

ENVIRONMENTAL

DMRE issues directives on mining sector, in line with requirements of Section 5(1) of the Mine Health And Safety Act, 29 of 1996

30 April 2020 3 min read

by Chris Stevens, Director and Head of the Mining, Environmental and Resources practice; Kathleen Louw, Director; and Bronwyn Parker, Senior Associate

1. On 23 April 2020, and as the South African mining sector prepares to ramp up to 50% of capacity, the Department of Minerals and Energy ("DMRE") issued the directive ("the 23 April 2020 Directive") which contains the steps the DMRE believes are necessary to ensure safe start-up processes and procedures. The directive does not appear to be an amendment to the Regulations in terms of section 27(2) of the Disaster Management Act, 2002 ("the Disaster Management Act") and its exact legal status is unclear.
2. The directive is issued in line with the employer's obligations, as set out in section 5 of the Mine Health and Safety Act 29 of 1996 ("MHSA"), which obliges an employer *"to maintain healthy and safe mine environment"*. When implementing this section, employers are however only required to do that which is *"as far as reasonably practicable"*. The approach to the implementation of the 23 April 2020 Directive seems to be similar, which is helpful to employers under the current circumstances as it recognises that employers cannot be expected to implement measures that are not possible.
3. The 23 April 2020 Directive must be read in conjunction with Regulations GN318 of March 2020, as amended and issued in terms of Section 27(2) of the Disaster Management Act, and the sector specific directions published by the DMRE in Government Gazette 43227 on 11 April 2020. The directive states the following:
 - 3.1 mining companies must, in consultation with labour unions in the respective operations, develop the start-up procedure, and provide a copy of such procedure to the Department, prior to ramp-up of operations;
 - 3.2 the start-up procedures must address measures to be taken to prevent the spread of COVID-19, as well as actions to provide a safe working environment, especially following the prolonged closure of certain operations. These measures should include:
 - 3.2.1 Rigorous screening of all employees, including contractors, prior to accessing the mine;
 - 3.2.2 Testing of employees with symptoms of COVID-19;
 - 3.2.3 Adequate social distancing;
 - 3.2.4 Provision of quarantine facilities for employees showing signs of COVID-19;
 - 3.2.5 Establishment and maintenance of a personal hygiene programme; and
 - 3.2.6 Provision of appropriate Personal Protective Equipment (PPE) including face masks.
 - 3.3 the directive also encourages employers to systematically phase in workers at the mines.
4. In its press release regarding the directive, the DMRE reiterates that it would continue with scheduled and unannounced visits to mining operations to monitor compliance with the lockdown regulations, guiding principles on prevention and management of COVID-19, as well as each mine's start-up procedure.

5. Please contact the Werksmans mining team should you have any questions around the implementation of the Disaster Management Act, 2002 and associated Regulations.



Chris Stevens

Head of Mining & Resources

[View Profile](#)



Kathleen Louw

Director

[View Profile](#)