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ENVIRONMENTAL, HEALTH AND SAFETY AND FOODSTUFFS LEGAL UPDATE REPORT
(SOUTH AFRICA)
APRIL 2019

Dear Clients,

Below please find a summary of selected relevant environmental, health and safety and foodstuffs legal developments that took place during April 2019.

NATIONAL LEGISLATION

1) National Environmental Management Act

- **Regulations laying down the Procedure to be followed for the Adoption of Spatial Tools or Environmental Management Instruments**

These Regulations set out the procedure the Minister or MEC of Environmental Affairs must follow when adopting a spatial tool or environmental management instrument for which no environmental authorisation (in terms of an EIA) is required.

2) Foodstuffs, Cosmetics and Disinfectants Act

- **Regulations relating to Edible Fats and Oils**

These Regulations were promulgated in August 1996 and were now repealed. No reasons were provided by the Minister, nor were new Regulations published.

3) Waste Act

- ***Intention to require a person who conducts a Hazardous Waste Management Activity listed under the Waste Act on the date of coming into effect, and who immediately before that date lawfully conducted that activity under GN 91 of 1 February 2002, to apply for a waste management licence***

A person who lawfully conducted a hazardous waste management activity, and still is doing so, prior to the Waste Act coming into force (ie. 1 July 2009) is currently not required to be in possession of a waste management licence under the Waste Act. The rationale behind this is that the activity was permitted through something like an EIA authorisation or Record of Decision, permit in terms of the Environment Conservation Act (section 20), or exemption/directive/registration certificate issued by the Department of Water and Sanitation.

This DRAFT notice which was published for a 30 day commenting period on 5 April 2019 (it is therefore NOT (yet) a law) calls on persons who on 1 July 2009 were lawfully conducting a hazardous waste activity identified in Schedule 1 of the Waste Act to apply for a waste management licence under the Act within one year of the notice taking effect. Schedule 1 is similar to the separate current notice under the Act which sets out activities requiring a licence (although this list was amended over the years).

Persons conducting waste management activities which commenced before 1 July 2009 without a valid permit, exemption, directive, registration certificate or environmental authorisation, must apply for a waste management licence immediately and the waste management activities which commenced after 1 July 2009 without a valid waste management licence are regarded as illegal activities and would require approval in terms of Section 24G of the National Environmental Management Act (ie. rectification of unlawful activities).

This DRAFT notice applies to all hazardous waste management activities, which include but are not limited to waste disposal, landfilling, recycling, reuse, treatment and recovery of waste.

Persons who already have a waste management licence under the Act are NOT affected by this draft notice.

4) National Heritage Resources Act

- **Identified Types of Objects that are Protected, and may not be Exported without a Permit from the SA Heritage Resources Agency (SAHRA)**

This notice supersedes the earlier notice published in GN 1512 of Gazette No 24116 of 6 December 2002.

PROVINCIAL LEGISLATION

5) Western Cape

- **National Heritage Resources Act**

The following two draft Regulations were published for public comment:

- Draft Regulations Relating to the Consultation Process for Listing Heritage Resources in the Heritage Register and for the Designation of Heritage Areas by Heritage Western Cape
- Draft Regulations Relating to the Consultation Process for Listing Places in the Heritage Register by Heritage Western Cape and for the Designation of Heritage Areas by a Local Authority.

- **Western Cape Land Use Planning Act**

The Western Cape Land Use Planning Regulations, 2015, were amended.

No other relevant provincial legislation was published during this month.

MUNICIPAL LEGISLATION

6) Senqu Local Municipality

Various by-laws were published by this municipality. For purposes of this update report the more relevant ones are:

- Building Control By-law
- Electricity Supply By-law
- Keeping of Animals, Birds and Poultry and Businesses relating thereto By-law
- Liquor Trading Hours By-law
- Municipal Commonage By-law
- By-law relating to Nuisance Control
- Outdoor Advertising and Signage By-law
- Prevention of Tampering with Electrical Installations and the Improper and Unauthorised Use of such Installations By-law
- Street Lighting By-law
- Waste Management By-law
- Wayleaves By-law
- Businesses and Street Trading By-law
- Road Traffic By-law
- Roads and Streets By-law.

7) Mbombela Local Municipality

The By-law for the Control of Outdoor Advertising was promulgated.

8) Dannhauser Local Municipality

The Public Transport By-laws were promulgated.

9) Thaba Chweu Local Municipality

The following relevant by-laws were promulgated:

- Cleaning Services / Solid Waste Management By-laws
- Community Fire Safety By-laws for Fire and Rescue Services
- Traffic and Crime Prevention By-laws
- By-law for the Control of Outdoor Advertising
- Public Parks and Open Spaces By-laws.

10) Swartland Local Municipality

The By-law relating to Public Nuisances was promulgated.

11) Collins Chabane Local Municipality

The following relevant by-laws were published:

- Spatial Planning and Land Use Management By-law
- Transportation of Goods By-law
- Advertising and Billboards By-law
- Noise Control By-law
- Public Open Spaces By-law.

12) Pixley Ka Seme District Municipality

The Municipal Health Services By-law was published and will take effect on 1 July 2019.

13) Ugu District Municipality

The Water and Sanitation Services By-law was amended.

14) eThekweni Metropolitan Municipality

The Coastal Management By-law was published. It only takes effect six months from date of publication (25 April 2019) or such earlier date as may be determined by the publication of a commencement notice in the Provincial Gazette.

According to the by-law's preamble the aims are to provide measures for:

- managing and protecting the coastal zone
- aligning development within the coastal zone with the objects of the Integrated Coastal Management Act
- protecting the natural environment of the coastal zone
- managing public access to the coastal zone
- establishing the Municipal Coastal Committee
- giving effect to the Municipal Coastal Management Programme.

15) Victor Khanye Local Municipality

The Air Quality Management By-law was published with effect from the date of publication (26 April 2019) although according to the by-law different dates may be determined by the Council for specific provisions to come into force. No sections were, however, excluded in the publication so it is presumed that the entire by-law is applicable.

16) Ekurhuleni Metropolitan Municipality

The draft Spatial Planning and Land Use Management By-law was published for public comment.

If you have any questions please feel free to contact us.

Kind regards

MARK DITKE