



The Contemporary Gazette

relevant new legislation for your business



Legal Update

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This Update

This newsletter overviews new relevant National laws up to **9th July 2021**.

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General

1. Notable one-liners



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1. NOTABLE ONE LINERS

Auditing Profession Act (Inspection fees)

Fees payable from 1 April 2021 to 31 March 2022, for an inspection or review by IRBA, gazetted.

Border Management Authority Act (Commencement of chapter)

Chapter 8 (committees and implementation protocols) commences 15 July 2021, while chapter 3 (commissioners) commenced 1 January 2021.

Note: It seems commencement dates must still be gazetted for the remainder of the Act and different dates may be proclaimed for different sections, different border law enforcement area parts or different ports of entry.

Further note: Except where the Act will provide otherwise, it will not apply to the border protection functions exercised by the Defence Force, the postal services, or SARS customs related functions.

Final note: Related laws that may come into play include, amongst others, the Animal Diseases Act, the Civil Aviation Act, the Customs and Excise Act, the Game Theft Act, the Immigration Act, the Merchant Shipping Act, the National Environmental Management Act and its environmental laws (see related laws on right side of that Act), the National Land Transport Act, the National Regulator for Compulsory Specifications Act, the Perishable Products Export Control Act, the Precious Metals Act, the Refugees Act, the Stock Theft Act, and the Tourism Act.

Carbon Tax Act (Regulations)

The regulations setting out the imposition of carbon tax have been amended.

Childrens Act (Early childhood development)

Responsibility for [chapter 5](#) partial care facilities (early childhood development services and programmes); [chapter 6](#) ECD; and [sections 306, 307 and 308](#) (in respect of early childhood development services and programmes), to be transferred to the Minister of Basic Education as from 1 April 2022.

Collective Investment Schemes Control Act (Permissible deductions)

CIS guidance notice 2 of 2021 (permissible cost and charges that may be deducted from a portfolio) available from the FSCA.

Competition Act (National Consumer Commission)

New [memorandum](#) between Competition Commission and the NCC to, amongst others, promote cooperation on setting of standards or conditions that affect matters of common interest, any joint investigations, market inquiries and/or research studies.

Note: Before the exercise and performance of any powers and duties, the NCC must consider whether it would be appropriate to refer an inquiry to the Commission.

Further note: The parties shall ensure that confidential information accordingly disclosed to them remains confidential and is not placed in the public domain through any negligent or wilful conduct on its behalf.

Final note: The agreement states that no provision of the agreement shall give rise to a right on the part of any person, entity or organ of state other than the Commission and the NCC, directly or indirectly, to obtain any information or to challenge the execution of a request for information under this agreement.

Competition Act (National Energy Regulator of SA)

New [memorandum](#) between Competition Commission and the NERSA to, amongst others, collaborate on measures to promote competition in the electricity, piped-gas and petroleum pipelines industries.

Note: Merging parties in a merger transaction must submit applications containing the required information to both the Commission (under the Competition Act) and to NERSA (under the National Energy Act) for their respective consideration.

Final note: The parties shall ensure that confidential information accordingly disclosed to them remains confidential and it not placed in the public domain through any negligent or wilful conduct on its behalf.

Final note: The personal information received by a party shall not be processed or disclosed for any other purpose (outside of the purpose of the memorandum) without the consent of the disclosing party.

Competition Act (SACouncil for the Architectural Profession)

New memorandum between Competition Commission and SACAP, focusing on perceived competition issues related to the identification of work policy and the publication of professional guideline fees.

Note: This agreement is not intended to be a legally enforceable document and intends to describe the nature and co-operative intentions of the parties involved, and to suggest guidelines for co-operation.

Disaster Management Act (COVID-19)

COVID-19 regulations amended (adjusted level 4 regulations as at 12 July 2021, [table](#) and [forms](#)).

Note: The following [general offence](#) was also added on 28 June 2021 (to incite, instigate, command or procure another person to commit any offence in terms of the regulations).

Further note: The Cabinet member responsible for small business development will issue directions in respect of the extension of licences and permits which expired between 29 May 2020 and 30 June 2021.

Further note: Limitations placed on, amongst others, business premises and workplaces; gyms, fitness centres, swimming pools; accommodation; dining; schools (early childhood development centres to remain open); higher education; funerals and cremations; sporting activities; and agricultural and game auctions.

Further note: Closures mandated for older persons residential facilities visits; liquor activities; Conferencing, exhibitions, and entertainment facilities; museums, galleries, archives, and libraries; flea markets; fetes and bazaars; night clubs; taverns, shebeens and similar establishments; and initiation practices.

Final note: [Gathering prohibitions](#) placed on, amongst others, faith-based gatherings; social gatherings; political events; traditional council meetings' and cinema, theatre, casino, museum, gallery, archives, library, conference, exhibition, and entertainment facility venues.

