

DETAILED SUMMARY

Mine Health and Safety Act

Act No. 29 of 1996

A Comprehensive Section-by-Section Analysis for Mine Contractors

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Prepared for Contractors Operating on South African Mines

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Section 1: Introduction and Legal Foundation

The Mine Health and Safety Act 29 of 1996 (MHSA) is the primary piece of legislation governing the health, safety and welfare of all persons at South African mines. It applies fully to contractors and their employees who work on or at any mine — no exemption exists for contractors by virtue of their status as contractors. Understanding this Act in its entirety is a non-negotiable requirement for any contractor seeking mine owner approval.

Detail	Particulars
Assented to	30 May 1996
Commenced	15 January 1997
Amended by	Act 72 of 1997; Act 31 of 2003; Act 28 of 2002; Act 74 of 2008
Updated to	Government Gazette 32226 dated 12 May 2009
Structure	8 Chapters + 8 Schedules + 106 Sections
Enforcement body	Mine Health and Safety Inspectorate (juristic person)
Key principle	"As far as reasonably practicable" — employer bears burden of proof
OHS Act 85/1993	Does NOT apply to mines (Section 103)

1.1 Purpose and Objects of the Act (Chapter 1, Section 1)

Section 1 sets out the overarching objects of the Act, which must inform how every employer, contractor and employee interprets and implements all other provisions. The Act explicitly seeks to:

- Protect the health and safety of all persons at mines
- Require employers and employees to identify hazards and eliminate, control and minimise risks
- Give effect to South Africa's public international law obligations concerning mining health and safety
- Provide for employee participation through health and safety representatives and committees
- Provide effective monitoring of health and safety conditions
- Enforce health and safety measures at mines
- Provide for investigations and inquiries to improve health and safety
- Promote a culture of health and safety, training, co-operation and consultation between the State, employers, employees and their representatives

CONTRACTOR IMPLICATION: Contractors must demonstrate that their health and safety systems actively fulfil each of these objects. A safety file that is merely a collection of documents, without demonstrating implementation and monitoring, will not satisfy mine owners during approval processes.

Section 2: Chapter 2 — Health and Safety at Mines (Sections 2–24)

Chapter 2 is the operational heart of the Act. It places extensive mandatory duties on employers (which includes contractors in their capacity as employers of their own staff) covering every aspect of safe mine operations.

2.1 Section 2 — Employer's Duty to Ensure Safety

Every employer of a mine that is being worked must:

- Ensure the mine is designed, constructed and equipped to provide safe operating conditions and a healthy working environment, including communication systems and all necessary mechanical and electrical equipment
- Ensure the mine is commissioned, operated, maintained and decommissioned so that employees can perform work without endangering health or safety of themselves or others
- Compile an annual health and safety report (including medical surveillance statistics) and, where a body corporate with more than 50 employees, distribute it to shareholders
- Even for mines that are not being worked (where no closure certificate has been issued), take reasonable steps to continuously prevent injuries, ill-health, loss of life or damage

This section establishes the baseline duty of care and makes clear that the employer's obligation extends to the entire lifecycle of the mine, from design through to final closure. Contractors must ensure that their scope of work does not compromise any of these baseline conditions.

2.2 Section 2A — Chief Executive Officer (CEO) Accountability

Section 2A (inserted by Act 72 of 1997) establishes direct personal accountability of the CEO:

- The CEO must take reasonable steps to ensure all employer functions in the Act are properly performed
- The CEO may delegate functions to persons under their control, but delegation does not relieve the CEO of responsibility or liability
- In a body corporate, a board member designated by the board may perform CEO functions
- The employer must notify the Chief Inspector of Mines in writing within 7 days of any CEO appointment, including the CEO's name, nature of functions, and names of managers under the CEO's supervision

CONTRACTOR REQUIREMENT: The contractor's responsible person (CEO, Director or Owner) must be formally identified in the safety file and their appointment communicated to the applicable Principal Inspector of Mines where required.

2.3 Section 3 — Mandatory Appointment of Mine Manager

Every employer of a working mine must appoint one or more managers with prescribed qualifications. Where multiple managers are appointed, their functions must not overlap. Key requirements:

- Managers must be supplied with the means to perform their functions
- The employer must take reasonable steps to ensure managers perform their functions
- The appointment of a manager does NOT relieve the employer of any duty under the Act
- If no manager is appointed, the employer must personally perform all manager functions

For contractors: Each contractor must appoint a competent person to manage safety for their operations on the mine. This person, with documented qualifications and scope of authority, must appear in the contractor's safety file.

