

The Contemporary Gazette

relevant new legislation for your business



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This Update

This newsletter overviews new relevant National laws up to **28th January 2022**.

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General

1. NOTABLE ONE LINERS

Carbon Tax Act:Taxation Laws Amendment Act 2021

The Amendment Act amended [sections 6](#) (calculation) and [12](#) (carbon budget allowance); as well as [schedule 2](#).

Note: The Rates and Monetary Amounts and Amendment of Revenue Laws Act 2021 amended the [rate of carbon tax on greenhouse gas emissions](#).

Criminal Procedure Act:Criminal and Related Matters Amendment Act 2021

Once a commencement date has been gazetted, the Amendment Act will amend [bail conditions](#); [conduct of proceedings](#); [sentencing](#); [appeals in superior courts](#); and [schedule 1, 2, 7 and 8](#).

Criminal Procedure Act: Domestic Violence Amendment Act 2021

Once a commencement date has been gazetted the Amendment Act will extend the [grounds on which a peace officer may arrest a person without a warrant](#).

Criminal Law Amendment Act 1997:Criminal and Related Matters Amendment Act 2021

Once a commencement date has been gazetted, the Amendment Act will amend [schedule 2](#) (minimum sentences for offences against certain persons who are vulnerable).

Criminal Law (S Offences and Related Matters) Amendment Act: Amendment Act 2021

Once a commencement date has been gazetted the Amendment Act 2021 will, [amongst others](#), introduce a [s intimidation](#) offence; expand the [national register](#) (by referencing vulnerable persons and increasing access); and redefine [employers](#) and [s offences](#).

Note: [Persons who are vulnerable](#) will refer to children; persons who are mentally disabled; certain females under 25 years; certain persons 60 years or older; persons cared for or sheltered in a facility for victims of crime; and certain persons with a physical, intellectual or sensory disability.

Further note: Employers will have to consider whether their activities (for example higher education or retirement facilities) involve interaction with persons who are vulnerable and compliance with the amended [chapter 6](#) (that contains serious employment termination, access prohibition and confidentiality duties).

Final note: The [criminal offence for failure to report](#) will be expanded (knowledge, reasonable belief or suspicion that a s offence was committed against person who is vulnerable).

Customs and Excise Act: Tax Administration Laws Amendment Act 2021

The Amendment Act amended [sections 1](#) (department references); [6](#) (degrouing depots); [60](#) (licensing heading); [38A](#) and [64E](#) (accredited clients); [75](#) (distillate fuel levy refund application); and [79](#) (offences involving customs uniforms).

Note: The Taxation Laws Amendment Act 2021 provided for the [continuation of amendments of schedules](#).

Final note: The Rates and Monetary Amounts and Amendment of Revenue Laws Act 2021 schedule 2 (available from SARS) amended schedule 1 part 2A, and several tariffs and rebates, as from 24 February 2021.

Disaster Management Act: Severe weather events

19 January 2022 classification of severe weather events as a national disaster, available from the Disaster Centre.

Disaster Management Tax Relief Act: Taxation Laws Amendment Act 2021

The Amendment Act amended the [preamble](#); [employment tax incentive interim arrangements](#); [section 8](#) (deduction for donation to COVID-19 disaster relief organisation and increase in annual donations limit for donations to Solidarity Fund); and [section 11](#) (application of sections).

Disaster Management Tax Relief Administration Act: Tax Administration Laws Amendment Act 2021

The Amendment Act amended the [definition of qualifying employee](#); and the [deferral of employees' tax](#).

Domestic Violence Act: Amendment Act 2021

Once a commencement date is gazetted the Amendment Act will [comprehensively overhaul](#) the law, including introducing a general duty to report; workplace matters to be noted by employers; and duties for electronic communications providers.

Note: Also consider related laws (such as [section 47](#) of the Children's Act; [section 24](#) of the Older Persons Act; and the [Protection from Harassment Act](#)).

Employment Tax Incentive Act: Taxation Laws Amendment Act 2021

The Amendment Act amended [sections 1](#) (employee); and [6](#) (qualifying employees).

Estate Duty Act: Tax Administration and Taxation Laws Amendment Acts 2021

The Amendment Acts made textual corrections to [section 5](#) (determination of value of property) and to [section 13](#) (right of recovery by executor).

Firearms Control Act: Domestic Violence Amendment Act 2021

Once a commencement date has been gazetted the Amendment Act will add the Domestic Violence Act to [schedule 2](#) (crimes and offences giving rise to unfitness query).

Income Tax Act: Tax Administration Laws Amendment Act 2021

The Amendment Act amended [sections 18A](#) (further information requests regarding donation deductions); [49F](#) (withholding taxes on royalties return submission); and [64LA](#) (refund of tax regarding dividends in specie time limit).