[Electronic Communications Act \(COVID-19 and broadcasting\)](#)

[COVID-19 communications directions \(risk adjusted strategy\)](#) mitigation measures for broadcasting services amended (online services; productions for local broadcast and live streaming; broadcasting; advertising agencies; and film and television productions using local cast and crew).

[Electronic Communications Act \(COVID-19 and electronic communications\)](#)

[COVID-19 communications directions \(risk adjusted strategy\)](#) mitigation measures for electronic communications service and network service providers amended (additional general health protocols; and additional requirements for retail stores, franchised stores and installation, maintenance and repairs).

[Electronic Communications Act \(Radio frequency\)](#)

The draft national radio frequency plan 2021 is available from ICASA. Comment deadline 27 August 2021.

[Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act \(Agricultural remedies\)](#)

The [draft agricultural remedies regulations](#) differentiates between household (distributed primarily to the public for personal use in or around homes); commercial (distributed for use in commercial activities that are specified on the label); and restricted (such as those remedies defined as highly hazardous) products. Comment deadline 60 days from 18 June 2021.

Note: Covers advertising (eg do not publish or distribute a false or misleading advert); sale (eg do not promote, advertise, recommend or sell for a purpose or application other than stated on the label); and disposal (eg do not dispose of in a manner that may be detrimental to human or environmental health).

Further note: Also covers registration; renewal; labelling (eg a 'keep out of reach of children and animals' statement); containers; importation; manufacturing; sales information reporting; records; audited sales reporting; sampling; permissible deviations; appeals; and transitional arrangements.

Final note: Also see [prohibited agricultural remedies](#).

[Financial Advisory and Intermediary Services Act \(Exemptions\)](#)

FAIS notice 70 of 2021 extension of exemptions to 30 June 2023 (exemption of banks in respect of certain clients 2004 and other exemptions) available from the FSCA.

[Firearms Control Act \(Fees\)](#)

[Fees payable](#) amended 5 July 2021.

[Immigration Act \(COVID-19\)](#)

The [COVID-19 entry and exit directions](#) now gives certain Visa concessions up to 30 September 2021 (also see direction 21 declaration of undesirability); lists closed land ports of entry; and lists services to be rendered by Home Affairs under alert level 4.

[Labour Relations Act \(Councils\)](#)

Bargaining/statutory council [accreditation](#) (Leather Industry of South Africa; South African Road Passenger; and Squid and Related Fisheries of South Africa) gazetted.

[Merchandise Marks Act \(2021 British and Irish Lions Rugby Tour\)](#)

Draft [prohibition of Tour words and emblems](#). Comment deadline 14 calendar days from 23 June 2021.

[Mineral and Petroleum Resources Development Act \(Upstream Petroleum Resources Development Bill\)](#)

The Bill [proposes](#) removing sections and references relating to petroleum from the Act.

[National Environmental Management Act \(Environmental impact assessments\)](#)

[Draft guidelines on consideration of climate changes implications](#), including specialist involvement, in applications for environmental authorisations, atmospheric emission licences and waste management licenses, gazetted.

Comment deadline 30 days from 25 June 2021.

Note: The guideline includes the reminder that it must not be used indiscriminately without due consideration of the particular context and circumstances within which an EIA is undertaken.

Further note: The guideline does not address climate change issues related to existing developments where the required statutory approvals have already been obtained.

Final note: Item 4.3 clarifies when climate change will be a relevant consideration for EIA processes.

National Environmental Management Air Quality Act (Data management policy)

Draft SA atmospheric emission licence and inventory portal data management policy available from the Department. Comment deadline 30 days from 2 July 2021.

National Environmental Management Biodiversity Act (Biodiversity management plan)

The draft biodiversity management plan for aloe ferox and honeybush is available from the Department. Comment deadline 30 days from 25 June 2021.

National Environmental Management Biodiversity Act (COVID-19)

[COVID-19 biodiversity directions](#) gazetted that state that game parks, botanical gardens, zoos and aquaria are open to the public (subject to health protocols and any restrictions in other regulations or directions); and that the directions for live biodiversity auctions are suspended until 11 July 2021.

Note: Inter-provincial travel to or from Gauteng is permitted for hunting with the primary purpose of obtaining meat for consumption, and culling subject to health protocols and any restrictions in other regulations or directions.

National Environmental Management Biodiversity Act (Elephant, lion, leopard and rhinoceros)

Draft policy position on the conservation and ecologically sustainable use of elephant, lion, leopard and rhinoceros available from the Department. Comment deadline 30 days from 28 June 2021.

National Environmental Management Waste Act (Detrimental activities)

Organic waste composting and treatment amendments proposed to the [list of waste management activities likely to have a detrimental effect on the environment](#). Comment deadline 30 days from 25 June 2021.

National Environmental Management Waste Act (Organic waste composting)

A date of commencement must still be gazetted for the [norms and standards for organic waste composting](#) for facilities that can process compostable organic waste above 10 tonnes per day.

