



Top Compliance (Pty) Ltd

Occupational Health and Safety

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Why your workplace may be non-compliant without realising it

Many employers believe that once a safety file has been compiled, occupational health and safety compliance is largely under control. A file may appear complete on inspection: appointments are signed, registers are present, policies are filed, and certificates are inserted in the correct sections. Yet in practice, a large number of workplaces in South Africa remain legally non-compliant without management being aware of it. The reason is simple: compliance is not determined by the existence of documents alone, but by whether those documents remain current, legally valid, site-specific, and actively implemented in day-to-day operations under [Occupational Health and Safety Act, 1993](#).

One of the most common areas of hidden non-compliance is outdated [legal appointments](#). Section 16(1) of the Act places the legal duty for health and safety on the chief executive officer or highest-ranking person in charge of the organisation. Section 16(2) permits certain duties to be delegated in writing to another competent person, but this delegation does not remove accountability from top management. In many businesses, a Section 16(2) appointment is signed once and then filed away for years without review. Problems arise when the appointed person resigns, changes position, loses operational control, or no longer has the authority to implement corrective action. In some cases, the appointed person remains named in the legal file even though they left the organisation months earlier. During an inspection or incident investigation, such an appointment is regarded as invalid because the named individual no longer fulfils the function in practice.

A similar problem occurs with appointments made under the [General Administrative Regulations](#). Under General Administrative Regulation 8, employers with more than 20 employees must designate health and safety representatives in writing. Under Regulation 9, health and safety committees become mandatory where two or more representatives are appointed. Many organisations have these appointments on file, but the representatives have never [received refresher training](#), no monthly inspections are taking place, committee meetings are irregular, or minutes are incomplete. In some workplaces, a representative has been transferred to another department but remains listed as responsible for an area they no longer supervise. This creates a false appearance of compliance while the actual legal function is no longer being fulfilled.

Inspection registers are another frequent source of unnoticed non-compliance. Employers often maintain registers for fire extinguishers, first aid boxes, ladders, electrical equipment, machinery, and workplace inspections, but entries may not be completed consistently. Monthly workplace inspections may skip several months without anyone noticing. Fire extinguisher inspections may be signed internally, but the annual servicing certificate from a competent provider is expired. First aid box checks may show stock inspections, yet critical items are missing when physically checked. In many cases, registers exist only because they were placed in the file during a previous audit, but the workplace no longer actively uses them as control tools.

The [General Safety Regulations](#) also create obligations that are often misunderstood. Under General Safety Regulation 2A, employers must ensure that first aid equipment and trained first aiders are available according to workplace risk and staffing levels. A common example is where a business appoints first aiders, but their certificates have expired, leaving the workplace technically non-compliant despite the appointment letters remaining in the file. Another example is where a first aid box is present but contains expired sterile dressings, missing gloves, or incomplete burn treatment supplies. During a Department of Employment and Labour inspection, physical verification always outweighs what appears on paper.

Machinery and equipment frequently expose another hidden compliance gap. Under the [Driven Machinery Regulations](#), 2015 and Machinery Regulations, machinery inspections, maintenance records, and operator competency documentation must remain current. Yet many workplaces retain old inspection certificates while machinery conditions have changed significantly. Guards may have been removed, emergency stop devices may fail, or operators may be using machinery without current authorisation. In manufacturing environments, forklifts often present a particularly high-risk example: licences may be filed, but refresher dates have passed, daily pre-use [checklists](#) are incomplete, or no proof exists that defects identified were corrected.

Risk assessments are often present in a safety file but do not reflect current operational realities. Section 8 of the Act requires employers to provide and maintain a working environment that is safe and without risk to health, as far as reasonably practicable. This duty cannot be met if risk assessments are generic, copied from another workplace, or not reviewed when work processes change. A school, for example, may still hold a risk assessment completed two years ago, while new laboratories, additional generators, construction work, or increased vehicle movement have introduced new hazards never assessed. A manufacturing company may have introduced chemicals into production without updating hazardous chemical controls, storage arrangements, or exposure procedures.

Hazardous chemical compliance remains one of the most underestimated areas of non-compliance. Under the [Hazardous Chemical Agents Regulations](#), 2021, employers must maintain current Safety Data Sheets, conduct risk assessments, train exposed workers, and ensure correct labelling and storage. In many workplaces, chemical products are present but the Safety Data Sheets in the file are outdated versions, often downloaded years earlier. Some products may have changed composition while old information remains filed. In smaller businesses, cleaning chemicals are frequently decanted into unlabelled containers, creating direct regulatory non-compliance and significant risk during emergencies.

Emergency preparedness is another area where a workplace may appear compliant while major weaknesses exist. Under the [Environmental Regulations for Workplaces](#), emergency routes and exits must remain unobstructed and clearly marked. Yet during routine visits, one often finds emergency exit doors locked, signage faded, assembly points poorly controlled, or evacuation procedures never rehearsed. Fire drills may have been conducted previously, but no evidence exists of recent drills, observations, corrective actions, or updated evacuation roles. In many schools and offices, new staff members have never received emergency instruction even though an evacuation policy exists in the file.