Note: The Act also amended the [First](#) (livestock deduction assessments and records); [Fourth](#) (estimation if total amount of employees tax unknown, and penalty correction if estimation found incorrect); [Fourth](#) (provincial tax where year of assessment under 6 months); and [Seventh Schedule](#) (certificates by employers penalty).

Final note: The Rates and Monetary Amounts Act 2021 confirmed 1 March 2021 amendments (see [section 6](#); [section 6A](#); and the Seventh Schedule [paragraph 9](#)).

Magistrates Courts Act: Criminal and Related Matters Amendment Act 2021

Once a commencement date is gazetted the Amendment Act will insert [sections 51A](#) (evidence through intermediaries in proceedings other than criminal proceedings), [51B](#) (oath and competency of intermediaries), and [51C](#) (evidence through audiovisual link in proceedings other than criminal proceedings).

National Environmental Management Air Quality Act: Greenhouse gas

Methodological guidelines for quantification of greenhouse gas emissions - carbon sequestration in the forestry industry (published in terms of the [national greenhouse gas emission reporting regulations](#)), available from the relevant Department.

National Gambling Act: Amendment Bill

Correction: The [Amendment Bill 2018](#) is being considered.

Postal Services Act: Customer care standards

Reminder that customer care standards regulations amended 90 days from 29 October 2021 to, [amongst others](#), revise care standards and complaints escalation; and require that records of complaints received must be kept for 5 years.

Protection from Harassment Act: Domestic Violence Amendment Act 2021

Once a commencement date has been gazetted the Amendment Act 2021 will [update references](#) to harassment in terms of the Domestic Violence Act.

Protection of Personal Information Act: Code of conduct

The Credit Bureau Association code of conduct, to promote appropriate practices by CBA members governing the processing of personal information in terms of POPIA, is available from the Information Regulator. Comment deadline stated to be 14 days from 19 January 2022 and stated to be 29 January 2022.

Protection of Personal Information Act: Prior authorisation

Reminder that the Regulator made a revised determination stating that 1 February 2022 will 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 took 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.

Rates and Monetary Amounts and Amendment of Revenue Laws Act 2021

The **Amendment Act** made rate adjustments referenced in the annual budget 2021; and made section 2 and schedule 1 corrections to the 2020 Act (relating to registered micro businesses).

Securities Transfer Tax Act: Taxation Laws Amendment Act 2021

The Amendment Act amended **sections 1** (collateral arrangement); and **8** (exemptions).

Special Investigating Units and Special Tribunals Act: COVID-19

The final report into the **investigation into State institutions** (goods, works and services procurement or contracting, including immovable property construction, refurbishment, leasing, occupation and use, relating to the **declared COVID-19 national disaster** during 1 January 2020 to 23 July 2020), has been made public and is available from the SIU.

*Note: Also see **investigated national departments** that include past/current investigations into several departments listed in the report such as, amongst others, the Department of Basic Education; Co-operative Governance and Traditional Affairs; Health; Public Works and Infrastructure; and Transport.*

*Further note: Also see **investigated provincial departments** that include past/current investigations into provincial departments listed in the report such as, amongst others, Free State Human Settlements; Gauteng Health; KwaZulu-Natal Public Works; Limpopo Health; and Mpumalanga Education.*

*Final note: Also see **investigated entities** that include past/current investigations into state entities listed in the report such as, the SAPS and the National Health Laboratory Services; and note that some municipalities in the report may also appear in the **investigated municipalities** group.*

Special Investigating Units and Special Tribunals Act: Mpumalanga Health

Special investigation launched into [Mpumalanga Department of Health](#) (Bethal hospital ICT infrastructure; Middelburg hospital ICT network; fleet management solution; citizen engagement platform; virtual private network connection of community health centres and clinics; and Themba hospital queue digitalisation).

Note: Also see past investigated [provincial departments](#).

Special Investigating Units and Special Tribunals Act: Telkom

Special investigation launched into [Telkom](#) (telegraph services; broadband and mobile strategy advisory services; and sale and disposal of iWayAfrica and Africa Online Mauritius and Multi-Links Telecommunications Limited).

Note: Also see past [investigated entities](#).

Superior Courts Act: Criminal and Related Matters Amendment Act 2021

Once a commencement date has been gazetted, the Amendment Act will introduce [section 37A](#) (evidence through intermediaries in proceedings other than criminal proceedings); [37B](#) (oath and competency of intermediaries); and [37C](#) (evidence through remote audiovisual link in proceedings other than criminal proceedings).

Superior Courts Act: Domestic Violence Amendment Act 2021

Once a commencement date has been gazetted the Amendment Act [will allow](#) Domestic Violence Act applications against a judge without the required consent by the head, Chief Justice or President of the Supreme Court of Appeal, as the case may be.

