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OUR REF: MD/update_july20

YOUR REF:

1 August 2020

**ENVIRONMENTAL, HEALTH AND SAFETY AND FOODSTUFFS LEGAL UPDATE REPORT
(SOUTH AFRICA)
JULY 2020**

Dear Clients,

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

NATIONAL LEGISLATION

1) Private Security Industry Regulation Act

Draft amendments were published for the following for comment:

- Regulations in terms of the Act
- Code of Conduct

2) National Environmental Management Act

- **Consultation on the Intention to Amend the Procedures to be followed in applying for or deciding on an Environmental Authorisation Application for Large Scale Wind and Solar Photovoltaic Energy Development Activities when occurring in Renewable Energy Development Zones**

A notice advising of the Minister's intention to amend the 2018 procedures was published for public comment.

- **Consultation on the Intention to Identify Geographical Areas of Strategic Importance for the Development of Large Scale Wind and Solar Photovoltaic Energy Facilities**

A notice advising of the Minister's intention to identify three geographical areas as being of strategic importance for such facilities. The areas in question are in the Emalahleni, Klerksdorp and Beaufort West regions.

- ***Consultation on the Intention to Identify Geographical Areas of Strategic Importance for the Development of Electricity Transmission and Distribution Infrastructure***

A notice advising of the Minister's intention to identify seven geographical areas as being of strategic importance for such infrastructure. The aim is also to repeal the February 2018 notice (GN 113 of 16 February) dealing with the procedure to be followed in applying for an environmental authorisation for large scale electricity transmission and distribution development activities.

- ***Extension of deadline to comment***

On 26 July 2020 the Minister published four DRAFT Extended Producer Responsibility (EPR) Regulations for public comment (see below). These were discussed in detail in our June 2020 update report. As expected, the commenting deadline for these four was extended until 26 August 2020:

- DRAFT Regulations regarding Extended Producer Responsibility
- DRAFT EPR Scheme for the Electrical and Electronic Equipment Sector
- DRAFT EPR Scheme for Paper, Packaging and some Single Use Products
- DRAFT EPR Scheme for the Lighting Sector.

- ***Notification regarding opportunity to participate in the Eskom Medupi and Matmiba Coal-Fired Power Stations: Application for alternative limits in terms of the minimum emission standards published***

Published for public comment.

- ***Consultation on the adoption of a Generic Environment Programme for the management and mitigation of environmental impacts resulting from the implementation of the working for wetlands projects and the exclusion of these projects from the requirement to obtain an environmental authorisation***

Published for public comment.

- ***Consultation on the intention to adopt a Generic Environmental Management Programme relevant to an application for environmental authorisation for the development or expansion of gas transmission pipeline infrastructure***

Published for public comment.

- ***Consultation on the intention to adopt a standard for the development of electricity transmission and distribution infrastructure within identified geographical areas and the exclusion of this infrastructure from the requirement to obtain an environmental authorisation***

Published for public comment.

- ***Consultation on the intention to identify the procedures to be followed in applying for or deciding on an environment authorisation for the development or expansion of gas transmission pipeline infrastructure when occurring in strategic gas pipeline corridors***

Published for public comment.

- ***Consultation on the adoption of a Generic Environmental Management Programme for the management and mitigation of environmental impacts resulting from the implementation of working for water projects and the exclusion of these projects from the requirement to obtain an environmental authorisation***

Published for public comment.

- ***Consultation on the adoption of a Generic Environmental Management Programme for the management and mitigation of environmental impacts resulting from the implementation of the Land Care projects and the exclusion of these projects from the requirements to obtain an environmental authorisation***

Published for public comment.

- ***Consultation on the adoption of a Generic Environmental Management Programme and mitigation of environmental impacts resulting from the implementation of working for Ecosystems Projects and the exclusion of these projects from the requirement to obtain an environmental authorisation***

Published for public comment.

- ***Consultation on the intention to identify the procedures to be followed when applying for or deciding on an environmental authorisation for the development of electricity transmission and distribution infrastructure when occurring in renewable energy development zones***

Published for public comment.

