



The Contemporary Gazette

relevant new legislation for your business



Legal Update Volume 17 Issue 9, 16 May 2022

This Update

This newsletter overviews new relevant National laws up to **13th May 2022**.

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General

1. NOTABLE ONE LINERS

Animal Diseases Act: Foot and mouth disease

Control measures, relating to foot and mouth disease in the KZN and Limpopo disease management areas, are available from the Department.

Children's Act: Draft Lower Courts Bill

The Draft Bill proposes reference updates to the [childrens courts](#).

Electronic Communications Act: COVID-19

Reminder gazetted that several [COVID-19 communications minimum standards](#) have future termination and due dates (eg 30 June 2022 for duration of provisional radio frequency spectrum licences and the return of provisional radio frequency spectrum to ICASA; and duration of spectrum sharing agreements).

Note: Advertising licence conditions and local television content quotas relaxation; and duration of type approvals made in line with the COVID-19 regulations 4 July 2022.

Further note: Decommissioning of type approved equipment operating in the provisional radio frequency spectrum 30 September 2022

Further note: Maintenance of network connectivity for the schools by licensees that are assigned with provisional spectrum 12 months from the date determined by ICASA.

Final note: Maintenance of network connectivity for the virtual classrooms platforms by licensees assigned with temporary radio frequency spectrum in April 2020 17 months after deployment.

Financial Advisory and Intermediary Services Act: Credit life and funeral products

Communication 4 of 2022 and FAIS notice 42 of 2022 available from the FSCA.

Note: Provides temporary exemption of FSPs, their representatives and key individuals, and supervised representatives, from certain class of business, experience and qualification requirements.

Final note: The exemption is related to the reclassification of certain credit life products and certain funeral products.

Financial Sector Regulation Act: Financial Sector Laws Amendment Act 2021

The Amendment Act clarified who the [responsible authorities](#) are for this Act, and when.

Hazardous Substances Act: Group 2 hazardous substances

[Draft updated declaration of Group 2 hazardous substances](#). Comment within 3 months from 29 April 2022.

Note: The Minister may declare any substance or mixture of substances which, in the course of customary or reasonable handling or use, including ingestion, might, by reason of its toxic, corrosive, irritant, strongly sensitizing or flammable nature or because it generates pressure through decomposition, heat or other means, cause injury, ill-health or death to human beings, to be a Group 1 or a Group 2 hazardous substance.

Further note: The current [Group 2 hazardous substances declaration](#) will be repealed.

Final note: Also see [draft declaration of lead in paint or coating material](#) as a group 2 hazardous substance.

Insolvency Act: Financial Sector Laws Amendment Act 2021

The Amendment Act made corrections and updates to [section 83](#) (realization of securities for claims); and a heading amendment to [section 35A](#) (transactions on market infrastructure).

Note: The Amendment Act will insert [section 22A](#) (liquidation of designated institutions), once a commencement date is gazetted.

Draft Magistrates Bill

The Draft Bill proposes [revisiting](#) magistrates appointment, conditions of service, remuneration, removal from office, and powers and duties; and Commission size, objects, powers and remuneration provisions. Comment deadline extended to 15 June 2022

Note: References laws not currently available, namely a future code of conduct; and future regulation on when a magistrate may be found to be suffering from an incapacity, be grossly incompetent, or be guilty of gross misconduct.

Further note: Proposes that a magistrate may not perform any paid work outside his or her duties of office, and must disclose particulars of all his or her registrable interests and those of his or her immediate family members, as prescribed.

Magistrates Courts Act: Draft Lower Courts Bill

The Draft Bill proposes repealing this Act.

Maintenance Act: Draft Lower Courts Bill

The Draft Bill proposes making reference updates to [the Act](#).

Mutual Banks Act: Financial Sector Laws Amendment Act 2021

The Amendment Act provides for [guidance notes and directives](#).

Note: Once a commencement date is gazetted, the Amendment Act will make non-compliance with a directive by a mutual bank or auditor [an offence](#); and will provide for [mutual banks in resolution](#).

