



Tel: + 27 21 790 5977
Fax: + 27 86 616 8070
Email: info@dittke.com
Address: 15 Laurentia Way
Hout Bay, 7806
South Africa
Managing Attorney:
Mark Dittke - B.A LL.B LL.M (UCT)
www.dittke.com

OUR REF: MD/update_sep22

YOUR REF:

4 October 2022

**ENVIRONMENTAL, HEALTH AND SAFETY AND FOODSTUFFS LEGAL UPDATE REPORT
(SOUTH AFRICA)
SEPTEMBER 2022**

Dear Clients,

Below please find a summary of selected relevant environmental, health and safety and foodstuffs legal developments that took place during September 2022.

NATIONAL LEGISLATION

1) Labour Relations Act

- **Code of Good Practice: Protest Action to Promote or Defend Socio-Economic Interests of Workers**

This new Code was published by the Department of Employment and Labour.

2) National Water Act

- **Notice limiting the Use of Water for Urban, Agricultural and Industrial (including Mining) Purposes in the Mzimvubu-Tsitsikamma Water Management Area**

Various curtailment percentages for the taking and storing of water in the above water management area were published by the Department of Water and Sanitation.

3) National Environmental Management Act

- **Consultation on the Intention to Adopt the National Web Based Environmental Screening Tool as an Environmental Management Instrument**

This [draft law](#) was published for public comment.

It is a spatially enabled tool which has been developed to, among others, identify areas of “very high”, “high”, “medium” and “low” environmental sensitivities on a particular site. Environmental sensitivity ratings are intended to be used to exclude activities identified in terms of section 24(2)(a) and (b) of the National Environmental Management Act from the requirement to obtain environmental authorisation prior to commencement when identified by the Minister in a Government Notice.

- ***Consultation on the Intention to Exclude the Development and Expansion of Solar Photovoltaic Installations from the Requirement to Obtain an Environmental Authorisation based on Compliance with an Adopted Environmental Management Instrument***

This draft law was published for public comment. As the title suggests it provides an exemption from having to conduct an EIA provided there is compliance with an adopted environmental management instrument.

So-called Adoption Regulations were previously published in 2019 which laid down the procedures to be followed for the adoption of spatial tools or environmental management instruments.

It is intended that the above draft web-based screening tool will be adopted as environmental management tool once the public commenting period is over.

Activities specifically excluded by the draft notice relate to the development or expansion of facilities or infrastructure for the generation of electricity from a solar PV installation, where this would trigger

- Activities 1 or 36 of (the EIA) Listing Notice 1, or
- Activity 1 of Listing Notice 2

as well as any associated activity identified in Listing Notices 1, 2 or 3 necessary for the realisation of such facilities.

4) National Railway Safety Regulator Act

- **Regulations on Notifiable Railway Occurrences – draft amendment**

A proposal to replace Appendix A Table 1 of the Regulations which were brought out on 3 June 2022 was published for public comment. Table 1 sets out various categories of operational occurrences.

- **Railway Safety Standard Development Regulations**

These new Regulations were published; they repeal those from 2007.

5) Occupational Health and Safety Act

- **Code of Practice for Lifts inside Wind Turbines**

This Code of Practice was published.

- **Regulations for Hazardous Chemical Agents**

Regulations 13(d), 14, 14A, 14B, 14C, 14D; Annexure 1, Tables 1, 2, 3, 4 and 5; and Annexure 2, Tables 1, 2, 3 and 4 were scheduled to only come into effect on 29 September 2022 (ie. 18 months after the Regulations were promulgated).

This period was, however, further extended by GN 2056 of 29 April 2022 (Notice regarding implementation of Regulations 14, 14A, 14B, 14C and 14D), which states that:

"From 29 September 2022, manufacturers and/or suppliers of chemicals may continue to supply existing stock-in-trade that are non-GHS (Globally Harmonised System for the classification and labelling) compliant, provided that the chemical was manufactured or imported (landed and not in transit) prior to the 29 September 2022. The exemption will be for a period of 12 months, ending 30 September 2023, when all labelling and SDS (Safety Data Sheet) shall be GHS compliant".

The coming into effect of the above Regulations and Annexures must therefore be read in context with the April 2022 extension notice.

