

The Contemporary Gazette

relevant new legislation for your business



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This Update

This newsletter overviews new relevant National laws up to **24th February 2022**.

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1. NOTABLE ONE LINERS

Associated Institutions Pension Fund Act: Draft Financial Matters Amendment Bill 2022

The Draft Bill [proposes](#) updating the definition of Minister to reference the Minister of Finance. Comment deadline 15 March 2022.

Auditing Profession Act: Code of professional conduct

Amendments to the code of professional conduct of registered auditors available from IRBA.

Note: Board notice 173 has been withdrawn.

Auditing Profession Act: Draft Financial Matters Amendment Bill 2022

The Draft Bill proposes amending the [process following investigation](#); and amending the [transitional measures](#) relating to certain charges of improper conduct. Comment deadline 15 March 2022.

Carbon Tax Act: Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill 2022

The Draft Bill proposes confirming amendments to [sections 5](#) (rate of tax) and [6](#) (calculation of amount of tax payable) from 1 January 2022.

Climate Change Bill

The Bill proposes, [amongst others](#), sector adaptation strategies and plans; a duty to provide adaptation information; sectoral emissions targets; listing greenhouse gases and greenhouse gas activities (Activity); allocation of a carbon budget for an Activity; phase-down and phase-out of synthetic greenhouse gas emissions; incentives/disincentives regulations; and access to, and protection of, information.

Note: Failure by an affected party to submit a greenhouse gas mitigation plan will be an offence.

Further note: Related laws include, but are not limited to, the [Agricultural Products Standards Act](#); the [Carbon Tax Act](#); the [Hazardous Substances Act](#); the [Infrastructure Development Act](#); the [Marine Living Resources Act](#);

the Minerals and Petroleum Resources Development Act; the National Energy Act; the National Environmental Management Act; the National Environmental Management Air Quality Act; the National Environmental Management Protected Areas Act; the National Environmental Management Waste Act; the National Forests Act; the National Health Act; the National Water Act; and the Spatial Planning and Land Use Management Act.

Collective Investment Schemes Control Act: Permissible deductions

FSCA communication 3 of 2022, available from the FSCA, sets out the reason and application of FSCA CIS notice 1 of 2022 (provision for additional [permissible deductions from portfolios](#)).

Note: The communication also references FSCA CIS guidance notice 2 of 2021 (permissible cost and charges that may be deducted from a portfolio), available from the FSCA.

Customs and Excise Act: Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill 2022

Schedule 2 of the Draft Bill (available from SARS) proposes amending schedule 1 part 2A (alcohol, tobacco and tobacco substitutes) as from 23 February 2022.

Note: Schedule 1 parts 3A (carrier bags and flat bags), 3C (environmental levy), 3D (certain CO₂ emissions), 3D (certain CO₂ emissions), and 7A (beverage preparations) will be amended as from 1 April 2022.

Further note: Schedule 1 part 5A (general fuel levy and carbon fuel levy calculation note, and petrol, illuminating kerosene, distillate fuel, certain solvents, and other biodiesel) will be amended as from 6 April 2022.

Final note: Schedule 1 part 3F (certain Co₂e emissions) will be amended as from 1 January 2022.

Defence Act: Defence Amendment Act 2020

The Amendment Act, [amongst others](#), does not require employer consent to enrol or remain in the Reserve Force; expands grounds for termination from the Regular Force (including refusal to receive compulsory immunisation); expands health and fitness standards and health access (including additional voluntary extra insurance); and prohibits access to areas temporarily or permanently used or controlled by the Defence Force.

Disaster Management Act: COVID-19

COVID-19 regulations amended, specifically [refusal of treatment and isolation regulation](#).

Note: The amendment includes the clarification that a person who is a laboratory confirmed positive COVID-19 case and who is symptomatic must self-isolate (or be admitted to a health establishment for isolation if he or she cannot self-isolate) for 7 days as per the requirements of self-isolation or isolation, unless a longer period is recommended by a medical practitioner in order to prevent transmission.

Final note: [COVID-19 state of disaster declaration](#) 20th extension to 15 March 2022 "taking into account the need to continue augmenting the existing legislation and contingency arrangements undertaken by organs of state to address the impact of the disaster".

Electricity Regulation Act: Draft electricity pricing policy

The draft policy is available from the Department of Mineral Resources and Energy. Comment deadline 30 days from 10 February 2022.

Electronic Communications Act: Number portability

Reminder that the [number portability regulations](#) will commence on 7 March 2022.