Final note: The Amendment Act will also repeal [sections 29\(4\)\(b\); 73 \(judicial management\); 74 \(voluntary winding-up\); 75 \(winding-up\); 76 \(judicial manager/liquidator\); 77 \(dissolution\); 80 \(distribution of winding-up surplus\); and 81 \(curator\)](#), once a commencement date is gazetted.

National Environmental Management Act: Convention chemicals

[Request for information](#), within 30 days from 10 May 2022, from any company that manufactures, uses, sells, imports or exports, and/or is in possession of listed chemicals, relating to local use, local manufacture and selling, import or export, containing listed waste chemicals, recommended alternatives and/or valid reasons for not supporting listing of recommended chemicals.

Note: Subject to potential exemptions, Stockholm Convention Annex A implies parties to take steps to ban production and use; Annex B implies restricted production and use; and Annex C implies measures to reduce unintentional release.

Further note: Rotterdam Convention Annex 3 implies chemicals that should be subjected to the prior informed consent procedure.

Further note: Also see [suspension](#), until November 2022, of the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade.

Final note: Also consider, amongst others, the [prohibition on persistent organic pollutants](#); the [Waste Act](#); the [Hazardous Substances Act](#); the [National Health Act](#); the [Consumer Protection Act](#); the [Occupational Health and Safety Act](#); the [Mine Health and Safety Act](#); the [Foodstuffs, Cosmetics and Disinfectants Act](#); the [Air Quality Act](#); the [Fire Brigade Services Act](#); the [Veterinary and Para-veterinary Professions Act](#); the [Agricultural Products Standards Act](#); the [Medicines and Related Substances Act](#); the [Liquor Products Act](#); and the [Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act](#).

National Environmental Management Air Quality Act: Draft environmental forum

Draft national environmental consultative and advisory forum notice, available from the Department, to advise on applications to suspend or postpone compliance with minimum emission standards; and advise on provisional atmospheric emission licences. Comment within 14 days from 12 May 2022.

National Health Act: Notifiable conditions

Notifiable medical conditions amended to provide for listing COVID-19; [masking in public places and transport](#); [limiting gatherings](#) (planned assembly or meeting at a particular venue involving 100+ persons, but excluding registered basic education institutions from gathering requirements); and further regulating [entry into SA](#) (but not for travellers under 12 or daily commuters from neighbouring countries), in a manner that may be switched on and off as the Minister decides.

Note: The [listing of COVID-19](#) as a category 2 notifiable medical condition means that the Department of Health must be notified within 7 days of diagnosis by health care providers, private health laboratories or public health laboratories.

Further note: Reminder that the regulations [prescribe duties](#) for: health establishments (eg using standard case definitions); health care providers (eg using national department forms and tools); laboratories (eg ensuring regulations are adhered to by laboratory); pathologists and laboratory staff (eg adhere to department guidelines); and medical schemes (eg report notifiable condition that a claim has been made for).

Final note: The regulations also cover the [form of a report](#) by a health provider, medical scheme etc; [measures](#) (voluntary and mandatory examinations, treatment and isolation, and control including reporting by member of community); and [rights](#) (legal representation, confidentiality and protection of records).

National Health Act: Draft management of human remains regulations

The draft regulations propose, [amongst others](#), alternative energy sources for power failures; multiple burials; certificate for road conveyance; appropriate personal protective equipment for workers; and transitional measure for certificates, permits and authorisations. Comment deadline extended to 3 months from 4 May 2022.

Note: Special provision is made for radioactive remains; conveyance of infectious human remains; where a person dies of an infectious disease outside a health establishment; and burial at sea of infectious human remains.

Final note: Proposes burial services during a disaster (not defined) or a state of public health emergency (not defined) must be as short as possible and may not exceed two hours.

National Land Transport Act: White paper on the national rail policy

The white paper is available from the Department.

National Small Enterprise Act: Draft national integrated small enterprise development masterplan

The draft masterplan is available from the Department of small business development.

Non-profit Organisations Act: Draft Amendment Bill 2021

The Draft Bill proposes, [amongst others](#), reference updates; facilitating voluntary registration of nonprofit organisations and compulsory registration for foreign organisations operating within SA; and prescribing accounting records and reports. Comment deadline 30 calendar days from 10 May 2022.