2.4 Section 4 — Delegation of Employer Functions

Employers may appoint persons to perform functions entrusted by Sections 2 and 3. When doing so:

- The Chief Inspector of Mines must be notified within 7 days of appointment
- Notification must include the person's name, nature of functions, and the names of managers over whom they have control
- The appointed person must be supplied with the means to perform functions
- Such appointment does NOT relieve the employer of any duty under the Act

2.5 Section 5 — Healthy and Safe Mine Environment

As far as reasonably practicable, every employer must:

- Provide and maintain a working environment that is safe and without risk to employee health
- Identify hazards and assess risks to which non-employees (including members of the public and employees of other contractors) may be exposed
- Ensure that persons who are not employees but who may be directly affected by mine activities are not exposed to health or safety hazards

This section is particularly important for contractors — it means your duty of care extends to employees of other contractors, mine employees, and members of the public who may be affected by your activities.

2.6 Section 6 — Health and Safety Equipment

- Every employer must supply ALL necessary health and safety equipment and facilities to each employee
- Equipment and facilities must be maintained in a serviceable and hygienic condition as far as reasonably practicable
- Sufficient quantities of PPE must be available so every employee required to use PPE can do so
- All employees required to use PPE must be instructed in proper use, limitations and maintenance of that equipment

MANDATORY: Contractors must include a PPE register, maintenance schedule, and training records for PPE in their safety file.

2.7 Section 7 — Staffing with Due Regard to Health and Safety

As far as reasonably practicable, every employer must:

- Ensure every employee complies with Act requirements
- Institute measures necessary to secure, maintain and enhance health and safety
- Provide appointed persons with the means to comply with Act requirements and inspector instructions
- Consider an employee's training and capabilities before assigning a task

- Ensure work is performed under general supervision of a person trained to understand the hazards and who has authority to ensure precautionary measures are implemented
- Appointed persons (managers and others) must have prescribed qualifications

This section underpins the requirement for competency verification in contractor safety files. Every person performing safety-critical tasks must have verifiable competency.

2.8 Section 8 — Health and Safety Policy

Every employer must prepare a document that:

- Describes the organisation of work
- Establishes a policy for protecting employee health and safety at work
- Establishes a policy for protecting non-employees who may be affected by mine activities
- Outlines arrangements for carrying out and reviewing these policies

Consultation requirements:

- The health and safety committee must be consulted on preparation or revision of the policy and related arrangements
- A copy must be prominently and conspicuously displayed for employees to read
- Each health and safety representative must be given a copy

MANDATORY DOCUMENT: Contractors must have a formal Health and Safety Policy signed by the highest accountable person, with evidence of consultation and display.

2.9 Section 9 — Codes of Practice (COPs)

Codes of Practice are mandatory safety management instruments. Key requirements:

- Any employer may prepare and implement a COP on any matter affecting health or safety of employees and affected persons
- An employer **MUST** prepare and implement a COP when required by the Chief Inspector of Mines
- COPs required by the Chief Inspector must comply with guidelines issued by the Chief Inspector
- The health and safety committee must be consulted on preparation, implementation or revision of any COP
- A copy of every mandatory COP must be delivered to the Chief Inspector of Mines
- The Chief Inspector must review a COP if requested by a registered trade union, health and safety committee, or health and safety representative
- An inspector may instruct review of any COP if it does not comply with Chief Inspector guidelines or is inadequate to protect health or safety

In practice, mine owners typically require contractors to have COPs for all high-risk activities. Contractors operating at chrome opencast mines typically need COPs covering: medical fitness, rock stability, equipment safety, traffic management, thermal stress, dust control, fatigue management, access control, and PPE management.

2.10 Section 10 — Health and Safety Training

Every employer must, as far as reasonably practicable:

- Provide employees with information, instruction, training and supervision necessary to perform work safely
- Ensure every employee becomes familiar with work-related hazards, risks, and control measures

Training must cover:

- Every risk associated with work that has been recorded under Section 11 (risk assessment)
- Measures necessary to eliminate, control and minimise health and safety risks
- Procedures to be followed to perform work
- Relevant emergency procedures

Training timing — training must be provided:

- Before an employee first starts work
- At intervals determined by the employer after consulting the health and safety committee
- Before significant changes to procedures, mining/ventilation layouts, mining methods, plant, equipment or materials
- Before significant changes to the nature of the employee's occupation or work

Record-keeping requirements:

- Employer must keep a record of all formal training provided in respect of each employee
- All mines must submit a workplace skills plan and annual training reports to the Mining Qualifications Authority (MQA)

MANDATORY: Training registers, induction records, and proof of ongoing competency assessment must be maintained and accessible in the contractor's safety file.

2.11 Section 11 — Risk Assessment (Most Critical Section)

CRITICAL COMPLIANCE REQUIREMENT

Section 11 is arguably the most important section in the Act for contractors. It establishes the mandatory risk assessment framework that must underpin all safety activities. Non-compliance creates both criminal and civil liability.

