

The Contemporary Gazette

relevant new legislation for your business



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This Update

This newsletter overviews new relevant National laws up to **3rd February 2023**.

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General

1. NOTABLE ONE LINERS

Basic Conditions of Employment Act: Draft sectoral determination for community health workers

The comment deadline for the [draft determination](#) has been extended to 28 February 2023.

Disaster Management Act: Provincial disaster declaration

Declaration of Gauteng province flooding incidents as a provincial disaster available from the NDMC.

Labour Relations Act: Code of good practice managing exposure to Sars-Cov-2 in the workplace

Correction gazetted to the [code](#) (relating to the regulations for hazardous biological agents formal reference).

Long-term Insurance Act: Independent intermediary exemption

Ins Notice 2 of 2022 (available from the FSCA) exemption from [section 49](#), and regulation 3.2(1) and (2), of any independent intermediary authorised under [section 47A](#) that performs the service of direct collection of premium (as defined in the exemption) only, insofar as it relates to accepting consideration for performing direct collection of premiums, extended 'until further notice'.

Merchandise Marks Act: Cape Flora

The draft prohibition on the use of certain words and emblems associated with the Cape Flora is available from the Department. Comment within 30 calendar days from 3 February 2023.

National Environmental Management Biodiversity Act: Elephants

Norms and standards for the management of elephants available from the Department.

National Environmental Management Biodiversity Act: Leopard

Norms and standards for trophy hunting of leopard available from the Department.

[National Environmental Management Biodiversity Act: Draft multi-species biodiversity management plan for vultures](#)

The draft plan is available from the Department. Comment within 60 days from 31 January 2023.

[National Environmental Management Waste Act: Draft household hazardous waste management strategy](#)

The draft strategy is available from the Department. Comment within 30 days from 31 January 2023.

[National Environmental Management Waste Act: Waste tyre regulations](#)

Draft amendments propose, [amongst others](#), a committee; depots, processors, and exporters record-keeping; prohibiting waste tyre transporters from selling waste tyres to third parties or collecting tyres that are not mutilated from collection points; submissions by producers; and interim Bureau registration.

Note: Comment within 30 days from 26 January 2023.

[National Forests Act: Protected trees](#)

[List of protected tree species](#) (trees and their product that require a licence or exemption before they may be cut, disturbed, damaged, destroyed, possessed, collected, removed, transported, exported, purchased, sold, donated, acquired or disposed of) updated.

[National Health Act: Notifiable medical conditions](#)

Monkeypox has been declared a [notifiable medical condition](#) and table 1 (priority notifiable medical conditions that need immediate verbal, sms or telephonic report on clinical suspicion within 24 hours), and tables 2 and 3 (category 2 and 3 notifiable medical conditions), updated.

[Occupational Health and Safety Act: Major hazard installation regulations 2022](#)

Once a commencement date is gazetted, the regulations will, [amongst others](#), require regular consultation with neighbouring establishments; notification of anticipated changes (as defined) or of alteration to particulars; registration conditions; regular prescribed risk assessments, safety reports and training; regular major incident prevention policy, and emergency plan, reviews; and additional duties for suppliers of dangerous substances (as defined).

Note: Establishment is defined as a major hazard installation where chapter 1, 2 or 3 dangerous substances are present and that is under the control of a duty holder (ie an employer, a self-employed person, a user or a pipeline operator who is in control of an establishment).

Further note: The relevant local government must give consent for the on-site emergency plan and participate in the annual emergency test drill.

Further note: A duty holder must, in the case of an emerging major incident or an emergency occurrence that may have been caused by a dangerous substance, inform the relevant supplier about the incident.

Final note: Related laws to consider may include, amongst others, the [Competition Act](#) (Commission may theoretically perceive consultations amongst similar establishments to be contrary to that law); the [Consumer Protection Act](#) (safety recall); the [Mine Health and Safety Act](#) (the Occupational Health and Safety Act is not applicable to any matter in which a provision of the Mine Health and Safety Act applies); the [National Building Regulations and Building Standards Act](#); the [Promotion of Access to Information Act](#) (including its examples of when refusal of access or limited access should be considered); the [Promotion of Administrative Justice Act](#); the [Spatial Planning and Land Use Management Act](#); and the [Special Investigating Units and Special Tribunals Act](#).

Pension Funds Act: Employer contribution requirements under section 13A

[Regulation 33](#) will be repealed from 20 February 2023, as it will be replaced by the [RF conduct standard 1 of 2022](#) (payment of pension fund contribution requirements ie fund notifications; minimum information; reporting; outsourcing of recovery; and interest on late payments).

Pension Funds Act: Voluntary dissolution

Exemption from funds from the conditions in board Notice 75 of 2009, to qualify for an exemption from [section 28](#) (RF notice 5 of 2023), available from the FSCA.

Public Service Act: Provincial departments

[Free state provincial department](#) designations amended.

Short-term Insurance Act: Independent intermediary exemption

Ins Notice 1 of 2022 (available from the FSCA) exemption from [section 48](#) and regulation 5.1(1) and (2) of any [independent intermediary](#) authorised under [section 45](#) that performs the service of direct collection of premium (as defined in the exemption) only, insofar as it relates to accepting consideration for performing direct collection of premiums, has been extended 'until further notice'.

Skills Development Act: Draft SETA grant regulations

The [draft regulations](#) propose the manner of continued funding of the SETAs, the Quality Council for Trades and Occupations, and sectoral grants; payment for services rendered by a SETA; and continued form, time, amount, eligibility and approval limitations on mandatory grants to levy paying employers. Comment within 27 calendar days from 27 January 2023.

Note: Sectoral grant will be defined as the money allocated to be spent on skills needs identified by the sector and to fund those programmes emanating from national priorities contemplated in regulations 6(2)(c) to (10) read with regulation 7.