Note: Despite the above facilitation statement a proposed amendment in section 12 (requirements for registration) reads that "any nonprofit organisation, including foreign nonprofit organisations that intend to operate business

within the Republic must be registered in terms of this Act before they may operate and shall be subjected to the provisions of this Act and any other laws of the Republic".

Final note: The heading to the notice also refers to a draft victim support services bill, though nothing is further mentioned of such a draft bill in the remainder of the notice.

Occupational Health and Safety Act: Hazardous chemicals regulations

Temporary exemption gazetted from [hazardous chemical regulations](#) requirements relating to classification, safety data sheet, labelling, packaging, and disclosure of

Note: From 29 September 2022, manufacturers and/or suppliers of chemicals may continue to supply existing stock-in-trade that are non-GHS (Globally Harmonised System for the classification and labelling) compliant, provided that the chemical was manufactured or imported (landed and not in transit) prior to the 29 September 2022.

Final note: The exemption will end 30 September 2023, when all labelling and SDS (Safety Data Sheet) must be GHS compliant.

Older Persons Act: Amendment Bill

[Older Persons Amendment Bill](#) released.

Note: You may wish to revisit the [past overview](#).

Private Security Industry Regulation Act: Anti-poaching services

Draft regulations relating to security service providers [protecting and safeguarding game reserves](#), and any person using their own employees as security officers in connection with the protection or safeguarding of a private or public game reserve. Comment within 4 weeks from 29 April 2022.

Note: These regulations must be interpreted in line with their purpose and in a manner consistent with the Act, the Animals Protection Act, the Firearms Control Act, the National Road Traffic Regulations, the Performing Animals Protection Act, the Protection of Personal Information Act, Regulation of Interception of Communications and Provision of Communication-related Information Act, and any other law applicable to security service providers providing anti-poaching services.

Further note: Proposes training requirements; registration; patrol vehicle, working animals, firearms and security equipment conditions; and appointment of a responsible person.

Final note: A person deemed registered as a security service provider and providing security service for a game reserve, must comply within 180 days from the final regulations, or within such further time as the director may allow after application.

Private Security Industry Regulation Act: Remotely piloted aircraft system

Draft regulations for the [use of remotely piloted aircraft system](#) (Remote) by certain security service providers, and by any person using their own employees or agents as security officers in operating a Remote as rendering security service. Comment within 4 weeks from 29 April 2022.

Note: The regulations must be interpreted in line with their purpose and in a manner consistent with the Act, the Civil Aviation Act, the Protection of Personal Information Act, and any other law providing for the safe use of remotely piloted aircraft system.

Further note: Proposes conditions for operating and advertising Remotes; incident reporting; registration; pilot licence and related aviation information; aviation training; and record-keeping.

Final note: A person deemed registered as a security service provider, using or operating a Remote, must comply within 180 days from the final regulations, or within a time the Director of SPIRA may allow after timeous application is made.

Private Security Industry Regulation Act: Training

The draft regulations relating to the [training of security service providers](#) (Providers) will apply to all training centres and instructors providing security training; and all registered or unregistered providers, practicing the occupation of provider. Comment within 4 weeks from 29 April 2022.

Note: A person intending security training to security service providers must, ia, continuously meet all Authority registration and accreditation criteria; and meet the regulation 12 and 13 minimum and assessment requirements.

Further note: Proposes assets-in-transit, reaction, special events, dog handler, and firearm services requirements; and that the Authority will determine and accredit qualifications, and additional or continuous development learning requirements.

Further note: A training centre must be able to prove its dedication to the ideal of maintaining and upholding towards the Authority a relationship based on integrity, honesty and willingness to comply with all requirements and laws applicable to it; and meet the regulation 11 minimum requirements.

Final note: A person registered and accredited as a security service training provider, instructor and training centre, must comply within 18 months from the final regulations, or within such longer time as the director may allow upon application.

Public Service Act: Draft policy guidelines for recognition of prior learning

The draft guidelines (intended to strengthen the workplace learning system by increasing the acquisition of formal employability, mobility, access to professional designations, lifelong learning, social inclusion and self-esteem of public servants) is available from the Department. Comment by 31 May 2022.

