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OUR REF: MD/update_nov24	YOUR REF:	6 December 2024
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**ENVIRONMENTAL, HEALTH AND SAFETY AND FOODSTUFFS LEGAL UPDATE REPORT
(SOUTH AFRICA)
NOVEMBER 2024**

Dear Clients,

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

NATIONAL LEGISLATION

ENVIRONMENTAL LEGISLATION

1) *Upstream Petroleum Resources Development Act*

This extensive Act will only enter into force on a date to be proclaimed in the Government Gazette.

The objects of the Act are to:

- recognise the internationally accepted right of the State to exercise sovereignty over all the petroleum resources within the Republic;
- give effect to the principle of the State's custodianship of the nation's petroleum resources;
- promote equitable access to the nation's petroleum resources to all the people of South Africa;

- substantially and meaningfully expand opportunities for black persons, to enter into and actively participate in the upstream petroleum sector and to benefit from the exploitation of the nation's petroleum resources;
- promote local employment, skills development, technology transfer and national industry participation through supply of goods and services;
- promote economic growth and petroleum resources development in the Republic;
- advance the social and economic welfare of all South Africans;
- provide for security of tenure in respect of exploration and production operations;
- give effect to section 24 of the Constitution by ensuring that the nation's petroleum resources are developed in an orderly and ecologically sustainable manner while promoting justifiable social and economic development;
- accelerate exploration and production, and maximise the economic recovery of petroleum for the benefit of the people of South Africa;
- provide the framework for developing third party access arrangements to upstream petroleum infrastructure; and
- promote and facilitate acquisition of petroleum geo-technical data.

2) Waste Act

- ***Extended Producer Responsibility Regulations – Draft Amendment***

Reg 7 (financial arrangements for an extended producer responsibility scheme) and Reg 7A (obligations of a producer that establishes and implements their own scheme) were amended by removing the requirement that payment must be made within sixty days.

- ***Extended Producer Responsibility Regulations - Amendment***

Besides the actual amendments to the Regulations, draft amendments were published for public comment. Since they are extensive it would be beyond the scope of this update report to cover them.

Various proposed amendments to the current sector EPR notices were also released for comment (see below).

Legal register clients can contact us for a copy of the draft amendment notice.

- ***Extended Producer Responsibility Scheme for the Lighting Sector – Draft amendment***

A draft amendment proposing that the targets for the identified products and the resultant waste as contained in Annexure 1 to the above EPR Notice apply for five years from the date of commencement of the change was published for comment. The Annexure imposes various annual mandatory take back percentages and recycling rates. These increase proportionally over the five year span.

- ***Extended Producer Responsibility Scheme for the Electrical and Electronic Equipment Sector – Draft amendment***

A draft amendment proposing that the targets for the identified products and the resultant waste as contained in Annexure 1 to the above EPR Notice apply for five years from the date of commencement of the change was published for comment.

- ***Extended Producer Responsibility Scheme for the Paper, Packaging and some Single Use Product Sector – Draft amendment***

Various draft amendments were published for comment. These entail substitutions, deletions and additions of definitions in the existing sector notice. It is further proposed to replace the current Annexure to the sector notice (not to be confused with the abovementioned Annexure 1 to the EPR Regulations). The former lists various products or classes of packaging materials with product design percentages (recycled content, reuse, collection, recycling, energy recovery/exports) over a five year period.

- ***Guideline and Toolkit for the Determination of Extended Producer Responsibility Fees***

This document provides direction for the implementation of the financial arrangements in Regs 7 and 7A of the EPR Regulations (see above). The purpose is to provide producers and producer responsibility organisations with a realistic way of determining EPR fees, utilising the criteria provided in Regs 7(3) and 7A(3).

- ***National Norms and Standards for Disposal of Waste to Landfill (GN R 636 of 2013) - Amendment***

Some amendments were made to the design requirements for landfills.

Changes were also made to the waste streams listed in section 2(a) of Annexure 1 to the Waste Classification and Management Regulations, 2013, and their disposal to landfill.

Amendments were further made for wastes included in section 2(b) of Annexure 1 to the Regulations and their disposal to landfill.

Lastly, changes were introduced to the table in the Regulations setting out compliance timeframes by when certain hazardous waste types may no longer be landfilled.

Legal register users can contact us for a copy of the amended Norms and Standards, alternatively can access them under the "Environment related ->Waste Act" link.

- ***National Norms and Standards for the Assessment of Waste to Landfil Disposal (GN R 635 of 2013) - Amendment***

Some amendments were made to the above Norms and Standards, the most relevant one being that sampling and analysis must be done in accordance with the Guideline for Sampling and Analysis of Wastewaters, Soils and Wastes which can be accessed on <http://sawic@environment.gov.za> (section 3(1)(c)).

Legal register users can contact us for a copy of the amended Norms and Standards, alternatively can access them under the "Environment related ->Waste Act" link.

3) *Marine Living Resources Act*

The following draft policies were published for comment:

- Policy on the Allocation and Management of Rights to Operate Fish Processing Establishments
- Policy for the Transfer of Commercial Fishing Rights.

