

CAPE TOWN ATTORNEYS ASSOCIATION

LIBRARY CIRCULAR – 22 November 2013

A. RECENT BILLS (*available on www.jutalaw.co.za*)

Infrastructure Development Bill B49-2013

To provide for the facilitation and co-ordination of public infrastructure development which is of significant economic or social importance to the Republic; to ensure that infrastructure development in the Republic is given priority in planning, approval and implementation; to ensure that the development goals of the State are promoted through infrastructure development; to improve the management of such infrastructure during all life-cycle phases, including planning, approval, implementation and operations; and to provide for matters incidental thereto.

Women Empowerment and Gender Equality Bill B 50-2013

To give effect to section 9 of the Constitution of the Republic of South Africa, 1996, in so far as the empowerment of women and gender equality is concerned; to establish a legislative framework for the empowerment of women; to align all aspects of laws and implementation of laws relating to women empowerment, and the appointment and representation of women in decision making positions and structures; and to provide for matters connected therewith.

Judicial Matters Second Amendment Bill B51-2013

To amend the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, so as to enable the Minister of Justice and Constitutional Development to designate certain courts for purposes of dealing with sexual offences; and to provide for matters connected therewith.

State Attorney Amendment Bill B52-2013

To amend the State Attorney Act, 1957, so as to provide for the establishment of offices of State Attorney; to provide for the appointment of a Solicitor-General and State Attorneys; to provide for the powers of the Minister relating to the functions of the offices of State Attorney; to provide for the powers and functions of the Solicitor-General; and to provide for matters connected therewith.

Judicial Matters Third Amendment Bill B53-2013

To amend the Attorneys Act, 1979, so as to further regulate the powers of the board of control of the Attorneys Fidelity Fund; the Child Justice Act, 2008, so as to further regulate the evaluation of the criminal capacity of a child; to provide for the delegation of certain powers and assignment of certain duties by the Cabinet member responsible for social development in respect of the accreditation of diversion programmes and diversion service providers; to repeal provisions that make the Criminal Law Amendment Act, 1997, applicable to persons under the age of 18 years; and to provide for matters connected therewith.

Property Valuation Bill B 54-2013

To provide for the establishment, functions and powers of the Office of the Valuer-General; to provide for the appointment and responsibilities of the Valuer-General; to provide for the regulation of the valuation of property that has been identified for land reform as well as property that has been identified for acquisition or disposal by a department; and to provide for matters connected therewith.

Public Administration Management B55-2013

To promote the basic values and principles governing the public administration referred to in section 195(1) of the Constitution; to provide for the transfer and secondment of employees in the public administration; to regulate conducting business with the State; to provide for capacity development and training; to provide for the establishment of the National School of Government; to provide for the use of information and communication technologies in the public administration; to establish the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit; to provide for the Minister to set minimum norms and standards for public administration; to establish the Office of Standards and Compliance to ensure compliance with minimum norms and standards; to empower the Minister to make regulations; and to provide for related matters.

Rental Housing Amendment Bill B56-2013

To amend the Rental Housing Act, 1999, so as to substitute and insert certain definitions; to set out the rights and obligations of tenants and landlords in a coherent manner; to require leases to be in writing; to extend the application of Chapter 4 to all provinces; to require MEC's to establish Rental Housing Tribunals; to extend the powers of the Rental Housing Tribunals; to provide for an appeal process; to require all local municipalities to have Rental Housing Information Offices; to provide for norms and standards related to rental housing; to extend offences; and to provide for matters connected therewith.

DRAFT BILLS

Children's Draft Amendment Bill

To amend the Children's Act, 2005, so as to insert a definition; to provide that a person convicted of a sexual offence be deemed unsuitable to work with children; to deem persons convicted of a sexual offence, whether in or outside the Republic, unsuitable to work with children; to instruct the National Commissioner of the South African Police Service to forward all the particulars of persons deemed unsuitable to work with children to the Director-General; to instruct the Director-General, to enter such particulars in the National Child Protection Register; to provide that the removal of a child to a temporary safe care without a court order be placed before the Children's Court for review before the expiry of the next court day; to provide for the review of decisions to remove a child without a court order; and to provide for matters connected therewith.