Small Claims Courts Act: Draft Lower Courts Bill

The Draft Bill proposes making reference amendments to [the Act](#).

Standards Act

New, proposed, amended, and withdrawn [standards](#) gazetted for 2022.

Superior Courts Act: Draft Lower Courts Bill

The Draft Bill proposes making reference updates to the [preamble](#) and [definitions](#).

Superior Courts Act: Intermediaries

The [draft determination of persons competent to be intermediaries](#) under section 37A(4)(a) suggests section 17 of the Health Professions Act registrations (psychiatry; paediatrics; general practitioners and family physicians with 2+ years experience as practitioners; occupational, speech and art therapists; audiologists; physiotherapists; and clinical, counselling or educational psychologists); as well as certain nurses, social workers, family counsellors, educators, early childhood development practitioners, child and youth care workers and community trauma counsellors. Comment deadline 13 May 2022.

Note: The same determination applies to section 51A(4)(a) Magistrates' Courts Act intermediaries.

Further note: The determination also states instances in which the determined persons will not be competent to act as intermediaries.

Final note: A draft determination has also been proposed for section 170A(4)(a) Criminal Procedure Act intermediaries.



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2. DRAFT LOWER COURTS BILL

The Draft Bill is a review and an update of the law regulating regional, periodical, district and municipal courts, that focuses on establishing a uniform framework for judicial management, by the judiciary, including the possibility of electronic proceedings. Many of the proposals reflect existing law.

The Draft Bill proposes, [amongst many others](#):

- (i) A judicial officer that believes a practitioner has been guilty of misconduct or dishonourable practice must report the fact to the Legal Practice Council;

Note: Unless expressly otherwise provided in the proposed law, the rules and the [National Credit Act](#), and subject to [section 19](#) of the Debt Collectors Act, only an attorney or person authorised under the National Credit Act may recover from the debtor any fees or remuneration in connection with the collection of any debt;

Further note: Also consider the [Contingency Fees Act](#).

- (ii) Service by police in criminal matters or where there is no sheriff for the area; and service by a public body that may under any law prosecute privately or receive fines based on an offence under any law;
- (iii) Civil jurisdiction based on area, person, cause of action, attachment, consent and/or amount involved; incidental jurisdiction; and [section 41](#) matters beyond jurisdiction;

Note: In addition to the general jurisdiction provisions, specific laws may provide that a specific action or offence falls within the jurisdiction of a lower court; and [section 106](#) makes specific provision regarding garnishee orders.

- (iv) Automatic rent interdicts; attachment of property in security of rent; recovery of costs of letter of demand; admission of liability; and [section 131](#) offence;

Note: Certain sections, such as admission of liability, are subjected to the National Credit Act if request for judgment is based on a regulated credit agreement, while others, such as [section 57](#) consent, require consideration of any over-indebtedness or reckless credit.

- (v) [Section 43](#) judgments; variation or rescission of judgments, including judgments obtained by fraud; and mediation;

Note: [Section 54](#) proposes factors to be taken into account when considering just and equitable order.

(vi) A witness under the biological or mental age of 18 years; who suffers from a physical, psychological, mental or emotional condition; or who is an older person, may give evidence through an intermediary, where warranted in the view of the court;

Note: Provision is also made for evidence through audio-visual links in certain instances.

A large part of the Draft Bill is dedicated to [execution provisions](#) including, amongst others:

(i) A second court is to be given jurisdiction on good cause shown to stay any warrant of execution or arrest issued by another court against a party who is subject to the jurisdiction of the second court;

Note: Any court may, on good cause shown, stay or set aside any warrant of execution or arrest issued by itself, including a [section 81](#) order.

Further note: In addition, what seems, on the face of it, to allow a lower court being able to override a higher court, [section 107](#) provides that notwithstanding any other law, the district or regional court may, on the application of any interested party, review and confirm, modify or settle the conditions of sale in respect of any immovable property to be sold in execution of any judgment of any superior court or regional court.