Legal registers often appear complete but contain expired statutory documents. Contractors' files may hold expired letters of good standing, expired medical certificates, outdated competency certificates, or missing proof of induction. Electrical Certificates of Compliance may exist for older installations while newer alterations were never certified. Pressure vessel certificates, lifting equipment inspections, and gas installation certificates frequently lapse unnoticed because responsibility for renewal is unclear.

The consequences of hidden non-compliance become serious when an incident occurs. During an injury investigation, the Department of Employment and Labour does not only assess the immediate event; inspectors examine whether the employer had effective systems in place beforehand. If appointments are outdated, inspections incomplete, or legal duties poorly implemented, this may be viewed as failure under Section 8 and Section 14 of the Act. Section 38 provides that contraventions may lead to prosecution, fines, or imprisonment depending on severity. Management often assumes that because documents exist, legal defence is strong, but outdated documents frequently become evidence of poor control rather than proof of diligence.

Financial consequences often extend beyond legal penalties. Compensation claims may increase, insurers may question risk management controls, downtime may follow equipment seizure, and clients may lose confidence in contractor competence. In schools and service environments, reputational damage can be significant when parents,

clients, or governing bodies become aware of preventable compliance failures. Internal productivity also suffers when corrective action becomes reactive instead of planned.

True compliance requires continuous active management rather than document storage. Every appointment should be reviewed whenever staffing changes occur. Registers must reflect real inspections, not signatures added for appearance. Risk assessments should evolve whenever operations change. Legal files must function as live operational tools rather than archive folders. A safety file should always mirror what is physically happening in the workplace. If the file says inspections are occurring monthly, evidence must be visible on site. If appointments exist, appointed persons must understand and actively perform their duties.

The strongest organisations are not those with the thickest files, but those where legal compliance remains visible in daily operations. In practice, non-compliance usually develops gradually, not because employers ignore safety deliberately, but because systems slowly become outdated while the file still appears complete. Identifying these hidden gaps early remains one of the most effective ways to prevent enforcement action, incidents, and avoidable legal exposure.

For more information, please contact us on info@topcompliance.co.za

Yours in Health and Safety

				
Occupational health and safety auditing and consulting		Online safety shop		
				
Appointments, checklists and templates	First aid equipment	Signage	Legal posters	Safety Equipment

Courses offered by Top Compliance (Pty) Ltd

ONLINE ACADEMY - https://academy.topcompliance.co.za/		
Occupational Health and Safety Courses	Online	Onsite Excluding travel
Safety representative – Legal Liability	R980.00	R1300.00
The Occupational Health and Safety Act & responsibilities of management – Legal Liability	R1250.00	R 1730.00
Hazard Identification and Risk Assessment	R735.00	R875.00
Food facility health & safety course in terms of R638	R735.00	R875.00
Basic Ladder Safety Course	R735.00	R875.00

Fire Fighting and Prevention Courses		
Fire Marshal - Basic firefighting	R735.00	R875.00
Fire & Evacuation marshal - Basic firefighting with emergency action planning	R810.00	R950.00
First aid		
Level 1 - US 119567 - Perform basic life support and first aid procedures – THEORY MODULE	R400.00	-

ONLINE ACADEMY - https://academy.topcompliance.co.za/	
Occupational Health and Safety Courses	
Safety representative – Legal Liability	
The Occupational Health and Safety Act & responsibilities of management – Legal Liability	
Hazard Identification and Risk Assessment	
Food facility health & safety course in terms of R638	
Basic Ladder Safety Course	
Fire Fighting and Prevention Courses	
Fire Marshal - Basic firefighting	
Fire & Evacuation marshal - Basic firefighting with emergency action planning	

ONSITE TRAINING	
First Aid Courses:	
Level 1 - US 119567 - Perform basic life support and first aid procedures	2 days
Level 2 - US 120496 - Provide risk-based primary emergency care/first aid in the workplace	3 days
Level 3 - US 376480 - Provide first aid as an advanced first responder	3 days
Level 1 & 2 - US 119567 & 120496	3 days
Level 1, 2 & 3 - US 119567, 120496 & 376480	5 days
Level 2 & 3 - US 120496 & 376480	3 days
Child and infant CPR & choking	6 hours
Adult CPR & choking	6 hours
Adult CPR & choking and AED	1 day
Occupational Health and Safety Courses	
Safety representative – Legal Liability	1 day
The Occupational Health and Safety Act & responsibilities of management – Legal Liability	1 day
Hazard Identification and Risk Assessment	1 day
Food facility health & safety course in terms of R638	6 hours
Basic Ladder Safety	6 hours
Fire Fighting and Prevention Courses	
Fire Marshal - Basic firefighting	6 hours
Fire & Evacuation marshal - Basic firefighting with emergency action planning	1 day