6) Draft National Water Resource Infrastructure Agency Bill

This draft Bill was published for comment.

Its purpose is to provide for the incorporation and establishment of the South African National Water Resources Infrastructure Agency Limited as a state-owned company and major public entity owned and controlled by the State to administer, fund, finance, provide, operate, maintain and provide advisory services in respect of national water resources infrastructure in accordance with sections 10, 11, 24, 27(1)(b) and 27(2) of the Constitution and national policy; to provide for the transfer of assets and certain liabilities to the South African National Water Resources Infrastructure Agency Limited from the Department of Water and Sanitation and from the Trans-Caledon Tunnel Authority; to provide for the disestablishment of the Trans-Caledon Tunnel Authority; and to provide for matters connected therewith.

The Agency envisages undertaking the design, planning, financing, development and operation of the national water resource infrastructure, that serves water users.

7) *Mine Health and Safety Act*

- ***Regulations - Amendment***

Proposed amendments to Reg 28.10 of the 1970 Regulations (GN R 992 of 1970) were published for public comment.

Reg 28.10 sets out the examination fees for certificates of competence. New proposed fees were now published.

8) *Health Professions Act*

- ***Draft Regulations relating to the Registration by Environmental Health Practitioners of Additional Qualifications***

These draft Regulations were published for public comment.

9) *Tobacco Products and Electronic Delivery Systems Control Bill*

This draft Bill was initially published in May 2018 for public comment. A notice was now published in the Government Gazette of 29 September 2022 that it will be introduced by the Minister of Health in the National Assembly where it will then be debated before possibly becoming an Act.

The Notice does, however, state that the Bill aims to provide, among others, for: 100% smoke free for indoor public places and certain outdoor areas as the Minister may determine; the ban on sale of cigarette sales through vending machines; plain packaging with graphic health

warnings or pictorials; ban on display at point-of-sale; and the regulations and control of Electronic Nicotine Delivery Systems (ENDS) and Non-Nicotine Delivery Systems (ENNDS).

PROVINCIAL LEGISLATION

No relevant provincial legislation was published this month.

MUNICIPAL LEGISLATION

10) City of Cape Town

A new Traffic By-law was passed which repeals the 2011 by-law.

11) Bojanala Platinum District Municipality

The Public Health By-laws were promulgated; these replace the Municipal Health Services By-law from 2011.

12) Standard Draft By-Laws for the Deployment of Electronic Communications and Facilities

These draft model by-laws were published by the Minister of Cooperative Governance and Traditional Affairs for public comment. Should they be approved municipalities can choose to adopt them as their by-laws, or to use them as model for own by-laws.

The by-laws would apply to all persons seeking to deploy or operate electronic communications facilities on, under or above municipal property. The following activities and any combination thereof would be covered:

- Trenching and micro trenching and related work in a Road Reserve.
- The siting and erection of poles and stringing of optic fibre cable in a Road Reserve or within a Municipal Area.
- The stringing of optic fibre cable on existing poles in a road reserve or within a Municipal Area.
- The erection of base stations, towers and masts for the location of radio apparatus within a Municipal Area, including micro-cell deployments on Street Furniture.
- Maintenance and operational activities related to already deployed electronic communications facilities.

13) Madibeng Local Municipality

The municipality promulgated the Integrated Waste Management By-law. This repeals the 2008 Waste Management By-law.

SANS STANDARDS

Should copies of any of the following be required please contact the SABS bookstore where they can be purchased.

14) Safety of machinery - Electrical equipment of machines - Part 1: General requirements. Consolidated edition incorporating amendment No.1.

This Standard was amended to update the foreword, referenced standards, the clauses on general requirements, protection against electric shock, equipotential bonding, control circuits and control functions, control gear: location, mounting, and enclosures, conductors and cables, wiring practices, marking, warning signs and reference designations, technical documentation, verification, and on measures to reduce the effects of electromagnetic influences, and to update annex on measures to reduce effects of electromagnetic influences.

15) Chemicals used for treatment of water intended for human consumption – Ozone – SABS 51278:2022

Ed 2 was published.

16) The Identification and Classification of Dangerous Goods for Transport by Road and Rail Modes – SANS 10228:2022

Ed 7 of the Standard was published.

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

Kind regards

MARK DITKE