



# **WIETA NEWSLETTER**

## **QUARTER 3 2021**

## MESSAGE FROM THE CEO

It is hard to believe that 2021 has come to a rapid end. It seems to have flown by and it certainly has not been without its challenges. With over 3 million Covid-19 confirmed cases, it is hard to believe there will ever be an end to the pandemic. As we see positive cases up the upsurge, the emergence of yet another variant, Omicron, reminds us of how vulnerable we truly are. Seemingly mandatory vaccination debates will continue to receive widespread resistance. However, there is no escaping the fact that within agriculture our workers are hugely vulnerable. As an industry we cannot afford another alcohol ban. Going into harvest we cannot afford increased positive cases amongst our workforce. So it becomes the responsibility of each one to do the right thing and to safeguard one another against this scourge as well as against the negative economic impacts. Continue to create awareness around Covid-19 protocols and where possible, do encourage colleagues and workers to get vaccinated.

The abuse of alcohol, whether illicitly obtained or not, in our communities, will continue to play a huge role on the perceptions that authorities and government have on the industry and wine as a responsibly consumed product. Ensure that your brand is associated with safe and responsible drinking habits this season.

WIETA will continue to support its members and their workers throughout next year with new and exciting training and toolkit offerings. We will also be extending our work into the Northern Cape and look forward to having our provincial neighbours along the Orange River and in the Augrabies region on board.

We hope to see all of you at our AGM on the 26<sup>th</sup> January 2022. The meeting will be virtual and we will send out details by new year.

All the best for the festive season and the new year to come,

Linda Lipparoni

CEO

## COMPLIANCE TIPS TO BEAR IN MIND DURING HIGH SEASON

### Averaging of working hours

This refers to workers' average work hours agreed subject to change for a period of not more than four (4) months. This means that, for example, a worker might work seven (7) hours during summer and nine (9) hours during winter, but they continue to work eight (8) hours throughout the year. Workers could agree to work longer hours in one week for normal pay, if they work reduced hours for normal pay the following week. As a result, workers still receive their annual salary as agreed upon between the employer and employee in terms of their employment contract.

This agreement is usually not reflected in their contract but should be incorporated in order to ensure compliance and to reassure the workers of their terms and conditions. The worker must agree to averaging of their working hours. If no consent has been received from the employee, the employer may not proceed to average their hours.

Employees ordinarily work forty (40) hours per week. According to the Basic Conditions of Employment Act, employees may not work more than 45 hours a week and not more than five (5) hours overtime. A collective agreement for averaging must be re-negotiated each year.

#### **Section 12 of the Basic Conditions of Employment Act provides that:**

(1) Despite sections 9(1) and (2) and 10(1)(b), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a collective agreement. (2) An employer may not require or permit an employee who is bound by a collective agreement in terms of subsection 1 to work more than (a) an average of 45 ordinary hours of work in a week over the agreed period; (b) an average of five hours overtime in a week over the agreed period. (3) A collective agreement in terms of subsection 1 lapses after 12 months. (4) Subsection 3 only applies to the first two collective agreements concluded in terms of subsection 1.

# WHAT YOU MAY NEED TO KNOW DURING HARVEST 2022

ASBESTOS AND ITS REGULATIONS / DEPARTMENT OF EMPLOYMENT AND LABOUR / ASBESTOS ABATEMENT REGULATIONS, 2020

The aim of the new regulations is to create an asbestos-free South Africa. The regulations imposes strict obligations on employers to ensure a safe working environment for its workers. Employees also have a duty to uphold a safe working environment at the business and they need to exercise caution when entering an asbestos-containing area. [Workers](#) have been given an 18-month period from promulgation to develop written asbestos management plans as well as the labeling and signage to indicate materials or buildings containing asbestos in terms of regulations 3 and 20.

