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CAN WORKERS LOOK FORWARD TO A SAFER AND HEALTHIER WORKPLACE IN THE NEW SOUTH AFRICA

1. OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

Occupational Health and Safety Act (OHSA), 1993

Compensation for Occupational Injuries and Diseases Act (COIDA), 1993

Mine Health and Safety Bill (MHSA), 1996

Occupational Diseases in Mines and Works Amendment Act (ODMWA), 1993

2. ENFORCEMENT AGENCIES

3. HEALTH AND SAFETY COMMITTEES

1. OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

Occupational Health and Safety Act (OHSA), 1993

* Replaced the old Machinery and Occupational Safety Act (MOS Act) which focused mainly on safety

* Scope: all workplaces except mining and fishing industries

* Broad framework for ensuring optimal health and safety conditions at workplaces outside the mining industry

* Enforced by the Department of Labour inspectorate

* Most important aspects of the OHSA include:

- equal worker/trade union participation in the Advisory Council on Occupational Health and Safety

- election of health and safety representatives and the formation of health and safety committees

- the need to undertake risk assessment (hazardous chemical substances regulations)

- active approach to the elimination and mitigation of hazards

- monitoring the health of workers at risk of developing occupational diseases (**Hazardous Chemical Substances Regulations - 1995**)

- mandatory reporting of occupational diseases by the occupational medicine doctor to the chief inspector

- emphasis on education and training of workers regarding the health risks they are exposed to (**right to know**)

- outlawing the discrimination against workers found to have occupational diseases as a result of medical surveillance

- greater penalties for offences

Compensation for Occupational Injuries and Diseases Act (COIDA), 1993

- * Replaced the old Workmen's Compensation Act which concentrated mainly on injuries and had a very limited focus on occupational diseases.
- * Scope: all workplaces, mining (occupational injuries) industries including casuals and farmworkers. Does not include domestic workers in private households and members of SANDF.
- * Broad Framework: This Act governs the reporting of and compensation for all injuries and occupational diseases (excluding miners with occupational lung diseases).
- * The compensation system is administered by the state (Compensation Commissioner in the Department of Labour) but funded by employer premiums.
- * Most important aspects of COIDA include:
 - Setting up of a Compensation Board with tripartite representation
 - It provides for mandatory reporting of all **occupational diseases** and accidents to the Office of the Compensation Commissioner.
 - Worker is able to claim for loss of wages while temporarily disabled, medical expenses, and compensation for any permanent disablement as a result of injury or disease
 - Employers should pay 3/4 of wages in the first 3 months

Mine Health and Safety Bill (MHSA), 1996

* Will replace aspects of the Minerals Act (1991) which focused mainly on mineral rights and ascertaining the degree of risk work (exposure to excessive dust levels) performed on mines. These are important for calculating the compensation levies payable by employers.

* Scope: all mines and works eg. quarries, refineries

* Broad framework for ensuring optimal **health** and safety conditions at workplaces in the mining industry

* Enforced by the Department of Mineral and Energy Affairs inspectorate

* Most important aspects of the MHSA include:

- separation of mineral rights from health and safety

- increased worker and trade union participation in the Mine Health and Safety Council and its committees

Mining regulation advisory committee

Mining occupational health advisory committee

Safety in mines research advisory committee

- election of health and safety representatives and the formation of health and safety committee

- the need to undertake risk assessment

- active approach to the elimination and mitigation of hazards

- surveillance of workers at risk of developing occupational diseases

- emphasis on education and training of workers regarding the health risks they are exposed to (**right to know**)

- the right of workers to refuse and health and safety reps to **stop or refuse to do dangerous work**

- outlawing the discrimination against workers carrying out their duties in the Act

- greater penalties for offences and onus on the employer to prove absolution of liability (?)

