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OUR REF: MD/update\_jan21

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## ENVIRONMENTAL, HEALTH AND SAFETY AND FOODSTUFFS LEGAL UPDATE REPORT

(SOUTH AFRICA)

JANUARY 2021

Dear Clients,

Below please find a summary of selected relevant environmental, health and safety and foodstuffs legal developments that took place during January 2021.

### NATIONAL LEGISLATION

#### 1) *Standards Act*

SANS 10400 is the standard which must be read together with the Regulations (GN R 2378 of 1990) under the National Building Regulations and Building Standards Act.

Edition 4 of SANS 10400-L:2020 was published, this provides deemed-to-satisfy requirements for compliance with Part L:Roofs of the Regulations.

#### 2) *Air Quality Act*

- ***Regulations regarding the Phasing-Out and Management of Ozone Depleting Substances - Amendment***

The Regulations were amended. The changes, as well as the general scope of the Regulations, are aimed at suppliers, importers and exporters of ozone depleting substances (ODS) and will therefore not really affect most companies.

The Appendix, which sets out the list of ODS was substituted at the same time.

### **3) ISO/PAS 45005:2020 - Occupational health and safety management — General guidelines for safe working during the COVID-19 pandemic**

This new standard was recently published. It covers various topics, including working from home; planning and risk assessments; PPE; operations at the work place; suspected or confirmed COVID-19 cases; psychological health and well-being.

### **4) Waste Act**

- **Extended Producer Responsibility Regulations - Amendments**

On 5 November 2020 four extended producer Regulations were published, namely:

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

In terms of GN 20 of 2021 the coming into force of these Regulations was postponed to 5 May 2021.

This also means that producers in operation on 5 May 2021 must on or before 5 November 2021 either-

- (a) develop and submit an extended producer responsibility scheme to the Minister; or
- (b) establish a producer responsibility organisation which must prepare and submit an extended producer responsibility scheme to the Minister.

In the amendments to the Lighting Sector and Electrical and Electronic Equipment Sector Regulations the wording "product responsibility organisation" was used whereas in the Paper, Packaging and some Single Use Products Regulations the wording "producer responsibility organisation" appears. It is unsure why this was done.

No changes were made in so far as new producers are concerned (ie. those only commencing operations after the Regulations enter into force). They must therefore still either -

- develop and submit an EPR scheme according to the EPR Regulations to the Department within six months of commencing operations , or
- subscribe to an existing EPR scheme within three months of commencing operations.

- **National Waste Management Strategy, 2020**

The new strategy was published and builds on that from 2012. It sets out the government's strategy. As with the previous version it remains to be seen how effectively and to what extent it will be put into practice. Please note, it is not a law, but only a strategy document.

**5) Tourism Act – Draft National Norms and Standards for the Safe Operations of Tourism Sector in the Context of the Coronavirus COVID-19 and Beyond**

These draft Norms and Standards were published for public comment.

**6) Carbon Tax Act**

Section 5 (rate of tax) and section 6 (calculation of amount of tax payable) were amended retrospectively by the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 22 of 2020, and the Taxation Laws Amendment Act, 23 of 2020. The changes are deemed to have come into force on 1 January 2020.

The rate of carbon tax on greenhouse gas emissions was increased from R 120 to R 127 per ton carbon dioxide equivalent of the greenhouse gas emissions.

At the same time a new subsection was added to section 7. This was published as section 7(3), but should have read section 7(4). It introduces a formula for the amount of tax payable by a taxpayer that is a petroleum refinery.

## PROVINCIAL LEGISLATION

**7) Gauteng Environmental Implementation Plan 2020-2025**

Notice of intention to publish the above plan was published by the Gauteng MEC.

**8) Draft Environmental Management Framework (EMF) - Greater Saldanha Area**

The above draft document was published for public comment by the Western Cape's Department of Environmental Affairs and Development Planning.

The EMF for the Greater Saldanha Area covers the Saldanha Bay municipal area and a portion of the Bergrivier Municipality . The Berg River and its estuarine system is also included.

The purpose of the EMF, among others, is:

- A framework to facilitate the pursuit of a sustainable development path in the geographical area with which it is concerned, specifically in relation to land use and development.
- A comprehensive and integrated information base on the environmental attributes of an area and their sensitivity, together with management information in respect of the management zones into which these environmental attributes occur (e.g. limits of acceptable change, thresholds, management objectives).
- A tool to support the identification of issues that require consideration/investigation in an EIA process through referring to the management objectives of the Environmental Management Zones (EMZs).
- A decision-support tool for environmental authorities when considering environmental applications in terms of section 24 of NEMA and the associated EIA Regulations.
- Guidance to applicants with respect to the appropriateness of development or land use proposals and to any professionals that are assisting in the application process, particularly in the environmental and planning fields.
- A decision-support tool that will inform spatial development tools, specifically the Saldanha Bay and Bergriver Spatial Development Framework (SDF), for more effective land and resource use planning and development.

No other relevant provincial legislation was published during this month.

### **MUNICIPAL LEGISLATION**

No relevant by-laws, or amendments to existing SHE by-laws, were brought out this month.

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

Kind regards

**MARK DITKE**