



**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](http://www.dittke.com)

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

Dear Clients,

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

**NATIONAL LEGISLATION**

**1) Merchant Shipping Act**

- **Merchant Shipping (Collision and Distress Signals) Regulations, 2005**

Amendments were made to Part F (Rules 39 to 41) and Annex IV (distress signals).

**2) National Environmental Management Act**

- **Procedure to be followed in applying for Environmental Authorisation for Large Scale Electricity Transmission and Distribution Development Activities**

This procedure was originally promulgated in February 2018 and sets out the steps to be followed as well as various other information sources which are relevant when applying for an environmental authorisation. Some amendments were now made to it.

- **Procedure to be followed for specialist assessment and minimum report content requirements for environmental impacts on Cape Vultures by Onshore Wind Energy Generation Facilities**

This applies to planned onshore wind energy generation facilities and their potential impact on Cape Vultures.

### 3) **Biodiversity Act**

- **Consultation on the Draft Biodiversity Management Plan for the Southern Ground-Hornbill**

The draft management plan was published for comment.

- **Revised National List of Ecosystems that are Threatened and in Need of Protection**

The original list was revised and published.

### 4) **National Water Act**

- **Reserve Determination for Water Resources of the Mzimvubu Catchment**

This was published by the Department and sets out the reserve determination.

### 5) **National Energy Act**

- **Regulations for the Mandatory Display and Submission of Energy Performance Certificates for Buildings**

These Regulations were originally promulgated on 8 December 2020 (GN R 700 of 2020).

Their purpose is to introduce mandatory requirements for the display of energy performance certificates at the entrance of non-residential buildings, and to provide for the submission of energy performance certificates by organs of state and privately/company owned buildings. The certificate must be displayed within two years (i.e. by 8 December 2022).

An amendment was promulgated on 25 November 2022 (GN 1461 of 2022) changing this date to 7 December 2025.

This was most likely done as the level of compliance by both the state and private owners is low.

Affected buildings are those having a dominant occupancy classification in terms of Reg A20 of the National Building Regulations as either A1 (entertainment and public assembly), A2 (theatrical and indoor sport), A3 (places of instruction) or G1 (offices).

The building must have been in operation to meet a particular need associated with its use for a period of two years or longer, and must not have been subject to a major renovation within the past two years of operation.

The threshold is a total net floor area of 1000 m<sup>2</sup> or more for a state-owned building and 2000 m<sup>2</sup> or more for the above non-residential buildings.

The certificate must be issued by an accredited body in accordance with SANS 1544:2014 (energy performance certificates for buildings).

The validity of the certificate is five years at the most. Failure to display the certificate is a criminal offence.

Currently the Regulations require that a copy of the certificate must be submitted within three months of issuing to SANEDI (SA National Energy Development Institute).

In addition, a short draft amendment was published (GN 1460 of 2022). The most relevant proposed change is that besides submitting a copy of the certificate the building should also be registered on the National Building Energy Performance Register maintained by SANEDI within twelve months of the promulgation of the Regulations. This deadline is confusing, since twelve months after promulgation would have been 8 December 2021. A law can usually not have a retrospective effect. What is probably meant is that registration should occur by the latest 7 December 2026.

## **PROVINCIAL LEGISLATION**

No relevant provincial legislation was published this month.

## **MUNICIPAL LEGISLATION**

### **6) Cederberg Local Municipality**

The following new by-laws were promulgated:

- Coastal Management By-law
- By-law relating to the Control of Boats and Boating on the Clanwilliam Dam (this repeals the earlier by-law from 2021).

## **7) City of Cape Town**

- **Municipal Planning By-law - Amendment**

Annexure C (List of Plans identifying PT1 and PT2 areas in terms of Item 137) in Schedule 3 (City of Cape Town Development Management Scheme) was amended.

## **8) Saldanha Bay Local Municipality**

Numerous new by-laws were promulgated this month which at the same time repealed older ones. For purposes of this update report only the SHE related ones are mentioned here, namely:

- Building Control By-law
- Air Quality By-law (repeals the 2018 Air Quality By-law)
- Electricity Supply By-law (repeals the 2018 Electricity Supply By-law)
- Fire Safety By-law (repeals the 2018 Fire Safety By-laws)
- Water and Sanitation Services By-laws (repeals the 2018 By-law relating to Water Supply, Sanitation Services and Industrial Effluent)
- By-law relating to Roads and Streets (repeals the 2018 By-law relating to Roads and Streets)
- Integrated Waste Management By-law (repeals the 2018 Integrated Waste Management By-law)
- Storm Water Management By-law (repeals the 2018 Storm Water Management By-law)
- By-law relating to Prevention of Public Nuisances and the Keeping of Animals (repeals the 2018 By-law relating to Public Nuisances)
- By-law on Land Use Planning.

## **9) Umfolozi Local Municipality**

The Business Licence By-law was promulgated.

## **10) Nquthu Local Municipality**

The By-law relating to Electricity Supply was promulgated.

**11) Zululand District Municipality**

The Water Services By-law was promulgated.

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

Kind regards

**MARK DITKE**