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ENVIRONMENTAL, HEALTH AND SAFETY AND FOODSTUFFS LEGAL UPDATE REPORT

(SOUTH AFRICA)

APRIL 2020

Dear Clients,

Below please find a summary of selected relevant environmental, health and safety and foodstuffs legal developments that took place during April 2020.

Due to the lockdown not many changes were made (apart from COVID-19 related legislation).

NATIONAL LEGISLATION

1) *Merchant Shipping Act*

- ***Draft Merchant Shipping (Training, Certification and Manning) Regulations***

Extensive draft Regulations were published for public comment and input. Should they enter into force they will repeal the Merchant Shipping (Safe Manning, Training and Certification) Regulations, GN R 511 of 23 July 2013.

2) *Labour Laws Amendment Act, 10 of 2018*

The purpose of this Act is to amend various labour laws. By virtue of Proclamation No R 17 of 3 April 2020 (GG 43202) sections 7, 8(b), 12 to 16 entered into force on 1 April 2020.

The above sections amend the Unemployment Insurance Act and deal with adoption orders/leave/benefits and commissioning parental benefits.

3) Compensation for Occupational Injuries and Diseases Act

- **Maximum Amount of Earnings on which the Assessment of an Employer shall be calculated (as of 1 March 2020)**

The maximum amount of earnings on employers' assessments was amended as of 1 March 2020.

4) Carbon tax payment deferral

As announced by the President on 21 April 2020 in his televised speech a three-month delay in first carbon tax payments as part of the COVID-19 relief measures was introduced. The initial payment deadline was 31 July 2020 which was now postponed to 31 October 2020.

Carbon tax liable entities must go through a series of activities before they can submit their carbon tax environmental levy account. This includes:

- submission of the mandatory greenhouse gas emission report to the Department of Environment, Forestry and Fisheries
- licencing emission generating facilities as customs and excise manufacturing warehouses for environmental levy purposes
- registering for carbon tax on eFiling.

Certain carbon tax allowances that are meant to cushion the immediate impact of the carbon tax, are still not operational. The trade exposure allowance and benchmarking regulations have been out for public comment and have yet to be finalised.

The electronic Carbon Offset Administration System (COAS) which allows for the listing, transfer and surrender of offsets against carbon tax liability is not yet in place. Without this it will be difficult to claim offsets as an allowance in the current carbon tax return. The launch of COAS has also been delayed due to the COVID-19 lockdown.

With the carbon tax payment deadline having been pushed back, it hopefully allows for more time to finalise the COAS soon. This would also provide more time for carbon tax payers to comply with the stipulated requirements to obtain an Extended Letter of Approval, and to retire, list, transfer and obtain a Reg 8(e) certificate (in terms of the Regulations on Carbon Offsets, GN 1556 of 2019) so that an allowance can be claimed before 31 October 2020.

The following time frames are relevant:

- 30 April 2020: Submission deadline for 2019 Greenhouse Gas Emission reports for those opting the route of manual submission
- 31 May 2020: Submission deadline for 2019 Greenhouse Gas Emission reports for those utilising the South African Greenhouse Gas Emission Reporting System (SAGERS)
- 31 October 2020: Payment of first carbon tax environmental levy account for the period 1 June – 31 Dec 2019.

Regarding the use of carbon tax offsets the following timelines, should COAS come online before 31 May 2020, are applicable:

- 31 May 2020: Conclude carbon offset purchase agreement(s) with a carbon offset seller
- 30 June 2020: Apply for the Extended Letter of Approval; retire offsets in international registry; list offsets in COAS
- 30 September 2020: Transfer offsets to buyer's COAS account; buyer obtains a certificate in accordance with Regulation 8(e) of the offset regulations
- 31 October 2020: Deadline to pay carbon tax and surrender offsets.

[Information for the above was obtained from the Climate Neutral Group's email newsletter sent on 22 April 2020.]

5) Covid-19

Various Regulations and Directions, including amendments to existing ones, were published by the government during April. Separate update notices, and copies of the laws, were sent out by us to Legal Register users as soon as these appeared. New laws and amendments to existing laws are published virtually on a daily basis and thus cannot be discussed in this update report.

PROVINCIAL LEGISLATION

No relevant provincial legislation was published during this month.

MUNICIPAL LEGISLATION

6) Ugu District Municipality

The municipality adopted its Environmental Management Framework in terms of the National Environmental Management Act.

7) City of Johannesburg

The Special Ratings Area By-law was promulgated.

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

Kind regards

MARK DITKE