4) *Biodiversity Act*

- ***General Notice calling for persons to register their details and participate in the Voluntary Exit from the Captive Lion Industry Programme by Surrendering their Legal Stockpiles of Lion (Panthera Leo) Bones and Derivatives***

This Notice invites persons who wish to consider the voluntary exit options involving lion bones and derivatives to register their interest by submitting their details. A detailed implementation process plan of surrendering stockpiles and derivatives will be communicated and shared in the public domain once approved by the Minister and the registration process is concluded.

- **Consultation on the Draft Notice prohibiting certain activities involving African Lion**

The draft notice aims to prohibit the establishment and registration of a new captive breeding facility, new commercial exhibition facility, new rehabilitation facility or establishment of any other new controlled environment. Comments may be made to the Department of Forestry, Fisheries and Environment.

- **Draft Pelargonium sidoides Biodiversity Management Plan**

A draft management plan was published for comment. Should it enter into force it will replace the 2013 plan.

5) **National Water Act**

- **Draft Regulations for the Use of Water for Exploration and Production of Onshore naturally occurring Hydrocarbons that require Stimulation, including Hydraulic Fracturing and Underground Coal Gasification, to extract, and any Activity incidental thereto that may impact detrimentally on the Water Resource**

New draft onshore fracking Regulations were published for public comment. An earlier version was already released in May 2021.

- **Notice for the Registration of Existing Dams with a Safety Risk**

This Notice (GN 5591 of 29 November 2024) requires all owners of existing unregistered dams with a safety risk in terms of section 120 of the National Water Act and the Schedule to the Notice to register their dam(s) with the Department of Water and Sanitation within 60 days, and for owners of existing registered dams to confirm their details.

HEALTH AND SAFETY LEGISLATION

6) **Foodstuffs, Cosmetics and Disinfectants Act**

- **Proposed Regulations relating to the Use of Food Additives in Foodstuffs - DRAFT**

Draft Regulations were published for public comment (the deadline expires on 1 February 2025).

Should they enter into force they will repeal the following:

- Regulations relating to Preservatives and Antioxidants, GN R 965 of 1977

- Regulations relating to Miscellaneous Additives in Foodstuffs, GN R 1425 of 2016
- Regulations relating to Food Colourants, GN R 1008 of 1996
- Regulations relating to the Use of Sweeteners in Foodstuffs, GN R 733 of 2012.

- ***Proposed Regulations relating to Maximum Levels of Mycotoxins in Foodstuffs - DRAFT***

Draft Regulations were published for public comment (the deadline expires on 1 February 2025).

Should they enter into force they will repeal the Regulations governing Tolerances for Fungus-produced Toxins in Foodstuffs, GN R 1145 of 2004.

7) Occupational Health and Safety Act

- ***Incorporation of the National Code of Practice for the Training Providers of Lifting Machine Operators into the Driven Machinery Regulations***

This Notice, which was published on 29 November 2024, replaces that from 24 June 2015 (GN R 539 of 2015). Both deal with the registration and qualification of training providers. Operators of lifting machines specifically identified in the Notice(s) may only be trained by these providers. In the new Notice the machines are set out in Appendix 6.

In terms of the new Notice existing providers are exempted until the end of June 2027 from being accredited by the Quality Council for Trade Occupations (QCTO) or Transport Seta (TETA). Thereafter all training providers must be accredited by the QCTO.

The Notice further sets out training requirements, licencing, re-licencing etc.

8) Fertilizers, farm Feeds, Agricultural Remedies and Stock Remedies Act

- ***Prohibition Notice Regarding the Use of Certain Agricultural Remedy***

The Minister for Agriculture has prohibited the acquisition, disposal, sale or use of agricultural remedies containing Chlorpyrifos and Cartap Hydrochloride as active ingredients.

PROVINCIAL LEGISLATION

No relevant provincial legislation was published this month.

MUNICIPAL LEGISLATION

9) Msunduzi Local Municipality

The 2012 General By-laws (which deal with various public nuisances) were replaced by a new set.

10) Impendle Local Municipality

Various new by-laws were promulgated, but for purposes of this update report the following are relevant:

- Public Roads By-laws
- Refuse Removal and Disposal By-laws
- Pollution Control By-laws
- Environmental By-laws.

11) Ulundi Local Municipality

The following new by-laws were promulgated:

- Wayleave By-laws
- Stormwater Management By-laws (these repealed the 2011 by-laws)
- Public Roads By-laws (these repealed the 2011 by-laws)
- Business Licencing and Registration By-laws
- Building By-laws
- General By-laws (these repealed the 2012 by-laws)
- Electricity Supply By-laws (these repealed the 2011 by-laws).

12) Emfuleni Local Municipality

The new Solid Waste Management By-law was originally published on 14 December 2019 but only entered into force on 13 November 2024. It also repeals the 2005 by-law.

13) Mthonjaneni Local Municipality

The following were published by the municipality:

- Draft By-laws relating to the Keeping of Animals, Birds and Poultry and Businesses involving the keeping of Animals, Birds, Poultry or Pets
- Traffic By-laws
- Waste Management By-laws
- Trading By-laws
- Public Nuisance By-laws.

14) Rand West City Local Municipality

The Spatial Planning and Land Use Management By-law was published.

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

Kind regards

MARK DITKE