Every employer must:

- Identify all hazards to health and safety to which employees may be exposed
- Assess the risks associated with those hazards
- Record all significant hazards identified and risks assessed
- Make records available for inspection by employees

After consulting the health and safety committee, the employer must determine measures to address recorded risks in the following mandatory hierarchy (applied in order):

- 1. Eliminate the risk
- 2. Control the risk at source
- 3. Minimise the risk
- 4. Provide PPE for residual risks
- 5. Implement a programme to monitor residual risks

Employers must implement measures in the above order as far as reasonably practicable.

Review requirements:

- Periodic review of hazards and risks including results of occupational hygiene measurements and medical surveillance
- Consultation with health and safety committee on reviews

Incident investigation requirements (Section 11(5)):

- Must investigate every accident required to be reported, every serious illness, and every health-threatening occurrence
- Investigation must commence within 10 days of the incident
- Must be completed within 30 days (or longer period as permitted by Principal Inspector)
- Must be conducted in co-operation with the relevant health and safety representative
- Investigation report must identify causes, underlying causes, unsafe conditions/acts/procedures, and make recommendations
- Copy of report must be delivered within 30 days to the Principal Inspector of Mines and the health and safety committee

Scene preservation:

- Where a person died, is likely to die, or suffered loss of a limb, no person may disturb the site or remove any article without consent of the Principal Inspector of Mines
- Exception: only to prevent further incident, remove injured/dead, or rescue persons from danger

MANDATORY DOCUMENTS REQUIRED: Baseline risk assessment, issue-based risk assessments, incident investigation forms, investigation reports, and evidence of committee consultation.

2.12 Section 12 — Occupational Hygiene Measurements

Employers must engage a qualified occupational hygienist to measure levels of exposure to hazards if:

- Required to do so by regulation or Gazette notice, OR
- After risk assessment under Section 11, it is necessary to do so

The measurement system must:

- Be appropriate to the hazards employees are or may be exposed to
- Be designed to provide information for determining measures to eliminate, control and minimise health risks
- Records must be kept in a manner that can be linked (as far as practicable) to each employee's medical surveillance record

2.13 Section 13 — Medical Surveillance

Employers must establish and maintain a system of medical surveillance for employees exposed to health hazards if required by regulation or if risk assessment indicates necessity.

The medical surveillance system must:

- Be appropriate to the health hazards employees face

- Provide information to eliminate, control and minimise health risks and prevent, detect and treat occupational diseases
- Consist of an initial medical examination and subsequent examinations at appropriate intervals

Operational requirements:

- Employer must engage services (part-time or full-time) of an Occupational Medical Practitioner (OMP)
- Employer must supply OMP with means to perform functions
- Records of medical surveillance must be kept for each exposed employee
- Employer must notify the Principal Inspector of Mines within 7 days of OMP appointment, including the OMP's name, practice number, and whether full-time or part-time

Additional requirements:

- OMP must take every reasonably practicable measure to promote employee health and safety and assist with occupational medicine matters
- If an employee is declared unfit due to occupational disease, an investigation in terms of Section 11(5) must be conducted
- If temporarily unfit, the OMP must record this and notify both employer and employee
- Records of occupational hygiene measurements, medical surveillance and hazardous work must be retained until the mine closes and then delivered to the Medical Inspector

2.14 Sections 14–20 — Medical Records and Employee Rights

Section	Requirement
Section 14	Employer must keep a service record (prescribed form) of employees performing hazardous work subject to medical surveillance. Copy delivered to Medical Inspector when employee leaves or when required by Chief Inspector.
Section 15	Medical surveillance records are CONFIDENTIAL. May only be accessed per medical ethics, by law/court order, or with written employee consent. Must be stored safely. Must NOT be destroyed for 40 years from last medical surveillance date.
Section 16	OMP must compile an annual medical report covering all employees. Report provided to: health and safety committee (or representatives), and Medical Inspector. Names of employees must not be disclosed.
Section 17	Exit certificate required for every employee who was subject to medical surveillance when employment terminates. Exit examination must be held before or within 30 days of termination. OMP produces exit certificate indicating all medical surveillance results and presence/absence of occupational disease.
Section 18	Employer bears all costs of clinical examinations and medical tests performed in terms of the Act.
Section 19	Employee has right to request and receive copy of their own occupational hygiene measurement records and medical surveillance records.
Section 20	Employee may appeal to Medical Inspector against a finding of unfitness or any finding in an exit certificate. Appeal must be lodged within 30 days of relevant decision. Employee may not be dismissed pending appeal outcome.

2.15 Section 21 — Manufacturer's and Supplier's Duties

Any person who designs, manufactures, repairs, imports or supplies any article for use at a mine must ensure (as far as reasonably practicable):

- The article is safe and without risk when used properly

- It complies with all Act requirements
- Ergonomic principles are considered and implemented

Any person who erects or installs any article must ensure nothing about the manner of erection/installation creates a health or safety risk when used properly.

For hazardous substances, suppliers must additionally:

- Provide adequate information on use, risks, restrictions, safety precautions, emergency procedures, and disposal
- Ensure information complies with the Hazardous Substances Act 15 of 1973

CONTRACTOR IMPLICATION: When contractors supply, install or erect articles at mines (equipment, temporary structures, etc.), they take on full legal responsibilities as manufacturer/supplier.