Further note: Also see [section 114](#) proposal that no appeal shall lie from any decision of a lower court if, before the hearing is commenced, the parties lodge with the court an agreement in writing that the decision of the court shall be final.

Final note: [Section 143](#) states that nothing contained in the proposed law must be construed as depriving any superior court of any power to review and correct the proceedings of any lower court.

(ii) Execution against property may not be issued upon a judgment after 3 years from the day on which it was pronounced or on which the last payment in respect thereof was made, except upon certain court order applications;

Note: Also see [interruption of prescription upon hearing for application of an administration order](#); and also consider the [Prescription Act](#).

(iii) The court must act in terms of the [National Credit Act](#) provisions for over-indebtedness, reckless credit and affordability assessment when considering an offer by a judgment debtor after judgment, if the judgment is based on a credit agreement under the National Credit Act;

Note: Also note [section 109](#) proposes that, save where under [section 69\(1\)](#) an order may be granted against the State, the proposed law may not be construed as authorising the attachment of any debt or emoluments or any moneys or property specially declared by any law not to be liable to attachment.

(iv) Further procedural and other requirements and expenses for a judgment creditor before rights may be enforced (in the [section 66](#) notice to judgment debtor if judgment remains unsatisfied);

Note: Also see determination of judgment debtor's financial position; postponement of proceedings pending execution; application for administration order has preference; [section 72](#) cost orders; suspension of execution of debt; and [section 110](#) court may suspend execution.

Final note: Also see offences by judgment debtor; judgment debtor duty to inform court of change in address; and [section 139](#) offence to incur debts where nulla bona return was given.

(v) The amount of the instalment payable or the total amount of instalments payable where there is more than one [section 71](#) emoluments attachment order payable by the judgment debtor, may not exceed 25% of the judgment debtor's basic salary;

Note: Any emoluments attachment order may at any time on good cause shown be suspended, amended or rescinded by the court, and when suspending any such order the court may impose such conditions as it may deem just and reasonable.

Further note: Any employer who, having been requested by an employee to furnish a written statement containing full particulars of such employee's emoluments, fails or neglects to do so within a reasonable time, or who wilfully or negligently furnishes incorrect relevant particulars, is guilty of an offence.

Final note: Any garnishee who, by reason of an emoluments attachment order served on him or her in respect of the emoluments of a judgment debtor not occupying a position of trust in which he or she handles or has at his or her disposal moneys, securities or other articles of value, dismisses or otherwise terminates the service of such judgment debtor, will be guilty of an offence.

(vi) [Section 74](#) manner of execution including that immovable property subject to any claim preferent to that of the judgment creditor may not be sold in execution if the proceeds of the sale are not sufficient to satisfy the claim of such preferent creditor, in full; and

Note: [Section 80](#) states that if, after a sale in execution, there remains any surplus in the hands of the sheriff, it shall be liable to attachment for any other unsatisfied judgment debt.

(vii) [Section 81](#) attachment of debts; and [section 87](#) administration order authorizing of issue of emoluments attachment order or garnishee order.

Note: [Section 99](#) states that as long as any administration order applies to the estate of any debtor, a creditor does not have any remedy against the debtor or his or her property for collecting money owing, except in regard

to any mortgage bond or any debt referred to in [section 85\(3\)](#) or by leave of the court and on such conditions as the court may impose.

Further note: Any person who is subject to an administration order and who during the currency of such order incurs any debt without disclosing that he or she is subject to an administration order, shall be guilty of an offence and the court may also set aside the administration order.

Final note: The granting of an administration order under [section 83\(1\)](#) shall be no bar to the sequestration of the debtor's estate.



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Safety

3. INTERNATIONAL HEALTH REGULATIONS ACT: DRAFT PUBLIC HEALTH MEASURES

The comment deadline for [draft regulations relating to public health measures in points of entry](#) has been extended to 3 months from 4 May 2022.

The draft regulations are subject to the Constitution, including the [limit on limiting Constitutional Rights](#).

The rights in the [Bill of Rights](#) may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including: the nature of the right; the importance of the purpose of the limitation; the nature and extent of the limitation; the relation between the limitation and its purpose; and less restrictive means to achieve the purpose.

