

## ➤ OCCUPATIONAL HEALTH & SAFETY TRAINING & EXPIRY OF CERTIFICATES

It is the duty of an employer to provide training to employees on health & safety matters. This duty is imposed on the employer in terms of section 8(2)(e) and 8(2)(j) of the Occupational Health & Safety Act 85 of 1993 that states as follows:

“8. General duties of employers to their employees

(2) Without derogating from the generality of an employer’s duties under subsection (1), the matters to which those duties refer include in particular-

- (e) providing such information, instructions, training and supervision as may be necessary to ensure, as far as is reasonably practicable, the health and safety at work of his employees;
- (j) causing all employees to be informed regarding the scope of their authority as contemplated in section 37(1)(b)”.

Typical examples of training that would be provided by the employer to employees with specific OHS duties are the following:

- Managers/Supervisors/Foreman etc - OHS Legal Liability to make them aware of the legal implications in terms of the OHS Act and common law imposed on them from an OHS perspective in their appointed areas towards the individuals under their control and direction;
- Occupational Health & Safety Representatives - OHS Representative (basics of the OHS Act and how to conduct inspections), HIRA (enabling them to assist the employer in conducting risk assessments) & Incident Investigation (enabling them to assist the employer with incident investigations). These courses focussed on the duties of OHS Representatives in terms of section 18 of the OHS Act. Considering that the term of office is determined by the collective agreement as per section 17(2) read with General Administrative Regulation 6;
- Fire Fighters trained on basic firefighting to enable them to assist the employer in the event of fire(s) in the workplace in terms of Environmental Regulations for Workplaces 9;
- First Aiders trained and in possession of a valid certificate of competency issued by an approved training provider in terms of General Safety Regulation 3(4);
- Stacking and Storage Supervisors to ensure stacking operations are executed by or under the personal supervision of a person with specific knowledge and experience of this type of work in terms of General Safety Regulation 8(1)(a);
- Ladders Inspectors familiar with the legal requirements in terms of General Safety Regulation 13A to ensure that inspections are done correctly to show that ladders are not only provided but also maintained in a manner that poses no threat to the health & safety of employees in compliance to section 8(2)(a) of the OHS Act;
- Etc.

The question then, something I am approached with on a regular basis, is whether such training certificates expires.

Training certificates will only expire -

- where the legislation prescribes the frequency/expiry of training under the OHS Act, any Regulation promulgated under the OHS Act in terms of section 43 or where a health & safety standard incorporated into the Act in terms of section 44 prescribes such frequency/expiry;
- where follow up training would be required if not specifically prescribed by law as mentioned supra when there are legislative changes (i.e. amendment of the 2003 Construction Regulation in 2014, amendment of the 1988 Driven Machinery Regulation in 2015, promulgation of the Ergonomic Regulations on 6 December 2019 etc);
- when there is changes to protocol (i.e. firefighting);
- when a person vacated a specific duty (i.e. OHS Representative) for a certain period of time and are then appointed to that duty at a later stage again;
- where a lack of knowledge or understanding is identified (i.e. job observation, incident investigation, disciplinary action etc).

If the frequency/expiry of training is not applicable but is indicated on a training certificate it becomes a legal requirement that can have consequences in the event of an audit.

One also has to consider that there is training presented internally and externally (as discussed supra). Internal training (i.e. induction, Safe Operating Procedures etc) should be done on an ongoing basis as required by changes to processes, equipment, environment and level of competence to ensure compliance to section 8(2)(e) & 8(2)(j).