Note: The owner of an organic waste composting facility with a capacity to process less than 10 tonnes per day of organic waste must register, align with applicable integrated waste management by-laws, and comply with the principle of duty of care.

National Nuclear Regulator Act (Draft amendment bill)

The Bill [proposes](#) a comprehensive review and update of the Act. Comment deadline 20 September 2021.

National Sport and Recreation Act (COVID-19)

[COVID-19 sports, recreation, cultural and arts directions](#) amended to require the submission of a bio-safe environment proposal by a compliance officer of a sport and recreational body; and to reference the gathering prohibitions contained in the COVID-19 regulations as amended on 29 June 2021.

Note: Bio-safe environment is defined as a safe and secure environment that can only be accessed by a certain set of people who have tested negative for COVID-19 to minimise the risk of transmission of the coronavirus from one person to another during the course of the event.

Older Persons Act (COVID-19)

The [COVID-19 directions \(social development - older persons residential facilities and community nutrition development centres\)](#) prohibits visits to older persons' residential facilities.

Note: A person who is of the opinion an [older person](#) is [in need of care and protection](#) (e.g. income taken against their wish or abandoned without means of support) may report this to a social worker ([certain professionals must report such a belief](#)).

Final note: Any person who suspects an [older person](#) has been [abused](#), or suffers abuse-related injuries, [must immediately notify](#) the Director-General or a police official.

Pension Funds Act (Conduct standard)

Reminder that funds must comply with [conduct standard 5](#) (RF) conditions for smoothed bonus policies to form part of default investment portfolios within 9 months after 9 October 2020.

Postal Services Act (COVID-19)

[COVID-19 communications directions \(risk adjusted strategy\)](#) mitigation measures for postal services amended (postal services value chain; Post Office/ Postbank branches and postal services retail service points; and courier services).

Note: Requirements, in addition to COVID-19 regulations and COVID-19 workplace safety directions, that apply to couriers include, amongst others, vehicles must be sanitised daily before the commencement of a shift; and all relevant directions must be adhered to from packaging to delivery.

Final note: The direction states that it must be read with the [directions regarding e-Commerce sales](#) which was considered inactive, given its outdated references to replaced regulations, and its subject matter - CG has made notes on references perhaps intended (see related laws on the right side of a page) if the application of the e-Commerce direction is not in fact an error.

Promotion of Access to Information Act (PAIA Manual)

[Exemption of certain private bodies](#) from compiling a PAIA manual extended to 31 December 2021.

Note: This exemption does not apply to a company that is not a private company as defined in the Companies Act.

Further note: This exemption also does not apply to a private company as defined in the Companies Act, that operates within any of the sectors mentioned in the exemption and has 50 or more employees in their employment.

Final note: This exemption also does not apply to a private company as defined in the Companies Act, that has a total annual turnover that is equal to or more than the applicable amount mentioned in the exemption.

Protection of Personal Information Act (Prior authorisation processing)

The Regulator has made a revised determination stating that 1 February 2022 will now be the date that [section 58\(2\)](#) (aspect of duty of responsible parties to notify Regulator if processing is subject to prior authorisation) applies to processing in terms of [section 57](#) (processing subject to prior authorisation).

Note: Section 58(2) does not apply to processing referred to in section 57, which is taking place on the date of commencement of this Act, until the Regulator determines otherwise by notice in Gazette.

Further note: Section 58(2) states that responsible parties may not carry out information processing that has been notified to the Regulator in terms of section 57(1) until the Regulator has completed its investigation or until they have received notice that a more detailed investigation will not be conducted.

Road Accident Fund Act (Administration)

The terms and conditions, upon which claims for the compensation were to be administered, have been withdrawn, and replaced with [draft terms and conditions](#). Comment deadline 30 days from 22 June 2021.

Road Accident Fund Act (Claim form)

The amendment to [regulations](#) (RAF1 claim form) has been suspended.

Social Assistance Act (COVID-19)

The [COVID-19 directions \(social development - older persons residential facilities and community nutrition development centres\)](#) prohibit sitting and eating at a community nutrition and development centre (Centre); and subjects collection of food at a Centre to screening, distancing, PPE and health protocol requirements.

South African Schools Act (COVID-19)

[COVID-19 schools directions](#) regarding return of learners; and return of learners to primary schools and schools for learners with special education needs, and sport and extracurricular activities revised.

Standards Act

New, proposed, amended, and withdrawn [standards](#) have been gazetted for 25 June and 9 July 2021.

Upstream Petroleum Resources Development Bill

The Bill proposes, [amongst many others](#), that a petroleum right holder must pay fees, revenue and insurance; conduct exploration and production operations as per approved commitments and health and safety provisions; and comply with the right, environmental authorisation and applicable law conditions.

Note: The holder must also comply with specific requirements for State participation and empowerment.

Further note: Development activities as per a approved development programme will be mandated.

Final note: The holder will be required to relinquish the percentage of the total extent of the original petroleum right area.



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