Except as provided above, or in any other provision of the Constitution, no law may limit any right entrenched in the [Bill of Rights](#).

The draft regulations propose, [amongst others](#):

- (i) A [health nuisance or condition that is a danger to health](#) may not be permitted at a point of entry facility or conveyance;

Note: Conveyance is defined as an aircraft, ship, train, road vehicle or other means of transport on an international voyage.

Further note: Point of entry is defined as a passage for international entry or exit of travellers, baggage, cargo, containers, conveyances, goods and postal parcels, and agencies and areas providing services to them on entry or exit; and frontier posts.

Final note: [Maritime safety precautions](#) (medical log of daily temperature screening and general hygiene and precautionary measures when disembarking and embarking vessels) are also proposed.

(ii) [Travellers to be subjected to](#) examination, vaccination or prophylaxis or proof thereof as a condition of entry when necessary to determine if a public health risk exists; [and/or] as a condition of entry for travellers;

Note: The draft regulations do not use 'and/or' after 'exists' - the space is blank.

Further note: Public health risk is defined as a likelihood of an event that may affect adversely the health of human populations, with an emphasis on one which may spread internationally or may present a serious and direct danger.

Final note: Specific provision is also made for [yellow fever](#), and [charges will be raised for these additional health measures](#).

(iii) Additional health measure directives [during a public health emergency of international concern or pandemic](#), that may require travellers to undergo medical examination and complete and submit a travel health questionnaire; and passengers and crew to produce a test result within a timeframe to be prescribed;

Note: Reference is made to placing travellers and goods exposed to infection, in isolation or quarantine or surveillance for a period not exceeding the incubation period of such disease.

Further note: Allowance will be made to keep in isolation a traveller suspected of infection as long as the authority considers necessary to contain; and to quarantine travellers.

Final note: Public health emergency of international concern is [defined](#) as an extraordinary event which is determined, as provided in the [International Health Regulations](#) to constitute a public health risk to other states through the international spread of disease; and to potentially require a coordinated international response.

(iv) Subject to the proposed regulations, an arriving ship or aircraft may [not be refused free pratique](#) for public health reasons;

Note: A conveyance will no longer be [considered affected](#) when prescribed measures have been effectively carried out, and there are no conditions on board that could constitute a public health risk.

Further note: Limited provision is made for an authority to explain their intrusive actions, when any measures have been applied for the removal or eradication of any communicable disease or public health risk, through a requested [certificate](#).

Final note: [Charges](#) will be raised for vessels.

(v) Regulating [ground and air](#) and [sea](#) medical evacuations; certain [conveyances in transit](#); [ship sanitation certificates](#); and [conveyances, point of entry](#) and [container loading](#) vector control;

(vi) If the competent authority has reason to believe goods are contaminated by a communicable disease or may serve as a vehicle for the spread of any disease, such [goods must be subjected](#) to the regulations' health measures; and

Note: This will not apply to laboratory samples, blood and blood products.

Further note: [Charges](#) will be raised for baggage, cargo, containers, conveyances, goods and postal parcels.

Final note: Provision will be made for [reapplication of health measures](#).

(vii) Medical examination and prohibited departure for certain [departing travellers wishing to leave](#) pending proven recovery or not infected and disinfected, disinfected or decontaminated items.

Note: [Quarantine and isolation](#) conditions will include that owners or persons in charge of point of entry facilities or passenger vessels must designate a specific area/facility for the temporary isolation of suspect travellers.



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4. NATIONAL HEALTH ACT: DRAFT ENVIRONMENTAL HEALTH REGULATIONS

Comment deadline for draft [regulations relating to environmental health](#) extended to 3 months from 4 May 2022.

The draft regulations are subject to the Constitution, including the [limit on limiting Constitutional Rights](#).

The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including: the nature of the right; the importance of the purpose of the limitation; the nature and extent of the limitation; the relation between the limitation and its purpose; and less restrictive means to achieve the purpose.

