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**ENVIRONMENTAL, HEALTH AND SAFETY AND FOODSTUFFS LEGAL UPDATE REPORT
(SOUTH AFRICA)
JULY 2024**

Dear Clients,

Below please find a summary of selected relevant environmental, health and safety and foodstuffs legal developments that took place during July 2024.

NATIONAL LEGISLATION

1) Occupational Health and Safety Act

- **Asbestos Abatement Regulations - Amendment**

Regulation 24, which deals with various prohibitions, was amended:

Regulation 24(f) was reworded and prohibits an employer to
use electrical power tools, such as angle grinders, or any other fast-moving equipment to cut, grind or drill asbestos-containing material: Provided that slow moving tools may only be used where the activity is part of asbestos containing material removal for final disposal

Regulation 24(j) was added and prohibits an employer to
make any installation or fitting on or onto asbestos containing materials.

This effectively means that, for instance, the installation of solar panels on an asbestos roof is not permissible.

- **Explosives Regulations, 2024**

New Explosives Regulations were promulgated which at the same time repeal and replace the 2002 Explosives Regulations.

Detailed Radio Frequency Device Guidelines are also incorporated into the Regulations. These deal with radio transmitters or cellular telephones that may be brought into a danger area with the authorisation of the explosives manager based on a risk assessment by an approved inspection authority. Such devices must be used in accordance with any conditions or guidelines that may from time to time be issued by the Chief Inspector of Occupational Health and Safety.

2) Second-hand Goods Act

- **2022 Regulations – Draft Amendment**

A draft amendment was published for the 2022 Regulations. The Regulations deal with the Policy Implementation Actions on Measures to Restrict and Regulate Trade in Ferrous and Non-Ferrous Metals Waste, Scrap and Semi-Finished Ferrous and Non-Ferrous Metal Products to Limit Damage to Infrastructure and the Economy.

3) Climate Change Act

This new Act will only enter into force on a future date to be announced by the President in the Government Gazette.

It is aimed at the three spheres of government and various departments and requires them to implement various measures to deal with climate change. One of the objects of the Act is also to reinforce South Africa's international commitments and obligations in relation to climate change.

Every organ of state that exercises a power or performs a function that is affected by climate change, or is entrusted with powers and duties aimed at the achievement, promotion and protection of a sustainable environment, must review and if necessary revise, amend, coordinate and harmonise their policies, laws, measures, programmes and decisions in order to:

- ensure that the risks of climate change impacts and associated vulnerabilities are taken into consideration
- give effect to the principles and objects set out in this Act.

Organised labour, civil society, business, traditional leaders and other relevant stakeholders may advise on the Republic's climate change response, the mitigation of climate change

impacts and adaptation to the effects of climate change towards the attainment of the just transition to a climate resilient and low carbon economy and society.

The Minister of Forestry, Fisheries and the Environment must, within one year of the coming into operation of this Act, by notice in the *Gazette*, list the greenhouse gas emitting sectors and sub-sectors that are subject to sectoral emissions targets. This list must appropriately reflect the national greenhouse gas emissions profile.

When determining the sectoral emissions targets, the Minister must take all relevant considerations into account, including, amongst others the:

- socio-economic impacts of introducing the sectoral emissions targets
- best available science, evidence and information.

The Minister responsible for each sector or sub-sector for which sectoral emissions targets have been determined must adopt policies and measures towards the achievement of the sectoral emissions targets. The targets must be reviewed every five years.

The Minister must publish a list of greenhouse gases which are believed to cause or are likely to cause or exacerbate climate change. In addition, activities which emit, or have the potential to emit, one or more of the greenhouse gases must be listed. This notice must determine quantitative greenhouse gas emission thresholds expressed in carbon dioxide equivalent to identify persons to be assigned a carbon budget and who are required to submit greenhouse gas mitigation plans to the Minister.

The thresholds will be applicable at company level based on operational control and must be based on the availability of feasible mitigation technology. They must further take into account any opportunities and constraints to implementation of policies and measures.

A carbon budget must have a duration of at least three successive five-year periods and must specify the maximum amount of greenhouse gas emissions that may be emitted during the first five-year period.

A person to whom a carbon budget has been allocated must prepare and submit to the Minister, for approval, a greenhouse gas mitigation plan. The plan must:

- describe the mitigation measures the person proposes to implement in order to remain within the allocated carbon budget; and

- comply with the content requirements of such plans as may be prescribed by the Minister in terms of section 30, including requirements pertaining to processes, procedures and reporting.

A person to whom a carbon budget has been allocated must:

- implement the approved greenhouse gas mitigation plan
- monitor annual implementation of the plan in accordance with the prescribed methodology
- evaluate progress on the allocated carbon budget
- annually report on the progress against the allocated carbon budget to the Minister in the manner prescribed, and
- in the event that such reporting indicates that the person has failed, is failing or will fail to comply with the allocated carbon budget, provide a description of measures the person will implement in order to remain within the allocated carbon budget.