There is currently no deadline or cut-off date by which employers' business premises have to be asbestos free, however, employers still have a duty to ensure that they develop and implement the said management plan. This is done in order to ensure compliance with the regulations as promulgated on the 10<sup>th</sup> of November 2020. The employer needs to ensure that all records are kept, and these documents are available for inspection to the inspection authority and the health and safety representative.

The regulations imposed new duties which can be found at regulations: 4 and 5; 6; 21; 22 and 23. The old/abolished regulation still contains duties which the employer must comply with, however this has been incorporated in the new regulations. This article piece should therefore be read in conjunction with the new regulations to ensure compliance. The new regulations can be found on the Government website or you may copy and paste the following link into your browser: [https://www.gov.za/sites/default/files/gcis\\_document/202011/43893rg11196gon1196.pdf](https://www.gov.za/sites/default/files/gcis_document/202011/43893rg11196gon1196.pdf).

In November 2020, Minister TW Nxesi of Employment and labour released new Asbestos Abatement Regulations in order to regulate the number of asbestos in building materials.

A number of the regulations has already come into effect, whilst regulations 3 and 20 will take effect 18 months from the date of publication, the 10<sup>th</sup> of November 2020.

The new regulations have imposed certain duties on employers, and it has taken a much stricter approach compared to the previous/abolished regulations. Workers are now tasked to:

1. Regulations 4 and 5 prescribe that the employer must employ a competent person to compile an asbestos risk and inventory assessment. The said employee must also conduct a review of the inventory and risk assessment at intervals of no more than 24 months. This inspection should also be reviewed by an approved inspection authority at intervals not exceeding 6 years.
2. Regulation 6 prescribes that the employer must employ a competent person to create a management plan that address several key issues including – the removal of asbestos, the reduction of risk in cases of emergencies, repair work and removal work and the phasing out of existing asbestos-containing materials.

The employer has a duty to put up signage which clearly stipulates and marks the areas containing asbestos material. Any person who accesses an asbestos area is required to wear the appropriate personal protective [equipment](#)/clothing.

The employer has a duty to record all asbestos maintaining material. In addition to this, should the employer wish to carry out asbestos-related work, the employer must give notice to the relevant Chief Director: Provincial [Operations](#) at the Department of Employment and Labour, which time-frame will depend on the tier the work is categorised in.

1. Regulation 21 provides a list in which waste has to be disposed of by the employer. The employer has a duty to ensure that waste is being disposed of in a manner that complies with the said list.
2. According to Regulation 22, a certificate must be obtained in relation to type 2 or 3 work done from the inspection authority.
3. Regulation 23 provides a list of documents that the employer must keep record of to be kept for a minimum of 50 years. The employer must make this list available to the inspector upon inspection, a relevant health and safety representative or health and safety committee for perusal.

## CONDUCTING AUDITS DURING PEAK SEASON

WIETA's Audit Process Methodology requires auditors to ensure that audits be done during the peak production/harvest and that at least two-thirds of the workforce be present during the audit.

During the preparation session, the employer has a duty to ensure that the requirements in terms of the APM are met, including, for example, having 66% of his workforce present on the day of the audit. Clause 5.2.1 of the APM reads as follows: "Audits must take place during a period when the entire business (this includes employment site, including cellars, is in full operation (peak production or harvest). In the event that the audit is arranged at any other time, temporary workers and/or workers from a temporary employment service used during production or harvest must be present on site." This is to ensure that workers are aware of the audits but also to ensure that the workers are afforded an opportunity to have their voices heard, should they have any grievances not disclosed by the employer.

WIETA has implemented a penalty for those employers who fail to ensure that the workers are present at the audit: should the employer fail to ensure that at least two-thirds of his/her workforce is present, the audit will be regarded as a partial audit and a follow-up audit will have to be done at the cost of the employer/member. The audit must take place during the operation of the site in order to ensure compliance with the Occupational Health and Safety Act.