2.16 Section 22 — Employee Duties

Every employee at a mine must:

- Take reasonable care to protect their own health and safety
- Take reasonable care to protect others who may be affected by their acts or omissions
- Use and take proper care of protective clothing, health and safety facilities and equipment
- Promptly report to their immediate supervisor any situation they believe presents a risk that they cannot properly deal with
- Co-operate with any person performing functions under the Act
- Comply with prescribed health and safety measures

2.17 Section 23 — Right to Leave Dangerous Working Place

An employee has the right to leave any working place whenever:

- Circumstances arise that, with reasonable justification, appear to pose a serious danger to health or safety
- The health and safety representative directs the employee to leave that working place

Employer obligations regarding this right:

- After consulting the health and safety committee, must determine effective procedures for the exercise of this right
- Procedures must provide for: notification of supervisors and HSRs, participation by employer and employee representatives to resolve issues, participation by inspector or technical advisor where necessary, assignment of employees to alternative work where appropriate, and notification to employees who may be asked to work in the place that was refused
- The Minister must determine minimum requirements for these procedures

2.18 Section 24 — No Cost to Employees for Safety Measures

No person may make any deduction from an employee's wages, or permit any payment to any person, in respect of anything the employer is obliged to provide or do under the Act in the interest of employee health and safety. This means: safety equipment, PPE, medical examinations, training, and any other legally mandated safety measures are at the employer's cost.

Section 3: Chapter 3 — Health and Safety Representatives and Committees (Sections 25–40)

3.1 Mandatory Requirements (Section 25)

Threshold	Requirement
20+ employees	Must have a health and safety representative (HSR) for each shift at each designated working place
100+ employees	Must have one or more health and safety committees
Civil immunity	An HSR or committee member does not incur civil liability solely because of actions taken (or not taken) in their capacity as HSR/committee member

3.2 Negotiations Before Appointment (Section 26)

Before appointing HSRs, the employer must meet with the representative trade union (or registered trade unions with members, or employees directly if no union exists) to negotiate a collective agreement on:

- Designation of working places and number of full-time HSRs
- Election, appointment, terms of office and removal of HSRs
- Manner in which HSRs perform their functions
- Procedures for exercising the right to withdraw from serious danger
- Facilities and assistance to be provided to HSRs
- Training of HSRs
- Dispute resolution procedures

If no collective agreement is concluded on the number of full-time HSRs, any party may refer the dispute to the Commission for Conciliation, Mediation and Arbitration (CCMA).

3.3 Designation of Working Places (Section 27)

Working places must be designated so that:

- Every working place at the mine is covered
- No HSR is responsible for more than 100 employees
- No HSR is responsible for more than 50 employees if the designated working place includes separate working places

3.4 Qualifications, Election and Appointment (Sections 28–29)

To qualify as an HSR, an employee must be employed full-time in the designated working place and be acquainted with conditions and activities there. HSRs are elected by employees from among themselves and then formally appointed by the employer.

3.5 Rights and Powers of HSRs (Section 30)

An HSR may:

- Represent employees on all health and safety aspects
- Direct employees to leave working places presenting serious danger

- Identify potential hazards and risks
- Make representations or recommendations to the employer or committee
- Inspect any relevant document kept in terms of the Act
- Request relevant information and reports from inspectors
- With employer approval, be assisted by or consult advisors or technical experts
- Attend relevant health and safety committee meetings
- Request an inspector to investigate (Section 60) or the Chief Inspector to conduct an inquiry (Section 65)
- Participate in consultations and inspections with employer or inspector
- Inspect working places at agreed intervals with reasonable notice to employer
- Participate in internal health or safety audits
- Investigate employee complaints relating to health and safety
- Examine causes of accidents in collaboration with the employer
- Visit accident sites at any reasonable time and attend post-accident inspections
- Co-operate with employer in Section 11(5) investigations
- Participate in Section 65 inquiries

HSRs are entitled to perform functions and receive training during ordinary working hours, and such time is considered time spent on employment duties.

3.6 Employer Duties to HSRs (Section 31)

- Pay full-time HSRs at least equal to their pre-appointment remuneration
- Provide monthly meetings between employees and their HSR to discuss health and safety in their working places
- Provide HSRs with all facilities and assistance reasonably necessary to perform functions
- Provide training reasonably required to perform functions
- Provide time off without loss of remuneration for agreed or prescribed training
- On completion of full-time HSR tenure, offer same or equivalent position as held before appointment

3.7 Health and Safety Committees (Sections 33–37)

Required at mines with 100 or more employees. Committees must consist of:

- At least 4 employee representatives (broadly representative of all working places)
- Employer representatives equal to or fewer than the number of employee representatives
- Employer representatives must include persons with authority to develop and implement health and safety policies

Committee powers include representing employees on all health and safety aspects, requesting relevant information, requesting COP reviews, requesting investigations or inquiries, and consulting on important health and safety matters.

