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

Dear Clients,

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

**NATIONAL LEGISLATION**

**1) Antarctic Treaties Act**

Draft Regulations were published for public comment.

**2) Environment Conservation Act**

**• Plastic Carrier Bags and Plastic Flat Bags Regulations, 2003 – Draft amendments**

Draft amendments to the 2003 Regulations were published for comment. In terms thereof the manufacture, trade and commercial distribution of domestically produced and imported plastic carrier bags and plastic flat bags, for use within the Republic, other than those which comply with paragraphs 4 and 5 of the Compulsory Specification, is prohibited.

The plastic carrier bags and plastic flat bags must be made from a minimum of 50% post-consumer recyclate from 1 January 2023 and must, from 1 January 2027, be made from 100% post-consumer recyclate.

The following phase out schedule is proposed:

- The plastic carrier bags and plastic flat bags must be made from a minimum of 50% post-consumer recyclate by 1 January 2023;

- The plastic carrier bags and plastic flat bags must be made from a minimum of 75% post- consumer recyclate by 1 January 2025; and
- The plastic carrier bags and plastic flat bags must be made from a minimum of 100% post - consumer recyclate by 1 January 2027.

Contravention of the Regulations could lead to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and imprisonment.

### **3) Air Quality Act**

- ***Draft Declaration of certain Printing Industry Activities as Controlled Emitters and Establishment of Emission Standards***

A notice of intention to declare printing industry activities as a controlled emitter in terms of the Air Quality Act was published for comment. A previous draft notice was already published in November 2016, but never became a law.

The following printing activities are intended to be covered: printing, coating and lamination processes using gravure, flexography, rotary screen printing, heat set lithography, varnishing and printing systems that incorporate elements of these technologies. This is, however, only of application to them if their organic solvent consumption threshold is equal to or more than 25 tonnes per year. In this case there are maximum permissible emission limits for total VOC's and oxides of nitrogen from thermal treatment units. A distinction is made between new and existing installations

A new printing industry activity would have to comply with the emission standards from 1 April 2021 while an existing printing industry activity would have to comply with the existing standard within five years from 1 April 2026.

The draft Declaration sets out emission measurement requirements. Reporting must be done at least annually to the relevant air quality officer. An annual solvent consumption plan must be prepared.

Within sixty days of the Declaration entering into effect a person conducting an existing activity would have to register as data provider in the National Atmospheric Emission Inventory System, and would further have to comply with all the requirements stipulated under the National Atmospheric Emission Reporting Regulations. A person conducting a new activity

would have to register within thirty days and also comply with the requirements stipulated under the National Atmospheric Emission Reporting Regulations.

- ***Draft Technical Guidelines for Validation and Verification of Greenhouse Gas Emissions***

These very technical DRAFT guidelines were published for public comment.

According to the guidelines' introduction it describes the process that will be followed to verify the greenhouse gas (GHG) emissions data and submissions made by Data Providers in terms of the National Greenhouse Gas Emissions Reporting Regulations, 2016, the National Inventory Unit of the Department of Environment, Forestry and Fisheries (the Competent Authority). It provides further detail to implement the requirements of section 11 of the Regulations, which outlines the legal requirements for verification of information submitted by Data Providers to the Competent Authority.

The purpose of the guidelines is to support the implementation of the mandatory GHG reporting regime in South Africa. The guideline provides direction to the Competent Authority, Data Providers and Independent Verifiers on the verification process for the Regulations and details the responsibilities of these role players. The document is applicable to all anthropogenic emissions by sources and removals by sinks as outlined in Annexure 1 of the Regulations. More specifically the guideline outlines:

- The structure of the Regulations' verification programme
- The Competent Authority's responsibility and the internal review and validation process that the Competent Authority will follow
- The Data Providers' responsibilities
- The independent verification process to be followed
- Accreditation requirements of independent verification bodies
- Important considerations for all role players during the verification process.

The guideline is made up of three primary sections, including:

- Competent Authority review and validation process
- Independent verification process
- Accreditation process and competence requirements for independent verifiers.