Except as provided above, or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

The draft regulations propose, amongst others, and subject to [municipality exemptions](#):

- (i) [Every owner or occupier](#) must take all reasonable measures to prevent a condition that is a public health hazard or environmental health nuisance (Nuisance) arising on the premises; and to reduce or eliminate a nuisance or danger;

Note: Nuisance will refer to a use that creates conditions that significantly increase the risk of a public health hazard or compromises an aspect of public health to an extent more than trivial or insignificant - 9 examples are given in the [definition](#).

Further note: 'More than trivial or insignificant' seems wide open to interpretation.

Final note: Public health hazard will be any actual threat to public health, and includes conditions that are unsanitary; make it easier for a communicable disease to spread; make food or drink unhygienic or unsafe; or allows pests or parasites to infest where they may affect public health.

(ii) Specific requirements for owners and occupiers relating to [dumping and littering](#); [removal of waste](#); and [noise, air and water pollution](#);

Note: This seems to duplicate, overlap and/or add regulatory layers to existing laws, such as the National Health Act (eg [norms and standards for premises](#)); the Occupational Health and Safety Act (eg [noise regulations](#)); the Air Quality Act (eg [model air quality management by-law](#)); and the Waste Act (eg [norms and standards](#)).

(iii) Specific requirements for owners and occupiers relating to [vermin and vector](#); [overcrowding](#); [health certificate](#) for [schedule 1](#) activities;

Note: Schedule 1 lists accommodation establishments (not defined); beauty salons; child care centres; crematoriums; dry cleaning and laundry establishments; food premises; funeral undertaker's premises; homes for the aged; initiation schools; maternity homes; mortuaries; nursing homes; premises used for keeping of animals and poultry; and swimming pools and spa baths.

Further note: This seems to duplicate, overlap and/or add regulatory layers to existing laws, such as the [Rental Housing Act](#) (Minister may prescribe regulations for overcrowding and health matters); and the National Health Act (eg [norms and standards for premises](#)).

(iv) Specific requirements for owners and occupiers relating to and [private sewage works](#); [maintaining private sewage works](#); [waste, grey and harvested rain water](#); [non-waterborne sanitation facilities](#); [septic tanks](#); [toilet facilities and drainage systems](#); and [public gathering toilets and wash basins](#);

Note: This seems to duplicate, overlap and/or add regulatory layers to existing laws, such as the National Building Regulations and Building Standards Act (eg [drainage regulations](#)); the Occupational Health and Safety Act (eg [facilities regulations](#)); and the National Health Act (eg [norms and standards for premises](#)).

(v) The [use of premises](#) must be in line with the requirements set out in norms and standards Schedule 1 and other applicable legislation, for prevention of a public health hazard or environmental health nuisance;

Note: Other applicable legislation may include, but not be limited to, the law mentioned in footnotes above and the Agricultural Pests Act (eg [regulations](#)); the Animal Diseases Act (eg [regulations](#)); the [Fire Brigade Services Act](#) (eg regulations may be made regarding the safety requirements to be complied with on premises to reduce the risk of a fire or other danger, or to facilitate evacuation); the Foodstuffs, Cosmetics and Disinfectants Act

([general hygiene requirements for food premises](#)); the [Hazardous Substances Act](#); and the [Biodiversity Act](#) (eg [alien and invasive species regulations](#)).

Further note: It is not clear what norms and standards schedule 1 refers to - it may refer to the [premises norms and standards](#) that contain both general standards for all premises, and specific standards for schools, accommodations, construction sites, health establishments, vacant land, office accommodations and many more.

Final note: The reference to schedule 1 may have meant 'as set out in the requirements for activities contained in [schedule 1](#) to these regulations - the intention is not clear.

(vi) A person may not conduct a listed [offensive trade](#) activity on any premises without a municipality permit; and

Note: There are 48 offensive trades currently listed such as panel beating; scrap yards; food-processing factories; storing fertilizers; breweries; slaughter houses; candle works; paper mills; sawmills; landfill sites; dry cleaning; and general handling or storage of any substance or material which can lead to a public health hazard.

Final note: Laws such as the [Promotion of Administrative Justice Act](#), and the [Prevention and Combating of Corrupt Activities Act](#), may also theoretically become a consideration in such matters.

