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Is COVID-19 symptom screening still necessary?

What are an employer's COVID-19 symptom screening obligations in 2022?

In light of the recent downward trend in the number of COVID-19 positive cases in South Africa, many may feel that the screening of employees for symptoms of COVID-19 is no longer necessary. However, it must be noted that an employer's legal obligations with respect to the screening of employees for COVID-19 symptoms have not changed and remain as stringent as they once were.

Legal Framework:

Regulation 30(3) of the "Regulations issued in terms of Section 27(2) of the Disaster Management Act, 2002", which were amended as recently as 07 February 2022, requires that "relevant health protocols and social distancing measures set out in directions must be adhered to, in addition to the occupational health and safety directions issued by the Cabinet member responsible for employment and labour, and applicable labour legislation". While Regulation 16 requires a Workplace Plan to be in place which specifically sets out the screening facilities and systems which have been arranged for the staff in the establishment.

A copy of the "Regulations issued in terms of Section 27(2) of the Disaster Management Act, 2002", as of 07 February 2022, can be downloaded by clicking the following link:

<http://www.lawsouthafrica.up.ac.za/index.php/browse/disaster-management/disaster-management-act-57-of-2002/regulations-and-notices/57-of-2002-disaster-management-act-regs-gnr-480-2022-02-07-to-date-pdf/download>



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To provide further detail to these Regulations, the Amended Consolidated Direction on Occupational Health and Safety Measures in Certain Workplaces (“the Direction”) became effective on 11 June 2021. Section 6 of the Direction governs the employer’s obligations with regard to symptom screening of employees for Covid-19. A copy of the Direction may be accessed at the following link:

https://www.gov.za/sites/default/files/gcis_document/202006/43400rg11128gon639.pdf

Section 6(1) of the Direction requires the employer to screen its employees when they report for work to determine whether an employee is suffering from any of the known symptoms of Covid-19. While Section 6(2) also obligates employers to comply with any guidelines issued by the National Department of Health in respect of symptom screening and testing.

A guideline, as referred to in Section 6(2) of the Direction, has been issued and was most recently amended on 10 August 2021. A copy of this Guideline entitled “Guidelines for symptom monitoring and management of workers for SARS-CoV-2 infection” may be accessed at the following link:

<https://www.nioh.ac.za/wp-content/uploads/2021/08/V7-Guidelines-for-symptom-monitoring-and-management-of-workers-for-C-19-FINAL.pdf>

In particular, Sections 1 to 3 of the Guideline provide as follows:

“1. According to the Department of Employment and Labour Direction, employers have a legal obligation to screen all employees for COVID-19 related symptoms and report such symptoms to a designated person and / or occupational health practitioner prior to entry into



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the workplace or work area in order for a decision to be made as to the staff member's continued attendance at work.

2. The Department of Employment and Labour Direction makes it a legal requirement for this screening to be reported to the National Department of Health – the National Institute for Occupational Health (NIOH) is the designated agency.

3. When workers report for work, designated persons and / or an occupational health practitioner must check with employees whether they have experienced, in the past 24 hours, sudden onset of any of the following symptoms as outlined in the current criteria for the identification of a suspected COVID-19 case: cough, sore throat, shortness of breath, loss of taste/smell, with or without any additional symptoms (headache, fever/chills, body aches, runny nose, nausea, vomiting, diarrhoea).”

In the circumstances, employers remain obligated to screen all employees for COVID-19 symptoms when they report for duty. This obligation is contained in various pieces of legislation including the Regulations to the Disaster Management Act; the Consolidated Direction on Occupational Health and Safety; and the Guidelines for symptom monitoring and management of workers. Employers are encouraged to continue with their screening protocols and remain committed to stop the spread of COVID-19 in their workplace.

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