State of disaster - how applying mining principles to other industries could help mitigate risk

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With South Africa being in a state of disaster in terms of the Disaster Management Act, 2002, industries across the country are embarking on an integrated and coordinated approach to prevent and reduce the further outbreak of Covid-19.

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All industry and manufacturing businesses are legally obliged to create and maintain a safe working environment for workers, and legislation created for mine workers may be of relevance for all sectors as they seek guidance on measures to implement to help prevent an outbreak among its employees.

Under the Workplace Preparedness: Covid– 19 (SARS-CoV-19 virus) released by the Department of Employment and Labour, mine workers are likely to be considered a medium exposure risk threshold. This category includes jobs where there is frequent and/or close contact (within two metres) of people who may be infected with the virus, but who are not known or suspected to be Covid-19 patients. Many workers in other diverse industries would fall under this category too.

In addition, the Occupational Health and Safety Act, 1993 (OHSA) requires that an employer, as far as is reasonably practicable, must provide and maintain a working environment that is safe and without risks to the health of its employees. This includes taking steps to eliminate or mitigate any hazard or potential hazard.

To implement control measures, an employer's existing risk assessment must be reviewed and updated taking into account the new hazards posed by exposure to Covid-19 in the workplace.

Using the MHSA for other industries

Even though the Mine Health and Safety Act, 1996 (MHSA) is designed specifically for the sector, other industries could also apply many of its the principles, including that workplaces designed, built and equipped to provide conditions for safe operation and a healthy working environment, with a communication system and equipment necessary to achieve these conditions.

The employer is further required to, as much as possible, ensure that the mine – or manufacturing facility - is operated in a way that employees can perform their work without endangering their own, or other persons' health or safety. The MHSA places a duty on every employer to identify hazards to health or safety which employees may be exposed to at work and to assess the risks, record them and make the records available to employees – and this makes sense for other environments too.

In light of the developing Covid-19 situation and the legislative and regulatory implications in the mining sector, businesses could apply these principles, inspired by the mining sector, to help navigate these uncertain times:

The employer must consult with their business's health and safety committee and any existing risk assessment should be reviewed and updated to cater for the new and current risk of Covid-19.

Measures will then need to be implemented to give effect to the site's obligation to maintain a safe and healthy environment for its workers.

Consulting employees

Employees should immediately be consulted and advised that these new processes are in place. They should also be advised of any interim measures to be followed pending the finalisation of the updated risk assessment.

If Covid-19 or the effects of the pandemic, require the business to drastically reduce its operations or to temporarily close (go into care and maintenance), this should be clearly communicated to all workers, as soon as possible, along with any measures the business is able to take to support them through the current environment.

Compliance with environmental legislation must continue during this time to ensure that there is no significant adverse impact on the environment.

There is a further duty on employers to consult with any site's health and safety committee and to determine, and then implement, all measures necessary to eliminate, control, minimise and monitor the risk and to ensure the health and safety of all South African workers.