedures for the nomination or election, period of office and subsequent designation of health and safety representatives in terms of subsection (1): Provided that if such consultation fails, the matter shall be referred for arbitration to [an inspector, whose decision shall be final] a person mutually agreed upon, whose decision shall be final: Provided further that if the parties do not agree within 14 days on an arbitrator, the employer shall give notice to this effect in writing to the President of the Industrial Court, who shall in consultation with the chief inspector designate an arbitrator, whose decision shall be final."

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(3) Arbitration [by an inspector] in terms of subsection (2) shall not be subject to the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), and a failure of the consultation contemplated in that subsection shall not be deemed to be a dispute in terms of the Labour Relations Act, 1956 (Act No. 28 of 1956): Provided that the Minister may prescribe the manner of arbitration and the remuneration of the arbitrator designated by the President of the Industrial Court.".

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**Amendment of section 18 of Act 85 of 1993**

**5.** Section 18 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

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"(2) A health and safety representative [may] shall, in respect of the workplace or section of the workplace for which he has been designated be entitled to—

- (a) visit the site of an incident at all reasonable times and attend any inspection *in loco*;
- (b) attend any investigation or formal inquiry held in terms of this Act;
- (c) in so far as it is reasonably necessary [to perform] for performing his functions, inspect any document which the employer is required to keep in terms of this Act;
- (d) accompany an inspector on any inspection;
- (e) with the approval of the employer (which approval shall not be unreasonably withheld), be accompanied by a technical adviser, on any inspection; and
- (f) participate in any internal health or safety audit.".

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**Substitution of section 23 of Act 85 of 1993**

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**6.** The following section is hereby substituted for section 23 of the principal Act:

**"Certain deductions prohibited"**

**23.** No employer shall in respect of anything which he is in terms of this Act required to provide or to do in the interest of the health or safety of an employee, make any deduction from any employee's

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**Vervanging van artikel 15 van Wet 85 van 1993**

3. Artikel 15 van die Hoofwet word hierby deur die volgende artikel vervang:

**"Plig om nie met voorwerpe in te meng of dit te beskadig of te misbruik nie"**

5       **15.** Niemand mag opsetlik of op 'n roekeloze wyse met enige voorwerp wat in belang van gesondheid of veiligheid voorsien is, inmeng of dit beskadig of misbruik nie.”.

**Wysiging van artikel 17 van Wet 85 van 1993**

4. Artikel 17 van die Hoofwet word hierby gewysig deur subartikels (2) en (3) 10 deur onderskeidelik die volgende subartikels te vervang:

15       “(2) 'n Werkgewer en die verteenwoordigers van sy werknemers wat deur hom erken word of [hulle], waar daar nie sodanige verteenwoordigers is nie, die werknemers moet te goeder trou oorleg pleeg betreffende die reëlings en procedures vir die benoeming of verkiesing, ampstryd en daaropvolgende aanwysing van gesondheids- en veiligheidsverteenvoerders ingevolge subartikel (1): Met dien verstande dat indien sodanige oorlegpleging misluk, die saak vir arbitrasie verwys word na 'n [inspekteur, wie se beslissing finaal is] persoon oor wie wedersyds ooreengekom is, wie se beslissing finaal is: Met dien verstande voorts dat indien die partye nie binne 20 14 dae oor 'n arbiter ooreengekom nie, die werkgewer te dien effekte skriftelik aan die President van die Nywerheidshof kennis moet gee, wat in oorleg met die hoofinspekteur 'n arbiter aanwys, wie se beslissing finaal is.

25       (3) Arbitrasie [deur 'n inspekteur] ingevolge subartikel (2) is nie onderworpe aan die bepalings van die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965), nie, en 'n mislukking van die oorlegpleging in daardie subartikel beoog, word nie geag 'n geskil te wees ingevolge die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), nie: Met dien verstande dat die Minister die wyse van arbitrasie en die vergoeding van die arbiter deur die President van die Nywerheidshof aangewys, kan voorskryf.”.