Occupational Diseases in Mines and Works Amendment Act (ODMWA), 1993

- * Recent amendments to this Act of 1973 have deracialised the surveillance, certification and compensation activities for occupational lung diseases in the mining industry.
- * Scope: workers in the mining industry
- * Framework: compensation for occupational lung diseases only
- * Enforced by the Department of Health (Medical Bureau for Occupational Diseases and the Compensation Commissioner for Occupational Diseases)
- * Most important aspects of the act are:
 - The Compensation Commissioner for Occupational Diseases is responsible for the payment of compensation to miners certified by the MBOD as having an occupational lung disease.
 - The MBOD is responsible for issuing certificate of fitness (renewable every three years) to enable workers to perform risk work.
 - Funding research into occupation health issues in the mining industry

2. ENFORCEMENT AGENCIES

- * Ensuring intersectoral collaboration : Occupational health and safety council (Fig 1)
- * Restructuring and enforcement agencies a priority
- * Reorientating and retraining the inspectorate is being done

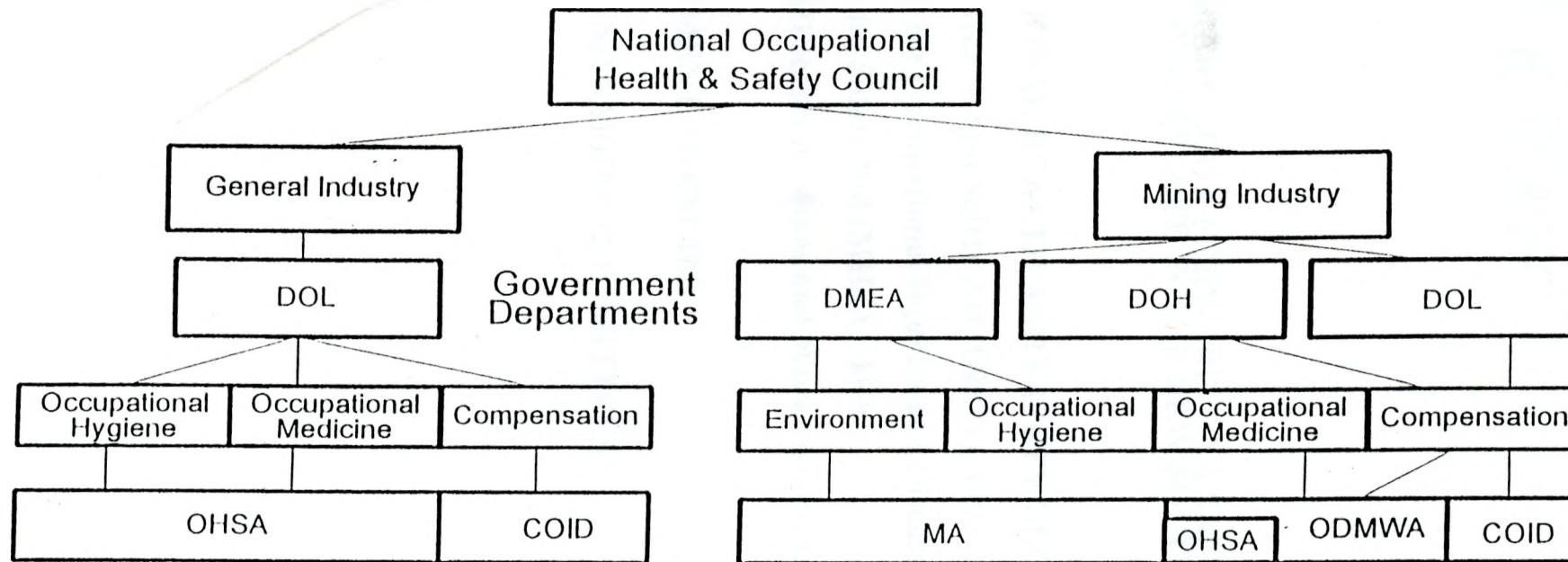
3. HEALTH AND SAFETY COMMITTEES

- * Election of health and safety reps
- * Formation of health and safety committees
- * Education and training of health and safety reps

FIGURE (I)

Diagrammatical Representation Of Current and Proposed Health Regulatory Structure

Current Legal Framework



Proposed Future Framework