Note: The 7 March 2022 amendments to the ordering system specification for geographic, non-geographic and mobile number portability, is available from ICASA.

Employment Tax Incentive Act: Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill 2022

The Draft Bill proposes amending [section 7](#) (determining amount of incentive) from 1 March 2022.

Films and Publications Act: Draft classification guidelines for films, games and certain publications

The draft guidelines are available from the Films and Publications Board. Comment deadline 30 days from 4 February 2022.

Financial and Fiscal Commission Act: Draft Financial Matters Amendment Bill 2022

The Draft Bill [proposes](#) removing the reference to Secretary in the section regulating staff matters. Comment deadline 15 March 2022.

Financial Sector Regulation Act: OTC derivative transactions

Joint notice 1 of 2022 extension of periods prescribed in joint standard 2 of 2020 (margin requirements for non-centrally cleared over the counter derivative transactions) available from FSCA.

Note: 1 September 2022 to 31 August 2023 prescribed in par 4.2(3) extended to 1 September 2023 to 31 August 2024; March, April and May 2022 prescribed in par 4.2(3) extended to March, April and May of 2023; and 16 February 2022 prescribed in par 5(3)(b) read with joint notice 1 of 2021 extended to 16 February 2023).

Government Employees Pension Law: Draft Financial Matters Amendment Bill 2022

The Draft Bill [proposes](#) defining associated institutions pension fund (Associated Fund); and including a member of an Associated Fund as a member of the Fund.

Note: Consequential amendments are also proposed to exclusion; transfer to Fund; forfeiture; authorised benefits; and protection of rights provisions).

Income Tax Act: Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill 2022

The Draft Bill proposes confirming amount changes to [section 6](#) (normal tax rebates); [section 6A](#) (medical scheme fees tax credit); and [paragraph 9](#) of the Seventh Schedule (employment or office residential accommodation benefit), from 1 March 2022.

Note: The Draft Bill also proposes changing the commencement date of Taxation Laws Amendment Act 2021 amendments to [section 20](#) (set-off of assessed losses) and [23M](#) (limitation of interest deductions in respect of debts owed to persons not subject to tax), to 31 March 2023.

Income Tax Act: Taxation Laws Amendment Act 2021

Reminder that the Amendment Act will, on 1 March 2022, **amend**: Fringe benefit consideration of long service awards (section 1 gross income definition, and Seventh schedule employment or office benefits); Timing of disposal rules re asset acquired from a deceased estate (section 1 liquidation and distribution account definition, and 25 deceased estates).

Note: The Amendment Act will also amend members ability to use retirement interest to acquire annuities on retirement (section 1 pension fund, provident fund, and retirement annuity fund definitions).

Further note: The Amendment Act will also amend 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)).

Final note: The Amendment Act will amend 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 the Fourth schedule (employees tax).

Labour Relations Act: Essential services

Essential service designations gazetted, including in areas relating to aviation, coal mining, manganese, nuclear and weather service activities.

Note: General health screening, testing and control of infectious and communicable diseases, as well as port health has also been designated an essential service.

Further note: Cleaning services in public health, and certain private health activities relating to eye care, have also been designated an essential service.

Final note: An essential services declaration means a party to a dispute is precluded from participating in a strike or lock-out and must follow a specific conciliation-arbitration approach.

Land and Agricultural Development Bank Act: Draft Financial Matters Amendment Bill 2022

The Draft Bill **proposes** updating references to business rescue and compromise. Comment deadline 15 March 2022.

Long-term Insurance Act: Independent intermediaries

The FSCA Ins notice 5 of 2020 read with FSCA Ins notice 4 of 2022 (exemption for independent intermediaries from [regulation 8.2\(2\)](#) premium requirements until 31 March 2024), is available from the FSCA.

Mediation in Certain Divorce Matters Act: Court order

Various media report that a South Gauteng High Court judgment found [the Act](#) inconsistent with the Constitution as it discriminated against children of unmarried parents; and gave Parliament 24 months to remedy the defect.

Note: The judgment will be subject to confirmation by the Constitutional Court.

Merchandise Marks Act: Border Management Authority

The draft [prohibition on the use of the logo](#) for the Department of Home Affairs Border Management Authority is available from the Department of Trade, Industry and Competition. Comment deadline 30 calendar days from 22 February 2022.

Military Pensions Act: Draft Financial Matters Amendment Bill 2022

The Draft Bill [proposes](#) amending the operation of the Act. Comment deadline 15 March 2022.

Mine Health and Safety Act: Mandatory codes of practice for an occupational health programme

The guidelines for the compilation of a code for thermal stress, and for noise (both set for 1 May 2022), is available from the Department of Mineral Resources and Energy.