- ***Consultation on the intention to identify procedures when applying for the Large Scale Wind and Solar Photovoltaic facilities***

Published for public comment.

3) Compensation for Occupational Injuries and Diseases Act

The following DRAFT Regulations were published for public comment:

- mesothelioma due to occupational asbestos exposure
- irritant-induced asthma
- work-related upper limb disorder
- contact dermatitis
- post-traumatic stress disorder
- occupational asthma
- lung cancer
- occupationally-acquired HIV/AIDS
- work-related upper respiratory tract disorders
- work-related chronic obstructive pulmonary disease (COPD)
- pulmonary tuberculosis in health workers
- occupational pulmonary tuberculosis associated with silica dust exposure
- appointment of assessors, presiding officers and interpreters

The deadline for comments is 16 September 2020 and comments can be sent to the Compensation Fund.

4) Employment Equity Act – Amendment Bill

An Amendment Act was published for public comment.

According to the explanatory memorandum of the Bill the objects are:

- empowering the Minister of Labour to determine sectoral numerical targets for the purpose of ensuring the equitable representation of suitably qualified people from designated groups (blacks, women and persons with disabilities) at all occupational levels in the workforce
- enhancing the administration of the Act, including the implementation of section 53 thereof, which provides for the issuing of a certificate by the Minister confirming an employer's compliance with Chapter II, or Chapters II and III, of the Act, as the case may be, in relation to the conclusion of state contracts
- removing the requirement for psychological testing and similar assessments of employees to be certified by the Health Professions Council of South Africa

- removing a provision empowering non-designated employers to notify the Director-General of the Department of Labour that they intend to voluntarily comply with Chapter III of the Act as if they were a designated employer.

5) Antarctic Treaties Act

The draft Antarctic and Southern Ocean Strategy was published for public comment.

6) Carbon Tax Act

The government announced a carbon tax stimulus relief, which entails delaying the filing and first payment of carbon tax by three months. The submission of annual carbon tax accounts and the payment of carbon tax for the period ended 31 December 2019 is therefore deferred to 31 October 2020.

The carbon tax relief was not included in the Disaster Management Tax Relief Bill or the Disaster Management Tax Relief Administration Bill but will rather be governed by the Customs and Excise Act Rules published by SARS.

As of 31 October 2020, taxpayers liable for carbon tax must submit an environmental levy account and make payments in accordance with the Customs and Excise Rules for each tax period, including –

- a consolidated annual account on the prescribed DA 180 form in respect of each licensed emissions generation facility registered to that licensee that calculates the environmental levy in accordance with Rule 54FD.03;
- a consolidated payment for the total environmental levy liability ; and
- any other supporting documents the Commissioner may request.

7) Occupational Health and Safety Act

- ***Draft Regulations for Hazardous Biological Agents***

A notice was published in the Government Gazette of 31 July 2020 stating that Draft Regulations for Hazardous Biological Agents are available for public comment on the Department of Employment and Labour's website. The draft was not yet, however, available on the website. We will try to obtain a copy as soon as possible. Alternatively Jabu Mhlophe or Dikeledi Leshoro from the Department can also be contacted (jabu.mhlophe@labour.gov.za; Dikeledi.leshoro@labour.gov.za) as they were listed as liaison persons for comments.

PROVINCIAL LEGISLATION

No relevant provincial legislation was published during this month.

MUNICIPAL LEGISLATION

8) Knysna Local Municipality

The new Zoning Scheme By-law was promulgated.

9) Bergriver Local Municipality

The Air Quality By-law was promulgated. At the same time the Air Pollution Control By-law was repealed.

10) Cedarberg Local Municipality

The Zoning Scheme By-law was promulgated.

11) City of Ekurhuleni Metropolitan Municipality

The following changes took place:

- Police Services By-law, 2017 – this was amended
- Public Transport By-law, 2020 – a new by-law was promulgated.

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

Kind regards

MARK DITKE