

## SafeNet Thought for the Day

19<sup>th</sup> of May 2017

### “Toolbox Talk” – Employees duty 5

We often think that health and safety in the workplace is solely the responsibility of the employer. Section 14 and 15 of the Occupational Health and Safety Act, 1993 do however impose certain duties on employees. Failure to comply with these duties could result in an employee being held liable or even be prosecuted by the Department of Labour. In this Safety Thought we will discuss one of these duties.

#### EMPLOYEE DUTY 5

Section 14(e) states - *“Every employee shall at work if he is involved in any incident which may affect his health or which has caused an injury to himself, report such incident to his employer or to anyone authorized thereto by the employer, or to his health and safety representative, as soon as practicable **but not later than the end of the particular shift during which the incident occurred**, unless the circumstances were such that the reporting of the incident was not possible, in which case he shall report the incident as soon as practicable thereafter”*.

We find that employees often fail to report work related injuries immediately or before the end of the shift on which the incident occurred. It is not uncommon to find that employees come to work on a Monday and report injuries that they supposedly incurred at work during the previous week. The most common excuse would be that his / her *“rug was warm gewerk”* and therefore did not feel the injury.

It is clear from above mentioned legal requirement that employees are legally obliged to report work related incidents in which he / she suffered an injury. Additional to the duty imposed on the employee the employer is required to maintain discipline and would therefore have no choice but to discipline employees who fail to report work related injuries before the end of their shift.

More importantly though is that the failure on the part of the employee to report these work related injuries timorously may result in the injuries not being accepted by the office of the Workmen's Compensation Commissioner. The Workmen's Compensation Commissioner defines an accident as "*a definite occurrence of which the **date, time and place** can be determined, which arises out and in the course of the employee's **employment** resulting in a **personal injury***". Emphases are placed on the date, time and place of the incident by the Workmen's Compensation Commissioner. A few days lapsed between the actual incident and the report submitted to the employer and the Workmen's Compensation Commissioner may be of the opinion that the employee sustained the injury at a place other than the workplace (Home, rugby or soccer field). Should there be a dispute about these factors the Workmen's Compensation Commissioner is not obliged to pay for the medical expenses or possible compensation payable.

The consequences to the injured party should the Workmen's Compensation Commissioner refuse to accept the claim may be severe in that:

1. All medical cost will have to be carried by the injured party;
2. The injured party loose the right to any compensation payable to him by the Compensation Commissioner; and
3. Any future operations or medical attention which resulted for the alleged injury sustained at work will have to be funded by the injured party. On the contrary the Compensation Commissioner will pay any future medical bills should the injury have been reported and accepted by them. This will apply irrespective of how long after the first accident the additional medical attention is needed.

Enjoy your weekend

The team at SafeNet