Committee procedures: Must meet at least once per month. May determine its own rules and procedures. Two co-chairs elected from employee and employer representatives respectively.

3.8 Information Disclosure (Sections 38–40)

When providing information to HSRs or committees, information that is private personal employee data requires written employee consent. Employers are not required to supply: legally privileged information, information prohibited from disclosure by law or court order, or information that if disclosed could cause substantial harm.

Disputes about disclosure may be referred to the CCMA for conciliation and if unresolved, arbitration.

Section 4: Chapter 4 — Tripartite Institutions (Sections 41–46)

Institution	Role and Contractor Relevance
Mine Health and Safety Council (MHSC)	Advises the Minister on health and safety at mines. Chaired by Chief Inspector of Mines. Comprises 5 employer, 5 employee, and 4 State representatives. Must arrange a tripartite summit at least every 2 years to review health and safety at mines.
Mine Health and Safety Council duties	Advise on legislation; co-ordinate committee activities; liaise with statutory bodies; promote safety culture; annually advise on relevant research; publish and distribute annual action plan.
Mining Qualifications Authority (MQA)	Advises Minister on qualifications and learning in the mining industry. Generates education and training standards and qualifications. Performs functions of a Sector Education and Training Authority (SETA) under the Skills Development Act. All mines must submit workplace skills plans and annual training reports to the MQA.

CONTRACTOR RELEVANCE: Contractors must submit their workplace skills plans and annual training reports to the MQA. The MQA establishes the minimum qualification requirements for all safety-critical mining occupations.

Section 5: Chapter 5 — Inspectorate of Mine Health and Safety (Sections 47–74)

5.1 The Inspectorate (Sections 47–49)

The Mine Health and Safety Inspectorate is a juristic person established by the Act. It is administered by the Chief Inspector of Mines appointed by the Minister. The Chief Inspector of Mines must:

- Ensure Act provisions are complied with and enforced
- Appoint the Medical Inspector and mine inspectors
- Collect, process and distribute health and safety information
- Issue guidelines in the Gazette on codes of practice
- Develop and maintain an integrated mine health and safety database
- Conduct or commission relevant research
- Issue certificates to the Medical Inspector and all inspectors

5.2 Inspector Powers (Section 50) — Knowing These Is Critical

⚠ INSPECTOR ENCOUNTER PREPAREDNESS

When a mine inspector visits a worksite, contractors must be prepared to comply fully and immediately. Understanding inspector powers is essential for any contractor on a mine site.

Inspectors may, for monitoring or enforcing compliance:

- Enter any mine at any time WITHOUT warrant or notice
- Bring vehicles, equipment and materials onto the mine as needed
- Question any person on any matter related to the Act
- Require production of any document (plans, books, records) immediately or at a specified time and place
- Require explanation of any document entry
- Examine documents, make copies and take extracts
- Inspect any article, substance or machinery, any work performed, and any conditions
- Inspect arrangements for employee medical surveillance
- Seize any document, article, substance or machinery (must issue receipt)
- Remove articles, substances or machinery for examination or analysis
- Instruct any person (past or present employees or employers) to appear before them for questioning
- Impose a prohibition on further functioning of a site where a death, serious injury/illness, or health-threatening occurrence has occurred — blocking, barring or barricading the site

Note: When the inspector seizes documents, the employer may copy them first. An inspector must issue a receipt for anything seized or removed.

5.3 Duties When Inspector Arrives (Sections 51–53)

- The employer and each employee must provide any facility the inspector reasonably requires
- Persons questioned must answer to the best of their ability (no obligation to answer if self-incriminating)

- Any person holding a permit, licence, certificate or other document issued under the Act must produce it upon request

5.4 Inspector Powers on Dangerous Conditions (Section 54)

If an inspector believes any occurrence, practice or condition endangers or may endanger health or safety, the inspector may:

- Halt operations at the mine or part of the mine
- Suspend or halt any act or practice, placing conditions on its resumption
- Require the employer to take specified steps within a specified period to rectify the situation
- Move all affected persons (except those required for remediation) to safety

These instructions may be given orally (to be confirmed in writing at earliest opportunity) or in writing. A stop-work instruction remains in force until set aside by the Chief Inspector or until the inspector's instructions have been complied with.

5.5 Compliance Orders (Section 55)

If an inspector believes an employer has failed to comply with any Act provision, they may issue a written instruction specifying:

- The steps considered necessary to achieve compliance
- The period within which those steps must be taken (which may be extended by notice in writing)

5.6 Fines (Sections 55A and 55B)

Provision	Details
Section 55A — Recommendation	Inspector may recommend in writing to the Principal Inspector that a fine be imposed. Copy served on employer, health and safety committee (or HSR), and representative trade union. Employer has 30 days to make written representations.
Section 55B — Fine	Principal Inspector may disregard the recommendation, impose a fine up to the maximum in Table 2 of Schedule 8, or refer to the prosecuting authority. Employer must pay within 30 days. Non-payment: Chief Inspector may apply to Labour Court to make it a court order.