(vii) [Inspections](#) including examining anything suspected likely to cause environmental health nuisance or to be detrimental to health; [investigations](#); [compliance notices](#); [immediate remedy](#), [confiscation](#), [seizure](#); and [reports](#) to owners or occupiers.

Note: Provision is made for [appeal](#) and, though not stated, there should be a further opportunity to go to court in terms of the Constitutional Right to [access to courts](#).



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Safety

5. NATIONAL HEALTH ACT: DRAFT NOTIFIABLE CONDITIONS

Comment deadline for draft amendments to the [surveillance and the control of notifiable medical conditions](#) extended to 3 months from 4 May 2022.

The draft regulations are subject to the Constitution, including the [limit on limiting Constitutional Rights](#).

The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including: the nature of the right; the importance of the purpose of the limitation; the nature and extent of the limitation; the relation between the limitation and its purpose; and less restrictive means to achieve the purpose.

Except as provided above, or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

The draft amendments propose, amongst others:

- (i) [Medical treatment](#), health establishment, quarantine or isolation site admission, and/or prophylaxis, treatment, isolation or quarantine, for confirmation, suspicion or contact relating to certain serious notifiable diseases; read with [representation](#);

Note: It would be preferable if the self-isolation and self-quarantine referred to in [isolation and quarantine](#); [isolation of symptomatic person](#); and [criteria for self-isolation or self-quarantine](#) were also clearly reflected in the above actions, [voluntary actions](#), [mandatory actions](#), and [isolation of a asymptomatic person](#).

Further note: Repeat testing will not be required for a person to come out of isolation and to re-integrate into society.

Final note: Provision is also made for [designation of quarantine facilities](#) that mention some medical expectations but is currently silent on matters relating to making effort to assist the general wellness of persons taken there.

(ii) A Notifiable Medical Conditions Contact Tracing Database to take all information 'considered necessary' for the [contact tracing process](#) to be effective from contacts, and from laboratory and NICD information taken about persons.

Note: This form of contact tracing seems similar to the past [COVID-19 contact tracing](#), and seems to override the [confidentiality](#) and [protection of record](#) mentions.

Further note: It is not immediately clear how information will actually be protected; and it would have been preferable if serious measures for abuse of the information taken were stated and highlighted.

Final note: There is a reference to de-identification 6 weeks after the national state of disaster finally ends - it is not certain how this must be understood.

(iii) Containing the spread of Annexure A tables 1 to 3 notifiable medical conditions (such as respiratory disease caused by a novel respiratory pathogen) with: [Face masking, social distances etc](#); [Exiting SA provisions](#); [Entering SA provisions](#) (including reference to full vaccination certificate or PCR test during COVID-19 pandemic); [Public places provisions](#); [Gathering provisions](#) (including reference to an epidemic or pandemic and to restrictions during COVID-19); [Controlled visits](#) to health establishments and facilities; and [Compliance officers](#) plans for such notifiable medical conditions; and

Note: Consideration is also given to [aircraft crew on international flights](#); [vessel crew](#); [local air travel](#); [cross border freight operators](#); and [funerals](#) (including reference to 100 persons and prohibitions during the COVID-19 pandemic).

Further note: The wording currently seems to suggest these measures must be followed endlessly, even if the actual events do not exist, 'in order to contain the spread' - more clarity on potentially highly intrusive actions are needed.

Final note: Reminder that [failure to comply](#) with any of the provisions in any situation may, according to the current text, be punishable with up to 10 years imprisonment and a fine.

(iv) [Advice may be shared](#) amongst Cabinet members with regard to curfew; sport; economic sector operations; national or local lockdowns; public transport; religious and cultural practices; and alcohol sale, dispensing and consumption of alcohol.

Note: Reminder that regulation 2 confirms that some thought should be taken of the [Constitution](#); the [International Health Regulations](#); and 'full respect' for the dignity, confidentiality, human rights and fundamental freedoms of persons.

Further note: Reminder that health care providers, medical schemes, health establishments, laboratories, pathologists and laboratory personnel have existing [responsibilities](#) and [duties to notify](#) regarding notifiable medical conditions.

Final note: Reminder that there are [reporting of notifiable medical conditions duties](#) on any member of the community or a head of an institution.



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