



WEEKLY LABOUR BULLETIN

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PROCEDURES AND TIMELINES UNDER S.I.
68 OF 1990**

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REPORTING WORKPLACE ACCIDENTS: PROCEDURES AND TIMELINES UNDER S.I. 68 OF 1990

INTRODUCTION

Workplace accidents can occur despite the best safety precautions. When an accident happens, employers have a legal duty not only to provide assistance to the injured employee but also to comply with the reporting requirements prescribed under the National Social Security Authority (Accident Prevention and Workers' Compensation Scheme) Notice, 1990 (S.I. 68 of 1990). **Failure to report accidents within the prescribed timeframes can expose employers to penalties, surcharges, and complications when employees seek compensation from NSSA.**

This bulletin outlines the key procedures and timelines that every farmer and farm manager should know.

WHY ACCIDENT REPORTING IS IMPORTANT

Reporting of an accident that has occurred on a farm is of critical importance so that:

- Injured workers can access compensation benefits from NSSA.
- Medical expenses and compensation claims can be processed promptly.
- Employers comply with statutory obligations.
- Workplace hazards can be identified and addressed.
- Disputes regarding the occurrence and circumstances of accidents are minimised.

Accident reporting is, therefore, both a legal requirement and an important risk management tool.

WHAT CONSTITUTES A REPORTABLE ACCIDENT?

In terms of section 48(7) of S.I. 68 of 1990, an accident “includes any personal injury sustained by a worker and reported to the employer where the worker alleges that the injury arose out of and in the course of employment.” Therefore, the accident should have happened when the worker was at work.

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Employers should therefore avoid making their own determination that an injury is "too minor" to report. If the injury is work-related and falls within the reporting requirements, the accident should be recorded and reported.

There are steps that a farmer must take when an accident occurs and these are:

STEP 1: IMMEDIATE RESPONSE FOLLOWING AN ACCIDENT

When an accident occurs, the employer should:

1. Ensure the injured worker receives first aid.
2. Arrange medical treatment where necessary.
3. Secure the accident scene where appropriate.
4. Obtain statements from witnesses.
5. Record all relevant details while events are still fresh.

Good record-keeping at this stage can be critical if questions arise later regarding the cause of the accident.

STEP 2: RECORD THE ACCIDENT WITHIN 3 WORKING DAYS

Section 48(1) of S.I. 68 of 1990 requires every employer, within three working days of an accident in which a worker:

- is disabled; or
- suffers an injury that may render the worker unfit for work for one day or more, to make a formal record of the accident.

The record must include:

- The worker's name and address.
- The date and time of the accident.
- The nature of the accident.
- The place where the accident occurred.
- The worker's earnings at the time of the accident.
- Any other relevant particulars concerning the accident or compensation claim.

The issue of **maintaining records is also critical** in this case, as these records can be requested anytime during labour inspections, as highlighted in our bulletin on inspections. Therefore, the **farmer must maintain an accident register** on the farm and ensure all supervisors know how to complete it.

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STEP 3: NOTIFY NSSA WITHIN 14 DAYS

Section 48(2) of S.I. 68 of 1990 requires the employer to **notify** the NSSA General Manager **of the accident within 14 days from the date of the accident.**

The notification must:

- Be in writing.
- Contain the prescribed particulars.
- Be submitted within the statutory period.

Section 48(3) of S.I. 68 of 1990 further requires an employer to provide a copy of the notice to the affected worker. This ensures that both the employer and the employee maintain records of the reported accident. The copy serves as important evidence when the worker approaches NSSA to lodge a claim and remains useful even if the worker subsequently leaves the employer's service, as it provides a personal record of the incident.

STEP 4: RETAIN PROOF OF SUBMISSION

Retaining proof of submission is essential because Section 48(6) of S.I. 68 of 1990 places the burden of proving that notification was made on the employer. Failure to keep such proof may result in allegations that the employer did not report the accident, which could expose the employer to liability or other legal consequences.

Employers should therefore retain:

- Copies of all accident reports.
- Medical reports.
- Proof of submission to NSSA.
- Acknowledgements received from NSSA.

NSSA is required to acknowledge receipt of the notice in writing. Accordingly, **the farmer should ensure that this written acknowledgement is obtained and retained as proof of submission.** This will help protect the farmer against any future allegations that the notice was not submitted.

WHAT HAPPENS IF THE EMPLOYER FAILS TO REPORT?

Failure by an employer to comply with the reporting requirements constitutes an offence in terms of Section 48(5) of S.I. 68 of 1990. In addition, an employer may be liable to pay a surcharge of US\$200 for each day that an accident

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remains unreported beyond the prescribed 14-day reporting period, subject to a maximum surcharge of US\$18,000. Previously, the surcharge was set at up to US\$10 per day, capped at US\$2,000. However, in response to the increasing incidence of unreported workplace accidents, S.I. 100 of 2024 increased the maximum surcharge to US\$18,000.

CAN AN EMPLOYEE STILL CLAIM IF THE ACCIDENT WAS NOT REPORTED?

An employee may still lodge a claim with NSSA even where the employer has failed to report the accident. Under the Scheme, a worker is required to notify the employer of the accident as soon as is reasonably practicable, and compensation claims should generally be submitted within 12 months of the date of the accident.

However, failure to notify or submit a claim within the prescribed period does not automatically bar entitlement to compensation, particularly where the employer had knowledge of the accident or where there is a reasonable justification for the delay. Employers should therefore not assume that non-reporting of an accident will extinguish their liability or prevent an employee from pursuing a compensation claim.

COMMON MISTAKES MADE BY EMPLOYERS:

DELAYING NOTIFICATION

Many employers wait for medical reports or investigations to be completed before notifying NSSA. The legislation requires notification within the prescribed **period of 14 days, even if investigations are ongoing.**

ASSUMING MINOR INJURIES NEED NOT BE REPORTED

An injury that later develops into a serious medical condition may create difficulties if no record was made when the incident occurred. It is therefore better for an employer to be told that such an injury does need to be reported than to be told that it should have been reported, and penalties levied against the farmer.

POOR RECORD KEEPING

The issue of **keeping records cannot be overemphasised.** Inability to produce accident records, witness statements, or proof of submission often weakens an employer's position when disputes arise. It can also lead to the farmers being made to pay penalties because they will not have proof.



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LEAVING REPORTING TO ONE INDIVIDUAL

Accident reporting responsibilities should not be left to one person; it should be understood by farm managers, supervisors, HR personnel, and safety representatives so that when it happens, all the necessary steps are taken to ensure that the accident is recorded and reported.

RECOMMENDED FARM ACCIDENT REPORTING PROCEDURE

Below is the summary of the recommended procedure to follow in the event of an accident:

- ✓ Provide first aid and medical assistance.
- ✓ Secure the scene and gather evidence.
- ✓ Record the accident within 3 working days.
- ✓ Obtain witness statements.
- ✓ Submit the accident report to NSSA within 14 days.
- ✓ Provide the worker with a copy of the report.
- ✓ Keep proof of submission and NSSA acknowledgement.
- ✓ Review the causes of the accident and implement corrective measures.

CONCLUSION

Accident reporting is not merely an administrative exercise; it is a statutory obligation designed to protect both employers and employees. Compliance with the timelines prescribed under S.I. 68 of 1990 ensures that injured workers can access benefits under the Workers' Compensation Scheme while protecting employers from penalties and unnecessary disputes. Every farm should have a clear accident reporting procedure and ensure that managers and supervisors understand their responsibilities.

Disclaimer: This article is issued to serve as a general guide to farmers and does not substitute legal advice that may be required to address a particular situation with peculiar circumstances.

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