Further note: A SETA must develop its sector skills plan by taking into account the national strategic goals as set out in the National Skills Development Plan, the National Development Plan and any other national priorities within the PSET system.

Final note: A SETA may allocate an amount to the maximum of 15% to an employer that has proven or demonstrated that they can take on unemployed learners on workplace base learning programmes.

Spatial Planning and Land Use Management Act: National spatial development framework

The framework is available from the Department - its stated intention is to give effect to the [Chapter 2](#) development principles and norms and standards; give effect to relevant national policies, priorities, plans and legislation; and to integrate provincial and municipal spatial development frameworks.

Note: It also aims to enhance spatial coordination of land development and land use management activities at national level; to indicate desired patterns of land use; and to take cognisance of adopted environmental management instruments.

Trust Property Control Act: Draft regulations relating to beneficial ownership registers and records of details of accountable institutions

The draft regulations propose, [amongst others](#), that the Master and a trustee must make the information contained in the beneficial ownership register available to the designated official of the NPA; an investigating authority in SA; the Independent Police Investigative Directorate; an intelligence service; the Intelligence Division of the National Defence Force; a Special Investigating Unit; an investigative division in an organ of state; the Public Protector; SARS; and a person who is entitled to receive such information in terms of other national legislation.

Comment before 13 February 2023.



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Safety

2. FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT: DRAFT LABELLING AND ADVERTISING OF FOODSTUFFS REGULATIONS

The draft regulations propose making key definitions relating to claim, health claim, nutrition claim and label; and, [amongst many others](#):

- (i) A food business operator (foodstuff manufacturer, seller or importer) must keep prescribed supplier ingredient information files of every ingredient, additive or substance used in manufacturing a foodstuff ready for sale, whether or not the foodstuff is meant for sale or for further processing or manufacturing;

Note: The regulation 2 general requirements also reference donate.

- (ii) The label of a pre-packaged foodstuff must be applied in such a manner that it may not be unintentionally separated from the container prior to or at point-of sale; and must contain the prescribed letter sizes, descriptions, batch identification, date marking, and country of origin details;

Note: Any type of date marking that is not prescribed, such as 'sell by' will be prohibited.

- (iii) Prohibited statements such as the words "wholesome", "nutritious", "nutraceutical" or "super-food", "smart" or intelligent" or any other words, logos or pictorials with a similar meaning in any manner implying that the food is better or superior in any way, including the name and trade name; and negative claims;

Note: Also consider [false description of articles](#) and the [Traditional Health Practitioners Act](#) when considering regulations 9 and 10.

- (iv) Special provisions for seasonal ingredients; order of list of ingredients; variable proportions; ingredients shown in any order; naming of ingredients; natural colouring foods; type of meat species; raw-processed meat; quantitative ingredient declarations; compound ingredients; and added water;

Note: Also consider [liability of importer, manufacturer or packer](#); and [microbiological standards](#); [sodium reduction in certain foodstuffs](#); [colourants](#); [compulsory specifications for food](#); [sausages](#); [milk and dairy products](#); [additives](#); and [marine biotoxins](#) regulations.

- (v) Special provisions for added caffeine and alcohol-containing ingredient; fats and oils; bulk stock; small packages; storage instructions; foodstuffs vending machines; pictorial representation; labelling of pre-packed food additives; general labelling requirements regarding food additives; and flavourings;

Note: Also consider use or employment of prohibited container; sale of mixed, compounded or blended foodstuff; liability of employer or principal; Consumer Protection Act deceptive representations and good quality; and alcoholic beverages health messages; trans-fat; and food premises and the transport of food regulations

(vi) Special provisions for Tartrazine; preservatives; anti-oxidants as additives; artificial sweeteners (food additives); modified starches, processing aids and carry-over of additives; allergens; uncommon allergens; allergen cross contamination; and allergen-related claims regarding gluten-free and naturally gluten-free foodstuff;

Note: Also consider preservatives and antioxidants; sweeteners; pesticide residues; milking sheds and transport of milk; seed tolerances; metals: maximum levels; and veterinary medicine and stock remedy residues regulations

(vii) Special provisions for allergen-related claims regarding hypoallergenic, non-allergenic or allergen-free foodstuff; misleading descriptions; irradiation; statements related to frozen foodstuffs; vegetarian claims; nutritional information facts; and additional requirements relating to nutritional information table;

Note: Also consider the Meat Safety Act; Consumer Protection Act plain language; and genetic modification labelling; marine food; section 2 prohibitions; fungus-produced toxins tolerances; fortification; regulations

(viii) Regulating general claims, for example, that foodstuffs which are produced for sale by a small producer, or a street vendor may not make or bear any claim with a nutrition or health message; and that any food that is produced by a small business may not carry a claim with a nutrition or health message unless the nutrient profiling model requirements are complied with;

Note: Also consider the Medicines and Related Substances Act; and salt regulations

(ix) Regulating specific enrichment; marketing; packaged water; fructose or sweetener; cosmetic; claims, and use of food based dietary guidelines and fake foods;

Note: Also consider the Electronic Communications Act; and the infants and young children; packaged water; soft drinks; and melamine; regulations.

(x) Regulating nutritional claims (any claim that describes the level of a nutrient contained in the foodstuff or the energy provided by the foodstuff must comply with the applicable conditions in these regulations) .and health claims (eg a health claim that implies that a foodstuff is a tonic or may have detoxification or similar effects or benefits must be considered a medicinal claim and is prohibited for foodstuffs).

Note: Also consider the [Agricultural Products Standards Act](#); the [Hazardous Substances Act](#); and the [Marketing of Agricultural Products Act](#).

Comment within 3 months from 31 January 2023.



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