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OUR REF: MD/update\_june21

YOUR REF:

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

### **(SOUTH AFRICA)**

**JUNE 2021**

Dear Clients,

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

### **NATIONAL LEGISLATION**

#### **1) Occupational Health and Safety Act**

- **First aid training organisations notice**

In yet another notice published by the Chief Inspector of the Department of Employment and Labour first aid training can only be provided by a person or organisation approved by the Chief Inspector. Such person or organisation must also be in possession of a valid accreditation document issued by the Quality Assurance Body that has been delegated the quality assurance responsibilities for First Aid unit standards by the Quality Council for Trades and Occupations (QCTO) established in terms of section 26(1) of the Skills Development Amendment Act. This notice is effective retrospectively from 1 April 2021.

#### **2) Integrated Coastal Management Act**

- **National Estuarine Management Protocol**

A new protocol was published which presumably replaces the one from May 2013. This should have been done in 2018 already since the protocol calls for a five-yearly review.

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

- **Repeal of Dust Control Regulations and Dust Control Areas under the Atmospheric Pollution Prevention Act (APPA)**

Various Dust Control Regulations, as well as Dust Control Areas, promulgated in terms of APPA (which was repealed by the Air Quality Act) between 1984 and 1997 were finally repealed. They have become superfluous due to the 2013 National Dust Control Regulations promulgated under the Air Quality Act.

- **Repeal of Smoke Control Zone Orders and Smoke Control Regulations**

Various Smoke Control Zone Orders and Smoke Control Regulations promulgated under APPA were repealed.

- **Consultation on the Draft SA Atmospheric Emission Licence and Inventory Portal (SAAELIP) Data Management Policy**

This draft policy was published for public comment. Its main aim appears to be to ensure that data which is stored or handled on the Portal is in line with legislation like the Promotion of Access to Information Act (PAIA) and the Protection of Personal Information Act (POPI).

### 4) **National Health Act**

- **Draft Regulations relating to Certificate of Need for Health Establishments and Health Agencies**

These draft Regulations were published for public comment.

### 5) **Waste Act**

- **National Norms and Standards for Organic Waste Composting**

These new Norms and Standards were published. They will, however, only enter into force on a date to be determined and published by the Minister.

- **Draft Amendment – Activities requiring a waste management licence**

Draft amendments to the list of activities requiring a licence were published for public comment. The only proposed change is to include organic waste composting under some of the activities. The new Norms and Standards for Organic Waste Composting would also be included under Category C of the list (ie. meaning that no waste management licence is required).

## **6) Merchant Shipping Act**

- **Draft Amendment - Maritime Occupational Health and Safety Regulations**

Draft amendments to the above Regulations were published for comment.

## **7) National Environmental Management Act**

- **EIA Regulations and Listing Notices 1 – 3 (amendments)**

The Environmental Impact Assessment Regulations, 2014, as well as Listing Notices 1 to 3 were amended. The amendments may have significant implications for some operations. From a mining perspective, the amendments will have repercussions for, among other, closure processes. All applications submitted in terms of the Regulations that were pending when these amendments came into effect, must be finalised in terms of the Regulations that were in place at the time of submission of the application. Therefore, the recent amendments will apply to applications submitted on or after the date of publication, i.e. 11 June 2021.

Activity 21E of Listing Notice 1, on activities authorised by exemptions in terms of section 106(1) of the Mineral and Petroleum Resources Development Act, will come into effect six months after the date of publication, i.e. on 11 December 2021, and Activity 21F of Listing Notice 1, on the reclamation of residue stockpiles or deposits, will come into effect on a date to be published by notice in the Government Gazette.

- **Consultation on intention to publish the National Guideline for consideration of Climate Change Implications in Applications for Environmental Authorisations, Atmospheric Emission Licences and Waste Management Licences**

This consultation paper was published for public comment. Should it be approved then potential or actual climate change implications caused by atmospheric emissions or waste management activities for which a licence is needed must be considered as part of the EIA application process.