5.7 Investigations (Sections 60–64)

Mandatory investigation triggers:

- Chief Inspector **MUST** direct an inspector to investigate any accident resulting in the **DEATH** of any person
- Inspector **MAY** investigate: serious injury/serious illness, any occurrence/practice/condition concerning health or safety, any actual or suspected contravention
- If requested by trade union, HSR/committee, or employee (with cause for concern), the Chief Inspector must direct an investigation

Investigation process: Inspector prepares a written report of findings, recommendations and remedial steps. Report submitted to Chief Inspector and copies supplied to the employer and to whoever requested the investigation. Inspector may instruct employer to display the report for employees.

5.8 Inquiries (Sections 65–74)

Formal inquiries are more structured than investigations. Key requirements:

- Chief Inspector MUST direct an inquiry into any accident resulting in death (unless Section 63 invoked)
- Inquiries are public
- Presiding person may question persons under oath, summon witnesses, and require production of documents
- Persons with material interest, trade union representatives, and relevant HSRs may participate
- A death inquiry may be held jointly with a coroner's inquest in terms of the Inquests Act
- Evidence given at an inquiry may, by directive, be made inadmissible in criminal or disciplinary proceedings against that person
- Chief Inspector may order a further inquiry after reviewing the inquiry report

5.9 Appeals (Sections 57–59)

- Any person adversely affected by an inspector's decision may appeal to the Chief Inspector of Mines within 30 days
- Any person adversely affected by the Chief Inspector's decision may appeal to the Labour Court within 60 days
- An appeal does NOT suspend the original decision (with the exception that an appeal against a fine suspends payment obligation pending the outcome)

Section 6: Chapter 6 — Minister's Powers (Sections 75–81)

Section	Power and Contractor Relevance
Section 75 — Prohibit/Restrict Work	Minister may prohibit or restrict any work or any exposure to a substance or environmental condition for health or safety reasons. Must consult the MHSC and publish draft notice at least 3 months before (unless public interest requires immediate publication). May differentiate between mines, types of mines, occupations and types of work.
Section 76 — Declare Health Hazards	Minister may declare any environmental condition or substance at a mine to be a health hazard. May then impose conditions on work, set fitness standards, require control measures, occupational hygiene measurements, and medical surveillance for exposed employees.
Section 77 — Application of Notices	Notices under Sections 75 and 76 may differentiate between mines, mine types, parts of a mine, occupations and work types — allowing targeted application.
Section 78 — Exemptions from Notice	Minister may exempt specific persons or groups if: exemption is desirable in the circumstances, work is temporary, or risk is negligible. May cancel exemptions at any time.
Section 79 — Exemption from Act	Employer may apply to Minister for exemption from any or all Act provisions. Must have consulted affected employees/representatives. Exemption must provide the same overall protection as full application of the Act. Minister issues a certificate of exemption with scope, period and conditions.
Section 80 — Apply Other Laws	Minister may declare that any provision of the Occupational Health and Safety Act 181 of 1993 or any other Act must apply to a mine.
Section 81 — Annual Report	Minister must table the Chief Inspector's annual report in Parliament within 30 days of receiving it.

Section 7: Chapter 7 — Legal Proceedings and Offences (Sections 82–95)

7.1 Key Offences and Liability

Section	Offence/Prohibition
Section 83	No person may discriminate against any employee for exercising rights under the Act, refusing to do prohibited acts, standing for election as HSR, or performing HSR/committee functions.
Section 84	No person (except an authorised inspector) may remove, alter, damage, misuse, render ineffective, or interfere with any health and safety equipment or anything provided in the interest of health or safety.
Section 85	No person may cause or permit an employee under 18 years to work underground. Exception: employees aged 16–18 may work underground as part of vocational education or training.
Section 86	Any person who by NEGLIGENT act or omission causes serious injury or serious illness to a person at a mine commits an offence.
Section 86A	CRIMINAL LIABILITY — An employer, CEO, manager, agent or employee commits an offence if they contravene or fail to comply with the Act, thereby CAUSING: a person's death, OR serious injury or illness to a person. Employer is equally guilty if a CEO, manager, agent or employee commits the offence within the scope of their authority/employment and the employer connived at, permitted, or did not take all reasonable steps to prevent the act or omission. A mere prohibition instruction is NOT sufficient proof that all reasonable steps were taken.
Section 87	Breach of confidence — disclosing information acquired in performing Act functions relating to financial/business affairs of an employer is an offence.
Section 88	Hindering, opposing, obstructing or unduly influencing any person performing functions under the Act is an offence.
Section 89	Falsifying documents to obtain a certificate of competency is an offence.
Section 90	Failure to attend an inquiry when summoned, refusing to be sworn, refusing to answer questions, or giving false evidence is an offence.
Section 91	Any person who contravenes or fails to comply with any provision of the Act, any regulation, or any instruction/notice issued under the Act commits an offence.