Tax Administration Act: Tax Administration Laws Amendment Act 2021

The Amendment Act amended [sections 95](#) and [99](#) (elaboration on SARS estimation of assessments procedure where return or relevant material lacking).

Note: The Amendment Act also made textual corrections to [sections 93](#) (reduced assessments - clarification that grounds considered separately from each other).

Final note: The Amendment Act also made reference corrections to [sections 149](#) and [233](#) (exception to prohibition on disclosure to other entities in register of settlements; and reporting or reporting of voluntary disclosure agreements).

Transfer Duty Act:Taxation Laws Amendment Act 2021

The Amendment Act amended [section 9](#) (exemptions from duty).

Value-added Tax Act:Taxation Laws Amendment Act 2021

The Amendment Act amended [sections 18D, 9, 10](#) and [16](#) (temporary letting of residential property - deemed change in use adjustment when leased for first time).

Note: The Amendment Act will also amend [schedule 2](#) (zero rating super fine maize meal) from 1 April 2022.

Further note: The Amendment Act extended zero rating in [section 11](#) (certain international telecommunications services).

Final note: The amendment Act also aligned terminology with the Insurance Act in [section 2](#) (life insurance policies).



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Tax

2. INCOME TAX ACT: TAXATION LAWS AMENDMENT ACT 2021

The Amendment Act amended:

- (i) Potential for double taxation under hybrid debt anti-avoidance rules in [section 8F](#) (interest on hybrid instruments) and [8FA](#) (hybrid interest);
- (ii) Controlled foreign company rules in [section 9D](#) (net income of controlled foreign company) and [9H](#) (change of residence, ceasing to be a CFC or becoming a headquarter company);
- (iii) Sunset date 28 February 2022 in [section 12DA](#) (rolling stock deduction) and [12F](#) (airport and port assets deduction);
- (iv) [Section 12I](#) (industrial policy projects);
- (v) Sunset date 31 March 2023 in [section 13quat](#) (urban development zones deductions);
- (vi) [Section 19](#) (reduction of debt) and the [Eighth](#) schedule (capital gains tax);
- (vii) [Section 20](#) (set-off of assessed losses);
- (viii) [Section 23M](#) (interest limitations on debts owed to persons not subject to tax);
- (ix) [Section 28](#) (short-term insurance business);
- (x) [Section 29A](#) (long-term insurers);
- (xi) Corporate reorganisation rules in [sections 40CA](#) (shares or options for no consideration) and [41](#) (general);
- (xii) [Sections 42](#) (asset-for-share transactions); [45](#) (intra-group transactions); [46](#) (unbundling company); and [46A](#) (expenditure limitations for shares in unbundling company);
- (xiii) [Section 49E](#) (withholding taxes on royalties); [50A](#) (withholding tax on interest); and [64G](#) and [64H](#) (withholding of dividends tax); and

(xiv) The [Eleventh](#) schedule (exempted government grants).

Note: The Amendment Act also made wording alignments in [sections 1](#) (company and connected person definitions); text clarification in [section 7C](#) (loan, advance or credit by connected person to trust); and reference updates in [section 8](#) (certain amounts to be included in income).

Final note: The Amendment Act also made text correction in [section 8E](#) (certain dividends deemed to be interest) and the [Eighth](#) schedule (capital gains tax); and text improvement in [section 47](#) (liquidation, winding-up and deregistration).

The Amendment Act will, on 1 March 2022, amend:

- (i) Fringe benefit consideration of long service awards ([section 1](#) gross income definition, and [Seventh](#) schedule employment or office benefits);
- (ii) Timing of disposal rules regarding asset acquired from deceased estate ([section 1](#) liquidation and distribution account definition and [25](#) deceased estates);
- (iii) Members ability to use retirement interest to acquire annuities on retirement ([section 1](#) pension fund, provident fund, and retirement annuit fund definitions);
- (iv) Transfers between retirement funds by members 55 years or older ([section 1](#) pension preservation fund and provident preservation fund definitions, and the [Second](#) schedule lump sum benefits);
- (v) [Section 57B](#) (disposal of the right to receive an asset which would otherwise have been acquired in consequence of services rendered or to be rendered); and
- (vi) The [Fourth](#) schedule (employees tax).

The Amendment Act will also, on 1 April 2022, change the sunset date in [section 12H](#) (learnership agreements deduction) to April 2024.

Finally, the Amendment Act will, on 1 January 2023, amend:

- (i) [Section 1](#) (contributed tax capital definition);
- (ii) [Section 8F](#) (interest on hybrid instruments) and [8FA](#) (hybrid interest);
- (iii) [Section 23M](#) (interest limitations on debts owed to persons not subject to tax); and
- (iv) [Section 31](#) (tax payable for international transactions to be based on arm's length principle).



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