The Act also deals with the phase-down and phase-out of synthetic greenhouse gas emissions and requires that the Minister, in consultation with the Ministers responsible for the greenhouse gas emitting sectors and sub-sectors contemplated in section 25 (see further below), must by notice in the Gazette:

- declare certain greenhouse gases to be synthetic greenhouse gases
- specify, in respect of each of the gases listed whether they are required to be phased out or phased down
- prescribe thresholds for the use of synthetic greenhouse gases in terms of section 26(3)(b)
- contain timeframes for the phase-down or phase-out of synthetic greenhouse gases.

The Minister may allocate a carbon budget to persons undertaking activities that give rise to emissions of the synthetic greenhouse gases.

The Minister must establish an institutional arrangement to facilitate a national system of data collection for the creation of a National Greenhouse Gas Inventory and the annual compilation of the National Greenhouse Gas Inventory Report.

The Minister may also identify a list of activities and thresholds for which measurements or estimations of greenhouse gas emissions and carbon sinks from stationary, mobile, fugitive, process, agriculture, land use and waste sources must be carried out.

- Functions relevant to the development of Sectoral Emissions Targets
 - Agriculture
 - Forestry
 - Fisheries
 - Cooperative Governance
 - Traditional Affairs
 - Economic Development
 - Energy
 - Environment
 - Health
 - Human Settlements
 - International Relations
 - Mineral Resources
 - National Treasury
 - Public Enterprises
 - Public Works
 - Rural Development
 - Land Reform
 - Science
 - Technology
 - Trade
 - Industry
 - Transport
 - Water Affairs
 - Sanitation.

- National Departments and State-Owned Entities responsible for certain functions required to develop a Sector Adaptation Strategy and Plan
 - Agriculture
 - Education
 - Cooperative Governance
 - Forestry
 - Fisheries
 - Disaster Risk Reduction
 - Energy
 - Environment
 - Health

- Human Settlements
- Manufacturing
- Public Enterprises
- Rural Development
- Land Reform
- Science
- Technology
- Tourism
- Traditional Affairs
- Transport
- Water Affairs, and
- Sanitation.

4) Air Quality Act

- **Consultation on the Draft Second-generation Highveld Priority Area Air Quality Management Plan**

This draft plan builds on the progress of the first-generation plan and incorporates targeted strategies to manage air quality in the Highveld area more effectively and by specific stakeholders, namely:

- Any person conducting a listed activity
- Any person operating a controlled emitter
- Any holder of a right or permit related to a prospecting operation, exploration operation, mining operation, or production operation
- Any person conducting reclamation, and
- Any department of state or administration in the national, provincial or local sphere of government.

The plan provides interventions and measures aimed at improving air quality through emission reduction targets by identified stakeholders. These targets are to be reached by 2030 from the 2019 baseline, and include:

- Industry (40%)
- Residential waste burning (100%)
- On-road vehicle sources (30%)
- Residential fuel burning (30%)
- Biomass burning (30%)
- Agriculture (20%)
- Windblown particulates (40%).

5) *Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships*

The Hong Kong Convention addresses issues around ship recycling, including the fact that ships sold for scrapping may contain environmentally hazardous substances such as asbestos, heavy metals, hydrocarbons, ozone depleting substances and others. It addresses concerns about working and environmental conditions in many of the world's ship recycling facilities. The Hong Kong Convention was adopted at a Diplomatic Conference held in Hong Kong, China, in May 2009.

The South African Department of Transport has now initiated the process of ratification to the Convention (i.e. signing it and becoming a member).

PROVINCIAL LEGISLATION

No relevant provincial legislation was published this month.

MUNICIPAL LEGISLATION

6) *Ehlanzeni District Municipality*

A new Municipal Health By-law was published and which replaces the 2018 Municipal Health Services By-law.

7) *Laingsburg Local Municipality*

The municipality promulgated the 2024 Watervoorsienings (water supply) by-law. While it does not expressly state so this presumably replaces the 2023 Watervoorsienings by-law. Both were only published in Afrikaans.

8) *King Sabata Dalindyebo Local Municipality*

The municipality passed the following new by-laws:

- Parks and Recreational Grounds By-Law (published with effect from six months from date of publication or earlier date as may be determined by a commencement notice)
- Recreational Water Use By-law
- Coastal Management By-law (published with effect from six months from date of publication or earlier date as may be determined by a commencement notice).
- Waste Management By-laws (published and previous by-laws repealed with effect from a date to be determined by the Municipality in the Provincial Gazette)

- Medical Waste Management By-laws (only take effect on the date determined by the Municipality in the Provincial Gazette).

9) uMhlathuze Local Municipality

The Connection of Embedded Generation to a Municipal Distribution System: Electricity Supply By-law was published.

10) Xhariep District Municipality

Proposed amendments relating to the following 2011 by-laws were published for comment:

- Air Quality Management By-law
- Dumping and Littering By-law
- Environmental Health By-laws
- Keeping of Animals By-laws.

11) Polokwane Local Municipality

A new Electricity Supply By-Law was brought out which replaces the 1985 Standard Electricity By-law.

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

Kind regards

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