**30 Wysiging van artikel 18 van Wet 85 van 1993**

5. Artikel 18 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

35       “(2) 'n Gesondheids- en veiligheidsverteenvoerder [kan] is geregtig daarop om, ten opsigte van die werkplek of afdeling van die werkplek waarvoor hy aangewys is—  
 (a) die terrein van 'n voorval te eniger redelike tyd te besoek en 'n inspeksie ter plaatse [meemaak] mee te maak;  
 (b) enige ondersoek of formele ondersoek ingevolge hierdie Wet [bywoon] by te woon;  
 40       (c) vir sover dit redelikerwys nodig is om sy werksaamhede te verrig, enige dokument wat sy werkgewer ingevolge hierdie Wet moet byhou, te inspekteer;  
 (d) 'n inspekteur tydens enige inspeksie te vergesel;  
 (e) met die goedkeuring van die werkgewer (welke goedkeuring nie onredelik weerhou mag word nie) deur 'n tegniese adviseur tydens enige inspeksie vergesel te word; en  
 45       (f) [deelneem] in enige interne gesondheids- of veiligheidsoudit deel te neem.”.

**Vervanging van artikel 23 van Wet 85 van 1993**

50       6. Artikel 23 van die Hoofwet word hierby deur die volgende artikel vervang:

**"Sekere aftrekkings verbode**

23. Geen werkgewer mag ten opsigte van enigiets wat hy ingevolge hierdie Wet verplig is om in belang van die gesondheid of veiligheid van 'n werknemer te verskaf of te doen, enige aftrekking van enige

remuneration or require or permit any employee to make any payment to him or any other person [Provided that where an employee intentionally causes loss of or damage to health or safety equipment, his employer may, after a proper investigation, recover such loss or damage from that employee].".

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**Substitution of section 25 of Act 85 of 1993**

7. The following section is hereby substituted for section 25 of the principal Act:

**"Report to chief inspector regarding occupational disease**

25. Any medical practitioner who examines or treats a person for a disease described in the Second Schedule to the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), or any other disease which he believes arose out of that person's employment, shall within the prescribed period and in the prescribed manner report the case to the person's employer and to the chief inspector, and inform that person accordingly.".

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**Amendment of section 26 of Act 85 of 1993**

8. Section 26 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

"(2) No employer shall unfairly dismiss an employee, or reduce the rate of his remuneration, or alter the terms or conditions of his employment to terms or conditions less favourable to him, or alter his position relative to other employees employed by that employer to his disadvantage, by reason of the information that the employer has obtained regarding the results contemplated in section 12(2) or by reason of a report made to the employer in terms of section 25.".

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**Short title and commencement**

9. This Act shall be called the Occupational Health and Safety Amendment Act, 1993, and shall come into operation on 1 January 1994.

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werknaemers se beloning maak of vereis of toelaat dat enige werknaemers enige betaling aan hom of enige ander persoon maak nie **[Met dien verstande dat waar 'n werknaemer opsetlik verlies van of skade aan gesondheids- of veiligheidstoerusting veroorsaak het, sy werkgever, na 'n behoorlike ondersoek, sodanige verlies of skade op daardie werknaemer kan verhaal].**".

**Vervanging van artikel 25 van Wet 85 van 1993**

7. Artikel 25 van die Hoofwet word hierby deur die volgende artikel vervang:

**"Verslag aan hoofinspekteur aangaande beroepsiekte**

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**25.** 'n Mediese praktisyne wat iemand ondersoek of behandel vir 'n siekte wat in die Tweede Bylae by die Ongevallewet, 1941 (Wet No. 30 van 1941), beskryf is of enige ander siekte wat hy vermoed ontstaan het as gevolg van daardie persoon se diens, moet binne die voorgeskrewe tydperk en op die voorgeskrewe wyse die geval by daardie persoon se werkgever en by die hoofinspekteur aanmeld, en daardie persoon dienooreenkomsdig inlig.".

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**Wysiging van artikel 26 van Wet 85 van 1993**

8. Artikel 26 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:

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**(2)** 'n Werkgever mag nie 'n werknaemers onbillik uit sy diens ontslaan, of die skaal van sy beloning verminder, of die bedinge of voorwaardes van sy diens verander na bedinge of voorwaardes wat vir hom minder gunstig is, of sy posisie in vergelyking met ander werknaemers in die diens van daardie werkgever tot sy nadeel verander nie, as gevolg van die inligting wat die werkgever bekom het oor die resultate beoog in artikel 12(2) of as gevolg van 'n aanmelding by die werkgever ingevolge artikel 25.".

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**Kort titel en inwerkingtreding**

9. Hierdie Wet heet die Wysigingswet op Beroeps gesondheid en Veiligheid, 1993, en tree in werking op 1 Januarie 1994.