#### **4) Employment Equity Act**

- ***Draft Code of Good Practice on the Prevention and Elimination of Violence and Harassment in the World of Work***

This draft Code of Good Practice was published for comment.

#### **5) National Environmental Management Act**

- ***Section 24H Registration Authority Regulations - Amendment***

In a nutshell, these Regulations (published originally on 22 July 2016) govern the registration of EIA practitioners as well as the registration authority (ie. governing body for practitioners). Reg 14 provides that:

No person other than a registered environmental assessment practitioner, registered with a registration authority, may hold primary responsibility for the planning, management, coordination or review of environmental impact assessments and associated EMPs.

Reg 14 was supposed to have entered into force within two years from the date of the appointment of the first registration authority (ie. the Environmental Assessment Practitioners Association of South Africa (EAPASA)). The two year anniversary was on 8 February 2020.

An amendment notice for the Regulations was published on 21 August 2020. According to the notice it stated that apart from the need to provide more time for practitioners it has become clear from comments received during the public consultation period that other amendments to the Regulations will be required. This will be necessary to provide clarity on some aspects contained in the Regulations in order to make their implementation more efficient. As a result, a 24 month period for extension is deemed appropriate in order to prepare, consult on and finalise such additional amendments to the Regulations. This means that registration will only be required by 8 February 2022.

#### **6) Compensation for Occupational Injuries and Diseases Act – Amendment Bill**

A fairly comprehensive Amendment Bill was published on 27 August 2020 advising of the Minister of Employment and Labour's intention to introduce the Bill to parliament. Please note: this is only a DRAFT law and would first have to be approved.

A memorandum of proposed changes can be found on pages 28 to 30 of the Bill. A copy of the Bill can be downloaded from our website:

<https://dittke.com/2020/08/27/compensation-for-occupational-injuries-and-diseases-act-amendment-bill-2020/>

## **7) Biodiversity Act**

- **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)**

Appendices I, II and III were replaced following the parties' conference in Geneva in October 2019. The change is retrospective with effect from 26 November 2019.

## **PROVINCIAL LEGISLATION**

No relevant provincial legislation was published during this month.

## **MUNICIPAL LEGISLATION**

### **8) City of Ekurhuleni Metropolitan Municipality**

The City published a draft Integrated Waste Management By-law for comment.

### **9) Overstrand Local Municipality**

The following were published:

- Heritage Protection Overlay Zone Regulations
- Environmental Management Overlay Zone Regulations.

### **10) eThekweni Metropolitan Municipality**

The following two new by-laws were promulgated, but they only take effect on 13 February 2021 unless the Council published a Notice in the Provincial Gazette announcing an earlier effective date.

- **Air Quality Management By-law**

While this by-law does not deviate much from current local legal air quality management requirements the following are new:

- An owner or operator of fuel-burning equipment must (section 17):

- immediately register with the National Atmospheric Emission Inventory System (NAEIS) and submit emission data within a period determined by the municipality
  - submit at least one calculated stack emission report per annum to the Municipality in a format as specified by the municipality
  - provide any additional emission reports as may be requested by the municipality
  - provide a maintenance plan per annum for all fuel-burning equipment
  - produce annual records of ash management and its disposal thereof
  - submit the first emission report to the municipality within 12 months from date of promulgation of the by-law.
- Any person who is conducting activities that are listed in Schedule A of the by-law or any person that is conducting activities below the threshold set out in the Air Quality Act's lengthy list of activities requiring an atmospheric emission licence (ie. GN R 893 of 2013) must register with NAEIS and submit emission data within a period determined by the Municipality. This means that even though a specified activity in terms of GN R 893 does not require a licence in terms of the Act because the threshold was not exceeded the activity must nonetheless be registered on NAEIS and also with the municipality. If the activity is not listed in GN R 893, but instead in Schedule A of the by-law then such dual registration is also required.