7.2 Penalties (Section 92 and Schedule 8)

CRIMINAL LIABILITY WARNING

Section 86A creates direct criminal liability for individuals — not just for companies. A contractor's owner, director, manager or employee can face personal criminal prosecution if their actions or failure to act cause death, serious injury, or serious illness at a mine.

Offence Category	Maximum Penalty
Section 87 (Breach of confidence)	Fine or imprisonment as determined by the court
Section 90 (a) or (b) (i) — Failure to attend inquiry	Penalty equivalent to a similar offence in magistrates court

Section 90 (c) (ii) — False evidence at inquiry	Penalty for perjury
Any offence with no specific penalty	Fine or imprisonment not exceeding 6 months
Offences in Table 1 of Schedule 8	Fine or imprisonment not exceeding the period in Column 2 of Table 1
Section 86 or 86A offences	Withdrawal/suspension of permit, AND/OR fine of R3 million or imprisonment not exceeding 5 years, or both
Additional court order	Court may order convicted person to repair damage caused (to satisfaction of Chief Inspector) and to comply with the Act within specified period
Maximum administrative fine (Schedule 8, Table 2)	Imposed by Principal Inspector for regulatory non-compliance

Important: A magistrates court has jurisdiction to impose any penalty provided for in the Act, regardless of what any other law provides. This means mine safety offences need not be tried in higher courts.

Section 8: Chapter 8 — General Provisions (Sections 96–106)

Section	Summary
Section 96 — Delegation	Minister may delegate any power (except regulation-making) to the Chief Inspector. Chief Inspector may delegate powers to inspectors, other qualified persons, or (after consulting MHSC) other persons.
Section 97 — Minister's Schedule Powers	Minister may add, change or replace most Schedules to the Act after consulting the MHSC.
Section 98 — Regulation-Making Powers	Extensive list of matters on which the Minister may make regulations (see full list in Chapter 2 summary). Includes health and safety standards, training, medical surveillance, occupational hygiene, incident reporting, explosives, fire, machinery, equipment, and much more.
Section 99 — Amendment of Laws	Sets out consequential amendments to other laws as per Schedule 3.
Section 102 — Definitions	Provides definitive meanings for all key terms in the Act including: biological monitoring, Chief Inspector of Mines, employee, employer, engine, hazard, health and safety equipment, health and safety representative, health hazard, health-threatening occurrence, inspector, machinery, manager, medical surveillance, mine, mineral, occupational disease, occupational hygiene, occupational medicine, and many more.
Section 103 — OHS Act Not Applicable	The Occupational Health and Safety Act 85 of 1993 DOES NOT apply to mines or works as defined in this Act. This is fundamental — at a mine site, it is MHSA that governs, not OHSA.
Section 104 — Civil Liability of State	Nothing in the Act limits civil liability of the State.
Section 105 — Act Binds State	The Act binds the State.
Section 106 — Short Title and Commencement	Mine Health and Safety Act 29 of 1996, commenced 15 January 1997.

Section 9: Key Schedules

Schedule	Content and Significance
Schedule 1	Guidelines for determining the number of full-time health and safety representatives. Used by CCMA arbitration when parties cannot agree on the number of full-time HSRs.
Schedule 2	Nomination and appointment of members to tripartite institutions (MHSC and MQA). Sets out the process for selecting employer and employee representatives.
Schedule 3	Amendment of laws — lists all existing laws amended by the MHSA to ensure consistency.
Schedule 4	Transitional provisions — governs how the Act was implemented when it came into force in 1997, including existing permits, licences and appointments.
Schedule 5	Suspension and variation of the Occupational Diseases in Mines and Works Act 78 of 1973 (ODMWA) — partial suspension to avoid duplication with MHSA provisions while preserving compensation rights.
Schedule 6	Constitution of the Mine Health and Safety Council — detailed governance framework for the MHSC.
Schedule 7	Constitution of the Mining Qualifications Authority — detailed governance framework for the MQA.
Schedule 8	Maximum fines or periods of imprisonment for offences. TABLE 1: Criminal sentences by section number (up to 5 years imprisonment for most serious offences). TABLE 2: Maximum administrative fines imposable by the Principal Inspector.

