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The hazardous biological agents regulations: COVID-19 in the workplace

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Hazardous Biological Agents

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The Minister of Employment and Labour ("**The Minister**") published the Hazardous Biological Agents ("**HBA**") Regulations ("**Regulations**") on 16 March 2022 in terms of section 43 of the Occupational Health and Safety Act, 85 of 1993 ("**OHSA**"). The Regulations concern all forms of HBA. This would include, amongst others, SARS-CoV-2 ("**COVID-19**").

The Regulations are to be read in conjunction with the Code of Practice: Managing Exposure to SARS-COV-2 in the Workplace ("**Code**") which became effective upon the termination of the national state of disaster on 4 April 2022. An update on the recently published Code can be accessed **here.**

Application of the Regulations "HBA"

The Regulations list COVID-19 as a Group 3 HBA. A Group 3 HBA is defined as an HBA that "may cause severe human disease, which presents a serious hazard to exposed persons and which may present a risk of spreading to the community, but for which effective prophylaxis and treatment is available".

The Regulations apply to every employer or self-employed person at a workplace where exposure to COVID-19 may occur. The Regulations contemplate reasonably practicable steps that can be taken on the part of an employer to control the exposure to an HBA in a workplace. This includes, amongst others:

- Risk assessments for HBAs
- Exposure monitoring of HBAs
- Medical surveillance
- Record Keeping
- The Prevention and control of exposure to HBAs
- Personal protective equipment and facilities

Failure to Comply with the Regulations "HBA"

Any person who contravenes or fails to comply with these obligations will be guilty of an offence, and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months. Duties of persons who might be exposed to HBAs.



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