The following activities are identified in Schedule A:

- Acid Works
- Alkali works
- Ammonia work and transportation
- Asphalt plant, permanent and mobile
- Bitumen works
- Brick and tile works
- Carbon black manufacturer
- Cement products manufacturer
- Chemical product processing
- Chrome and chromate works
- Coal bulk storage and handling
- Gas works
- Hazardous substance [*sic – it is unsure what exactly is meant by this*]
- Metal products manufacturer
- Milling

- Ore processing
- Pigment works
- Quarrying
- Refining [*sic – it is unsure which forms of refining are all included*]
- Vegetable oil extraction and processing
- Waste material salvaging, collecting, sorting, shredding, storing, processing
- Wood pulping.

- **Scheduled Activities By-law**

Once in force this new by-law will repeal the current Scheduled Trades and Occupations By-law, 1979.

As with the current by-law a permit is required from the municipality if any scheduled activity is conducted. Existing permits will remain valid, but an application for new permit must be submitted within twelve months of the date of promulgation of the new by-law.

**SCHEDULE 1**  
**SCHEDULED ACTIVITIES OR PROCESSES**

Abattoirs
Acid works
Alkali works
Ammonia works and bulk transportation
Animal and fish products processing, including the manufacture of meal for animal feeding
Asbestos transportation, handling and storage, and the manufacture and bulk-storage of products containing asbestos
Asphalt plant, permanent and mobile
Battery manufacturing, reconditioning and servicing
Bitumen works, including the transportation and operation of mobile bitumen kettles
Breweries
Brick and tile works
Carbon black manufacture
Cement products and pre-mixing works
Ceramic works
Chemical product processing, including any process involving a chemical reaction
Container washing and reconditioning works
Chrome and chromate works including storage and handling of chrome
Coal, charcoal and coke storage and handling
Composting
Crematoria

Distillery
Engineering works
Fertilizer works
Food manufactory
Foundries and metal works
Fungicide manufacture, and bulk-handling, storage and commercial usage of fungicides
Furniture manufacture and re-conditioning
Gas works
Glass-fibre manufacture, storage, moulding and finishing
Glass works
Hazardous substances (as defined in the Hazardous Substances Act, No. 15 of 1973) – manufacture and bulk-blending, transportation and storage. Hazardous substances include road, rail tanker and isotainer washing and maintenance
Health care risk waste transportation
Herbicide manufacture, and bulk-handling, storage and commercial usage of herbicides
Hide and skin processing
Laundries excluding in-house laundries located within accommodation establishments
Lead works
Manganese storage and handling
Marine food processing
Mattress-maker
Metal products manufacture
Metal buffing, electroplating, enameling and galvanising
Milling
Ore processing works, or handling and storage of ores
Pesticides manufacture, and bulk-handling, store and commercial usage of pesticides
Pigment works
Plastic product works
Power or energy generation
Printing works
Quarrying
Refining
Refuse collection, storage, removal, processing or disposal
Removal of human remains
Rubber moulding or vulcanising



Sand, shot and grit blasting
Sandwinning
Sewage treatment, transportation or disposal
Scrap yard
Ship building
Sludge works
Spray-painting
Stone crushing and dressing works
Stone masonry
Tannery
Teasing or shredding works dealing with coir, flock or textiles
Timber yard and works
Upholsterer
Vegetable oil extraction or processing
Vehicle or vehicle parts manufacturing
Waste material salvaging, collecting, sorting, storing, treating, processing or recycling/reclaiming
Welding works
Wood pulping
Yeast manufacture
Any other activity as determined by the provisions of section 5(10)

**11) Merafong City Local Municipality**

The Spatial Planning and Land Use Management By-law was promulgated.

**12) Jozini Local Municipality**

New Traffic By-laws were published.

**13) Theewaterskloof Local Municipality**

The Zoning Scheme By-law was published.

**14) Bushbuckridge Local Municipality**

New Waste Management By-laws were promulgated. These repeal the Refuse, Solid Waste and Sanitary By-laws from 2003.

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

Kind regards

**MARK DITKE**