The main reason why audits are done during the peak operation/harvest season is to ensure that both genders are interviewed and that the minority of the workforce is included during this discussion. There should be different workers, for example, contract and permanent workers should be present in order to ensure that the auditor receives a holistic view of the workers and their working conditions at the premises. Workers should not be restricted to speaking on-site only as this limits their freedom to speak and they might not feel as comfortable talking on-site. The workers should be given the discretion to be interviewed individually or in a group, as this method will allow the auditor to gain more insight as the workers will feel comfortable, knowing that they have a sense of control over the interview and the environment in which it is conducted.

## HIGH SEASON AUDITING STANDARD REQUIREMENTS

It is high season for auditing and everyone is getting everything in place to get that A certification. Ensure that you have done your online audit requests and that you have received the quotation. Also ensure that you have 2/3 of the workers present the day of audit. This is a requirement and if this is not done, the auditors will have to come back to the site to interview workers.

All the best!

## HIGHLIGHTS FROM OUR 2021 PROGRAMMES

### Freedom of Association Training

The freedom of association training was rolled out for the month of July and August 2021. The objective of the training was twofold: the one was to inform and create awareness around freedom of association with both workers and producers; the other was to develop a rules of engagement document to assist with the engagement and protocol around the freedom of association policy.

This programme is now completed and should further training be required then it will be given to the producers. The programme was successful in meeting the first objective in terms of creating awareness and sharing knowledge around the right to freedom of association. This was received well by both workers and producers. Excellent reviews were received.

In terms of the development of protocol for rules of engagement, participants felt that they needed more time to think about this and to digest the information received. The protocol document format was provided to them so that continuous work could be done in the interim. This was not as planned, but the overall engagement

### Standards Training 2021

For WIETA's 2021\_2022 Annual Performance Plan, the organisation implemented a range of training services for both producers and workers. The suite of training sessions ranged from virtual producer refreshers, auditors training, ethical leadership programme sessions (ELP) as well as webinars on HIRA. The successfully run training sessions saw a staggering number of attendees joining various training sessions as well as an increased appetite for more training sessions. The virtual platform served as a successful portal for the execution of training sessions with all attendees fully satisfied with the means of execution.

In addition, 2021 saw the launch of WIETA's first Ethical Leadership Programme series, focusing on a range of workshops around freedom of association, unfair discrimination and WIETA's very first Women's Rights Campaign.

## WOMEN'S RIGHTS CAMPAIGN—HIGHLIGHTS

The 16 Days of Activism against violence against women and children is an international campaign that takes place each year and commences on 25 November until 10 December, with this year marking its 30th anniversary. Over 6000 organisations in approximately 187 countries have participated in the campaign since 1991, with a reach of 300 million people. It continues to be coordinated each year by the Centre for Women's Global Leadership (CWGL) and is used as an organising strategy by individuals, institutions and organisations around the world to call for the prevention and elimination of violence against women and girls.

WIETA's women's rights campaign and the issue of violence against women was introduced in the month of November in conjunction with the 16 Days of Activism against violence against women and children. The campaign aimed to develop of a video capturing farm worker women's voices from the various wine regions representing farm worker women that have overcome abuse and have triumphed. The video series has further captured the voices of female winemakers, discussing their journey within the wine industry and to create a network of support.

The latter will be supported by the development of printed pamphlets and poster materials on women's rights in the workplace that will highlight ways in which women can identify and report any and all abuse within and outside of the workplace and creating a referral network incorporating institutions and victim support such as the police, Gender Equality Commission, Law Clinics, local groups and the CCMA.



Furthermore, the campaign is in the process of circulating 16 inspiring interviews in support of the 16 Days of Activism campaign and launched via the WIETA website ([www.wieta.org.za](http://www.wieta.org.za)).



WIETA's Women's Rights Campaign will end off with a gala in celebration of women within the wine industry and their jour-



### Year-end closure

The WIETA office will be closed on 15th December and re-open on the 12<sup>th</sup> January 2022.

We wish all our members a joyous, peaceful and Covid-19 free festive season and may 2022 bring us a more prosperous and healthy year.

From the WIETA Team