National Environmental Management Act: Climate Change Bill

The Climate Change Bill proposes amending the [definition of specific environmental management act](#) to include the Climate Change Act.

Note: Such inclusion would trigger sections of the National Environmental Management Act (Trigger), such as [definition of environmental authorisation](#) read with the [authorisation chapter](#); Criminal Procedure Act [application](#); and [inspectors](#) identity cards, powers, seizure, entry, duty to produce, and confidentiality).

Further note: Such inclusion would also Trigger [legal action](#) (standing to enforce, informant award, permit cancellation, forfeiture, admission of guilt, and jurisdiction); [appeals](#); and [limitation of liability](#).

Final note: Currently listed specific environmental management acts include the [Environment Conservation Act](#); the [National Environmental Management: Air Quality Act](#); the [National Environmental Management: Biodiversity Act](#); the [National Environmental Management: Integrated Coastal Management Act](#); the [National Environmental Management: Protected Areas Act](#); the [National Environmental Management: Waste Act](#); and the [National Water Act](#).

National Environmental Management Act: Environmental assessment practitioners

The period within which environmental assessment practitioners must register in terms of the [registration authority regulations](#) has been extended to 6 months from 8 February 2022.

National Environmental Management Air Quality Act: Climate Change Bill

The Climate Change Bill proposes that the [declaration of greenhouse gases as priority air pollutants](#), the [national pollution prevention plans regulations](#), and the [national greenhouse gas emissions reporting regulations](#), will serve as regulations and notices under the proposed law, when that Bill is enacted and commenced.

National Environmental Management Air Quality Act: Priority areas

Draft regulations for priority area air quality management plans are available from the Department of Forestry, Fisheries and the Environment.

National Environmental Management Biodiversity Act: CITES

Draft proposal, available from the Department, to include 17 succulent plant species and 1 succulent genus in appendix 3 of the [Convention of International Trade in Endangered Species in Wild Fauna and Flora](#). Comment deadline 30 days from 16 February 2022.

*Note: The succulent plant species and genus, including all parts of derivatives thereof, under consideration are *Adenia spinose*; *Ceraria pygmaea* (*Portulacaria pygmaea*); *Conophytum* (entire genus); *Mestoklemja tuberosum*; *Monsonia herrei* (*sarcocaulon herrei*); *Monsonia multifidi* (*sarcocaulon multifidum*); *Monsonia patersonii* (*Sarcocaulon patersonii*); *Othonna armaina*; *Othonna cacalioides*; *Othonna clavifolia* (*Crassothonna clavifolia*); *Othonna euphorbiodes*; *Othonna retrorsa*; *Pelargonium crassicaule*; *Pelargonium triste*; *Raphionacme zeyheri*; *Tylecodon nolteei*; *Tylecodon bodleyae*; and *Tylecondon reticulatus*.*

Further note: The export of any specimen of species included in Appendix III requires the prior grant and presentation of an export permit or a certificate of origin.

Final note: The import of any specimen of species included in Appendix III requires the prior presentation of an import certificate, a certificate of origin, and, where the import is from a State which has included that species in Appendix III, an export permit.

National Environmental Management Waste Act: Organic waste

Organic waste composting amendments made to the [list of waste management activities likely to have a detrimental effect on the environment](#).

Note: Amendments relating to organic waste treatment (other than composting) will only commence when the final [norms and standards for organic waste treatment](#) are published.

Preferential Procurement Policy Framework Act: Court order

The Constitutional Court (CCT279/20) confirmed the Supreme Court of Appeal (1050/2019) finding that the [Preferential Procurement Regulations 2017](#) (that included criteria that pre-qualified an entity) are inconsistent with the [Preferential Procurement Policy Framework Act](#), and are invalid.

Note: In the prior Supreme Court of Appeal ruling the Court suspended the declaration of invalidity for 12 months from 2 November 2020.

Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill 2022

The [Draft Amendment Bill 2022](#) proposes rate adjustments referenced in the annual budget 2022.

Short-term Insurance Act: Independent intermediaries

The FSCA Ins notice 4 of 2020 read with FSCA Ins notice 3 of 2022 (exemption for independent intermediaries from [regulation 4.2\(3\)](#) premium requirements until 31 March 2024) is available from the FSCA.

Temporary Employees Pension Fund Act:Draft Financial Matters Amendment Bill 2022

The Draft Bill [proposes](#) updating the definition of Minister to reference the Minister of Finance. Comment deadline 15 March 2022.



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