## **PROVINCIAL LEGISLATION**

No relevant provincial legislation was published during this month.

## MUNICIPAL LEGISLATION

### **8) Musina Local Municipality**

The following new by-laws were promulgated:

- Building Regulations By-law
- Electricity Supply By-law.

### **9) Stellenbosch Local Municipality**

The Integrated Waste Management By-law was promulgated.

### **10) City of Johannesburg**

The draft Dolomite Risk Management By-law was published for comment.

### **11) City of Ekurhuleni**

The Integrated Waste Management By-law was promulgated. The following are some of the more salient provisions.

No person may undertake to generate, collect, transport, sort, store, re-use, recycle, recover or dispose waste with the intention of making profit, including scrap dealers, waste treatment facilities and formalized recycling groups, unless the undertaking is accredited in terms of Chapter 11 of this by-law, or licensed or registered in terms of the Waste Act.

Waste generators or holders of specified waste streams may be required to draw up an integrated waste management plan.

Any site development plan or building plan submitted to the municipality for approval shall be accompanied by a building waste management plan setting out the way the building and other waste to be generated during construction will be managed. No site development plan may be approved before the building waste management plan is approved. A building waste management plan shall not be approved before a refundable deposit has been paid.

Only an accredited service provider may transport hazardous and health-care risk waste, and must do so in accordance with the conditions of an accreditation permit issued under Chapter 11, as well as the requirements of any relevant SANS codes in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation, and disposal of such waste, and subject to the requirements of any other legislation. A person so accredited must

inform the municipality at intervals stipulated in the accreditation permit of each removal of hazardous or healthcare risk waste, the date of such removal, the quantity of the waste removed, its composition, and the waste disposal facility at which the waste has been disposed of. Any person carrying on an activity which generates hazardous or health-care risk waste must ensure that such waste is disposed of or treated at an appropriately licensed waste disposal facility or waste treatment facility. If such facility is a waste incineration facility, then further steps shall be taken to ensure that such facility has the requisite licence in terms of the Air Quality Act.

Industries operating within the jurisdictional area of the municipality must manage the impact of their production processes and products on the environment by adopting cleaner production methods. These include the obligation to:

- minimise waste that is generated during the production phase;
- use less resources during the production phase;
- re-use and recycle waste and by-products;
- design their products so that they release zero or minimal hazardous waste over their life cycle; and
- design their products so as to generate minimal waste at the end of their life-cycle.

No person may collect waste for removal from premises, unless such person is:

- the Municipality or a service provider contracted to it for this purpose; or
- has been accredited under Chapter 11 of this By-law and, where applicable, has obtained the requisite licence or authorisation in terms of any national or provincial law.

No person may transport waste within the area of jurisdiction of the Municipality, unless being accredited in terms of Chapter 11 of this by-law, excluding the transportation of domestic waste by the owner or occupier for the purposes of placing the waste in approved waste receptacles for goods to be recycled, or at approved the mini disposal sites.

### **12) City of uMhlatuze Local Municipality**

The Building Control By-law was published.

### **13) Umzimvubu Local Municipality**

The following relevant new by-laws were published:

- Standard By-laws relating to Noise Control

- By-laws relating to Impoundment of Animals
- Standard By-laws relating to the Keeping of Animals, Birds, Poultry and Pets.

**14) Msukaligwa Local Municipality**

The Municipal Waste By-law was published.

**15) Victor Khanye Local Municipality**

A notice was published in the Mpumalanga PG 3272 advising that the municipality passed Water and Waste By-laws, but the actual by-laws were not published. This will presumably be done soon.

**16) Chief Albert Luthuli Local Municipality**

The Outdoor Advertising Control By-laws were published.

**17) Emakhazeni Local Municipality**

The Integrated Waste Management By-laws were published.

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

Kind regards

**MARK DITKE**