

**PRACTICAL IMPLICATIONS OF THE AMENDMENTS  
TO THE MINE HEALTH AND SAFETY ACT**

**Section 11(5) of the MHPA**

**ASSOCIATION OF MINE RESIDENT ENGINEERS**

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# LEGAL FRAMEWORK

- **LEGISLATIVE UPDATES**
  - Amendments to MHSA effective 30 May 2009
  - Can no longer be considered “new” and appointees must be familiar the changes and have implemented systems which address the requirements of the MHSA in its current form
- **CANNOT ADDRESS ALL CHANGES EFFECTIVELY – FOCUS ON SECTION 11 OF THE MHSA**

# SECTION 11 – THE ROLE OF RESIDENT ENGINEERS



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- Primarily understand section 11 to address the requirements of assessment and response to risk
- Important change, which many employers are currently practically learning how to deal with, to the requirements of internal investigation reports
  - The role of internal investigation reports is invaluable
  - The reports can also be incredibly dangerous and possibly embarrassing if they are not addressed properly
  - They are now used in the inquiry and provide guidance in respect of focus/issues/questions



# APPROACHING THE REPORT

- The **FACTS** must be submitted
  - **Steer clear of assumptions**
  - Take into account that witnesses may be emotional/traumatised or even covering themselves
  - Unless you were there, you cannot state with certainty and are bound to rely on the information presented and the observations made during the investigation
  - Stories change – do not commit yourself to facts that you were not able to verify
- Not the forum to be **OVERLY** analytical and rush to conclusions – the story very often changes again and **you will be bound to those findings**
- **Not the forum to make sweeping generalisations**
- Beware of incrimination – both of the employer and of specific employees

# ALIGNMENT WITH OTHER SUBMISSIONS



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- Need to take a broader view to ensure that all documents “speak to each other” – failing to do this, even as an oversight – will raise further questions which will have to be answered
- Section 54 upliftment presentations
  - Are we sure that what we submit is in fact the truth – remember – you will have to be able to discuss those findings under oath should the matter proceed to an inquiry
- Discussions at in loco inspections
  - Avoid speculation- focus on what you can determine from the investigation.



# CONCLUSION

- ENSURE TIME PERIODS ADHERED TO
  - Start your investigation within 10 days from the date of the accident and submit the report to the Principal Inspector within 30 days
- PROVIDE ONLY THE FACTS
- AVOID TENDENCY TO OVER ANALYSE OR RUSH TO CONCLUSIONS
- CONSTITUTIONAL RIGHT AGAINST SELF INCRIMINATION

**QUESTIONS?**



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