GN 1105 GG 37014 15.11.2013

Children's Second Draft Amendment Bill, 2013

To amend the Children's Act, 2005, so as to insert new definitions; to extend the definition of adoption social worker; to provide that the interim order granted in respect of the removal of a child to temporary safe care be placed before the children's court before the expiry of the next court date and that the parents, guardians or care giver be present in court; to provide for the provincial head of social development to transfer a person from one form of alternative care to another; and to provide for matters connected therewith.

GN 1104 GG 37014 15.11.2013

Draft Promotion and Protection of Investment Bill

To provide for the legislative protection of investors and the protection and promotion of investment; to achieve a balance of rights and obligations that apply to all investors; and to provide for matters connected therewith.

GN 1087 GG 36995 1.11.2013

B. FROM THE GOVERNMENT GAZETTES

COMMENCEMENT OF STATUTES

Income Tax Act (58/1962), s. 12L (Deduction in respect of energy efficiency savings)
.....with effect from 1 November 2013

GN 855 GG 37019 8.11.2013

Sheriffs Amendment Act (14/2012), ss 1, 4 (b), 5 (to the extent that it inserts s 6B), 6 and 10 to 15)....with effect from 1 November 2013

Proc R47 GG 36985 1.11.2013

REGULATIONS AND GOVERNMENT NOTICES

National Road Traffic Act (93/1996): Amendment of regulations

GN 890 GG 37048 19.11.2013

Public Finance Management Act (1/1999): Treasury Regulations amended

R.874 GG 37042 15.11.2013

Construction Industry Development Board Act (28/3000): Construction Industry Development Board (CIDB): Draft Best Practice: Minimum Requirements for Engaging Subcontractors on Construction Works Contracts published for comment

BN 226 GG 37014 15.11. 2013

C. FROM THE PROVINCIAL GAZETTES

WC Provincial Road Traffic Administration Act 2012 : Safety of Cyclists Regulations

PN 372 PG 7194 20.11.2013

D. SCA JUDGMENTS

Nedbank v Proccrops (108/13) [2013] ZASCA 153

20 November 2013

Subject: Banker — payment guarantee — interpretation — provision requiring delivery to bank of original guarantee with first demand for payment — only one payment by bank provided for.

Cronimet Chrome Mining SA v Brodsky Trading 224 CC (851/12) [2013] ZASCA 155

22 November 2013

Summary: Where an order given in the high court is final in effect, but is not definitive of the rights of the parties, nor disposes of a substantial part of the relief claimed, the order is not appealable.

Orange Brand Services v Account Works Software (970/12) [2013] ZASCA 158

22 November 2013

Summary: Trade Mark — prior application for registration — whether 'likely to deceive or confuse' ORANGE and ORANGWORKS relating to computer software.

The Standard Bank of SA v 3MFuture Africa (47/2013) [2013] ZASCA 157

22 November 2013

Summary: Patents – revocation for want of novelty – test to be applied reiterated – whether claims anticipated.

Golden Arrow Bus Services v City of Cape Town (418/13) [2013] ZASCA 154

22 November 2013

Summary: Where a municipality is negotiating with a vehicle operator to enter into a contract in respect of the provision of an Integrated Public Transport Plan, in terms of s 41 of the National Land Transport Act 5 of 2009, neither party is entitled to refer any dispute over the proposed terms of the contract to mediation or arbitration.

Public Investment Corporation v Bodigelo (128/2013) [2013] ZASCA 156

22 November 2013

Summary: Respondent, as part of his employment with appellant, nominated as non-executive director to boards of companies in which appellant held an interest – claimed payment of directors' fees – trial court held that respondent failed to discharge onus of establishing his entitlement to fees and bonuses – on appeal full court held onus on appellant to establish entitlement to payments which it failed to discharge – in a further appeal held that fact that respondent was obliged to exercise an unfettered discretion *qua* director did not affect his obligations *qua* employee in terms of his employment contract with appellant – onus on respondent to establish entitlement to the payments which he had failed to do – appeal upheld – order of trial court dismissing respondent's claim reinstated.