Section 10: Critical Definitions (Section 102)

Understanding the Act's defined terms is essential, as these definitions determine the scope of duties and obligations. The following are particularly important for contractors:

Term	Definition and Significance for Contractors
Employee	Any person who is employed or working at a mine. This includes contractor employees — not just direct mine employees.
Employer	An owner (of the mine). Note: Contractors are also 'employers' in respect of their own employees.
Mine	Any borehole or excavation in tailings or in the earth made for searching for or winning a mineral; any place where a mineral deposit is being exploited, including the mining area and all buildings, structures, machinery, mine dumps, access roads and objects used in connection with mining or for health and safety purposes.
Hazard	A source of or exposure to danger.
Health	Refers to occupational health at mines.
Health hazard	Any physical, chemical or biological hazard to health, including anything declared to be a health hazard by the Minister.
Health-threatening occurrence	Any occurrence that has or may have the potential to cause serious illness or damage to health.
Occupational hygiene	The anticipation, recognition, evaluation and control of conditions at the mine that may cause illness or adverse health effects to persons.
Occupational medicine	The prevention, diagnosis and treatment of illness, injury and adverse health effects associated with a particular type of work.
Occupational medical practitioner	A medical practitioner holding a qualification in occupational medicine (or equivalent) recognised by the Health Professions Council of South Africa.
Medical surveillance	A planned programme of periodic examination (including clinical examinations, biological monitoring or medical tests) of employees by an occupational medical practitioner.
Reasonably practicable	Not defined in the Act itself but in Regulation 22.1 — a balance between the risk and the cost and effort of eliminating or reducing it. The employer bears the burden of proof that an action was not reasonably practicable.
Health and safety representative	An employee elected and appointed in terms of Section 29.
Chief Inspector of Mines	The officer appointed in terms of Section 48(1) and includes any officer acting in that capacity.
Inspector	An officer appointed in terms of Section 49(1)(c), the Medical Inspector, and any Principal Inspector of Mines.

Section 11: Mandatory Contractor Compliance Checklist

Based on a comprehensive reading of the Act, the following represent the minimum mandatory requirements for a contractor's health and safety file to pass mine owner scrutiny. Each item must be addressed with supporting documentation.

CHAPTER 2 — HEALTH AND SAFETY AT MINES

- Letter of Good Standing from COID (Compensation for Occupational Injuries and Diseases)
- Company Registration Documents and Tax Clearance Certificate
- Signed appointment letter for CEO/Director accountable for health and safety (Section 2A)
- Appointment of Mine Manager/Site Safety Officer with qualifications (Section 3)
- Written Health and Safety Policy signed by highest authority (Section 8)
- All required Codes of Practice as directed by mine owner and Chief Inspector guidelines (Section 9)
- Training records and induction registers for ALL employees (Section 10)
- Workplace Skills Plan submitted to MQA (Section 10(5))
- Baseline Risk Assessment covering all tasks and hazards (Section 11)
- Issue-Based Risk Assessments for high-risk activities (Section 11)
- Incident/accident investigation procedures and report forms (Section 11(5))
- Occupational hygiene measurement records (Section 12)
- Occupational Medical Practitioner appointment letter and notification to Principal Inspector (Section 13)
- Medical surveillance records for all employees exposed to health hazards (Section 13)
- Records of hazardous work (Section 14, prescribed form)
- Exit certificate procedure and records (Section 17)
- PPE register with issue and maintenance records (Section 6)
- Competency verification for all safety-critical tasks (Section 7)

CHAPTER 3 — HEALTH AND SAFETY REPRESENTATIVES AND COMMITTEES

- Designation of working places (Section 27)
- Election and appointment records for HSRs (Sections 29–30)
- HSR training records (Section 31)
- Monthly HSR meeting records with employees (Section 31)
- If 100+ employees: Health and Safety Committee constitution, minutes and meeting records (Sections 33–37)

CHAPTERS 5 AND 7 — INSPECTORATE AND LEGAL OBLIGATIONS

- Emergency preparedness plan and evacuation procedures
- Procedure for preserving accident scenes pending inspector authorisation (Section 11(8) and Reg 10.1)
- Procedure for co-operating fully with inspectors (Sections 51–53)
- System for posting inspector instructions and communicating them to affected employees (Section 56)
- Records demonstrating all applicable Act provisions are complied with (Section 91)

Section 12: Conclusion

The Mine Health and Safety Act 29 of 1996 is a comprehensive, far-reaching piece of legislation that creates extensive obligations for any contractor working at a South African mine. Non-compliance carries serious consequences: criminal prosecution of individuals (not just entities), administrative fines, site stoppage, and disqualification from mine contracts.

The 'as far as reasonably practicable' standard does not reduce the employer's obligations — it merely allows proportional implementation. The burden of proving that something was not reasonably practicable rests with the employer (contractor), not the enforcement authority.

The Act explicitly excludes the Occupational Health and Safety Act 85 of 1993 from mines (Section 103). At a mine, the MHSA is the governing law, and a contractor's OHS Act-based documentation system alone will not satisfy mine owner requirements.

This detailed summary, used alongside the companion Detailed Summary of the Mine Health and Safety Act Regulations, provides contractors with the comprehensive foundation needed to develop a fully compliant mine health and safety file.

— **END OF DOCUMENT** —