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

Dear Clients,

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

NATIONAL LEGISLATION

1) Animal Diseases Act

Control Measures to Foot and Mouth Disease in certain areas were published.

2) Mineral and Petroleum Resources and Development Act

- **Draft Mine Community Resettlement Guidelines**

These draft Guidelines were published for comment.

- **Housing and Living Conditions Standards for the Minerals Industry**

The purpose of this Standard is to ensure that existing or new mining right holders provide decent liveable integrated human settlements, balanced nutrition, water and related amenities to mine employees.

3) Waste Act

- **Consultation on the Draft revised and updated National Waste Management Strategy**

In terms of the Waste Act the Minister must review the original NWMS at least every five years (the last one was from 2012).

This is a high level document and discusses various waste management options, sectors etc. While the draft strategy does not directly affect companies or individuals at this stage, it will in the long run once new legislation is passed.

The draft strategy focuses on a circular economy which is an approach to minimising the environmental impact of economic activities by reusing and recycling processed materials thereby reducing the need to extract new raw materials and to dispose of waste.

- ***Withdrawal of Notice calling on the Paper and Packaging Industry, Electrical and Electronic Industry and Lighting Industry to submit Industry Waste Management Plans***

The Notice was published in December 2017 and various plans were submitted by affected companies and/or industry bodies/associations.

The Minister of Environmental Affairs indicated on 13 December 2019 that she rejected all of them as none apparently complied with the provisions of the criteria set out in the 2017 notice. A new approach is therefore required which centres on the extended producer responsibility principle and which will take into consideration the comments received from the relevant industries that generate the waste.

4) Biodiversity Act

- ***Biodiversity Management Plan for the Bontebok***

This plan was published.

5) National Forest Act

- ***List of Protected Tree Species***

A new list of protected tree species was published.

6) Occupational Health and Safety Act

- ***Ergonomics Regulations***

These new Regulations were published on 6 December 2019 and entered into force on the same date. They are quite detailed and impose various requirements on employers, especially the need to conduct a risk assessment.

7) *Integrated Coastal Management Act*

- ***Notice of Intention to Establish a Coastal Management Line for the City of Cape Town***

The MEC for Environmental Affairs and Development Planning published this draft notice for comment (the deadline is 17 February 2020).

The proposed coastal management line for the City of Cape Town is delineated along the City's existing coastal edge for the lengths of coast as represented in the Municipal Spatial Development Framework. The coastal management line is interrupted at certain places because it passes along national parks or other land for which the City is not the management authority.

The notice sets out in detail the proposed coastal management line.

The Integrated Coastal Management Act defines a coastal management line as "a line...in order to demarcate an area within which development will be prohibited or controlled in order to achieve the objects of this Act or coastal management objectives".

8) *Air Quality Act*

- ***Regulations regarding the Phasing-out and Management of Ozone Depleting Substances – Draft amendment***

Draft amendments to the Regulations were published for comment. The Regulations are generally aimed at manufacturers, producers and exporters of ozone depleting substances. The proposed amendments target importers and exporters.

It is further proposed to substitute Appendix A which sets out the list of ozone depleting substances.

9) *Basic Conditions of Employment Act*

Sections 1 - 7 of the Labour Laws Amendment Act, 10 of 2018, entered into force on 1 January 2020. Sections 1 – 6 introduce changes to the Basic Conditions of Employment Act dealing mainly with parental leave and adoption leave.

10) *Unemployment Insurance Act*

The Act was amended by the Labour Laws Amendment Act, 10 of 2018, which inserted definitions of adoption order and prospective adoptive parents.

11) Customs and Excise Act

- **Amendment of Rules**

The Rules were amended by the insertion of the following.

Rule 54FD.01 which deals with the imposition of an environmental levy for the carbon dioxide equivalent of greenhouse gases generated.

Rule 54FD.02 requires the licencing of emissions facilities. This does not apply where an activity listed in Schedule 2 of the Carbon Tax Act exclusively occurs in respect of which a tax payer has a basic tax-free allowance of 100% or a tax threshold is indicated in the Schedule as "not applicable".

Rule 54FD.03 requires a licensee to calculate the amount of the environmental levy payable for each tax period in respect of its licenced customs and excise manufacturing warehouse.

Rule 54FD.04 deals with the submission of the carbon tax account and payment of the levy.

12) Upstream Petroleum Resources Development Bill

This draft Bill was published for comment. It is aimed at exploration and production right holders and the development of petroleum resources on and offshore.

The State, through PetroSA, will have a 20% interest share in exploration and production rights. PetroSA must enter into a joint operating agreement with the holder or become a party to an existing joint operating agreement.

No person other than the State may conduct petroleum activities without a licence or permit, approval or consent pursuant to the Bill.

The Minister of Mineral Resources and Energy will be the responsible authority for implementing environmental provisions in terms of the National Environmental Management Act, as it relates to exploration, production or activities incidental thereto on an exploration or production area.

The Bill further intends to make various amendments to the Mineral and Petroleum Resources Development Act.

13) Petroleum Products Act

- ***Draft Guidelines to Applicants for New to Industry Site and Retail Licences***

These draft guidelines were published for comment.

14) National Environmental Management Act

- ***Draft Procedures to be followed for the Assessment and Minimum Criteria for Reporting of Identified Environmental Themes in terms of Section 45(5)(a) and (h) when applying for Environmental Authorisation***

These draft procedures were published for comment. They deal with the identification of potential impacts caused to terrestrial animal and plant species and which have to be investigated as part of the environmental authorisation application process.

PROVINCIAL LEGISLATION

15) KwaZulu Natal – Draft (Model) Standard By-laws

The following relevant Draft (Model) Standard By-laws were published for comment by the provincial legislature:

- Sewage Disposal By-law
- Environmental Health By-law

These are only drafts and once finalised merely act as example for municipalities to use (either entirely or with modifications). Municipalities are not bound to implement them, and can still write their own by-laws.

No other relevant provincial legislation was published during this month.

MUNICIPAL LEGISLATION

16) City of Cape Town

The Municipal Planning By-law was amended.

17) Nquthu Local Municipality

The following relevant new by-laws were published:

- Building Regulations By-law
- Waste Management By-law
- Disaster Management By-law
- By-laws relating to Fire Brigade Services
- Draft Outdoor Advertisement By-law
- Nuisance By-law
- Public Roads By-law
- Public Transport By-law.

18) Victor Khanye Local Municipality

The Air Quality Management By-law was originally promulgated in April 2019 (with commencement date to be proclaimed). The by-law was now republished in December 2019 (again with the proviso that its commencement date will be published). No reasons were given why the by-law was republished.

19) Chief Albert Luthuli Municipality

The Prevention and Suppression of Nuisance By-law was published.

20) Mkhondo Local Municipality

The Fire Service By-law was published.

21) eThekweni Municipality

The Planning and Land Use Management By-law was amended.

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

Kind regards

MARK DITKE