

CAPE TOWN ATTORNEYS ASSOCIATION

LIBRARY CIRCULAR – 26 September 2014

A. NEW ACTS

Labour Relations Amendment Act 6 of 2014 (commencement date to be proclaimed)

To amend the Labour Relations Act, 1995, so as to facilitate the granting of organisational rights to trade unions that are sufficiently representative; to strengthen the status of picketing rules and agreements; to amend the operation, functions and composition of the essential services committee and to provide for minimum service determinations; to provide for the Labour Court to order that a suitable person be appointed to administer a trade union or employers' organisation; to enable judges of the Labour Court to serve as a judge on the Labour Appeal Court; to further regulate enquiries by arbitrators; to provide greater protection for workers placed in temporary employment services; to regulate the employment of fixed term contracts and part-time employees earning below the earnings threshold determined by the Minister; to further specify the liability for employer's obligations; and to substitute certain definitions; and to provide for matters connected therewith.

Legal Practice Act 28 of 2014 (commencement date to be proclaimed)

To provide a legislative framework for the transformation and restructuring of the legal profession in line with constitutional imperatives so as to facilitate and enhance an independent legal profession that broadly reflects the diversity and demographics of the Republic; to provide for the establishment, powers and functions of a single South African Legal Practice Council and Provincial Councils in order to regulate the affairs of legal practitioners and to set norms and standards; to provide for the admission and enrolment of legal practitioners; to regulate the professional conduct of legal practitioners so as to ensure accountable conduct; to provide for the establishment of an Office of a Legal Services Ombud and for the appointment, powers and functions of a Legal Services Ombud; to provide for a Legal practitioners' Fidelity Fund and a Board of Control for the Fidelity Fund; to provide for the establishment, powers and functions of a National Forum on the Legal profession; and to provide for matters connected therewith.

Local Government: Municipal Property Rates Amendment Act 29 of 2014

To amend the Local Government: Municipal Property Rates Act, 2004, so as to provide for the amendment and insertion of certain definitions; to delete the provisions dealing with district management areas; to provide that a rates policy must determine criteria for not only the increase but also for the decrease of rates; to delete the provisions of section 3(4) and to provide for a rates policy to give effect to the regulations promulgated in terms of section 19(1)(b); to provide that by-laws giving effect to the rates policy must be adopted and published in terms of the Municipal Systems Act; to provide for the determination of categories of property in respect of which rates may be levied and to provide for a municipality to apply to the Minister for authorisation to sub-categorise property categories where it can show good cause to do so; to regulate the timeframe of publication of the resolutions levying rates and what must be contained in the promulgated resolution; to provide for the Minister to make a decision in terms of section 16(2) with the concurrence of the Minister of Finance; to provide for the exclusion from rates of certain categories of public service infrastructure as well as mining rights or mining permits, to provide that infrastructure above the surface in respect of mining property is rateable and the rates are payable by the holder of the mining right or mining permit; to provide that the exclusion from rates in respect of land belonging to a land reform beneficiary is extended to the spouse and dependants; to

provide that an exclusion from rates in respect of the seashore lapses if any part thereof is alienated; to provide that a municipality may levy different rates on vacant residential property; to provide that a municipality may not recover rates in respect of a right of exclusive use registered against a sectional title unit from the body corporate; to provide that a person liable for a rate must furnish the municipality with his or her postal address; to provide that municipalities are not required to value properties fully excluded from rates; to provide for the period of validity of a valuation roll to be four years in respect of a metropolitan municipality and five years in respect of local municipalities; to provide for the MEC for local government to extend the period of validity of valuation rolls by two additional years where the provincial executive has intervened in terms of section 139 of the Constitution and by one financial year and two financial years for metropolitan and local municipalities respectively on request by a municipality in any exceptional circumstances; to provide that a body corporate, share block company or managing association is required to provide information to a valuer; to delete the requirement for the payment of interest in specific instances; to delete the requirement for the establishment of a valuation appeal board in every district municipality; to provide that a professional associated valuer may be appointed to the valuation appeal board if a professional valuer cannot be appointed; to amend the quorum of an appeal board to include the valuer member of the valuation appeal board; to amend the dates on which a supplementary valuation takes effect; to provide for the notification of owners of property affected by a supplementary valuation; to limit condonation by the MEC for local government through the framework to municipalities only; to provide for more effective monitoring and reporting by municipalities and provinces on critical areas of the implementation of the Act; to extend the Minister's regulatory powers; to provide for the phasing in of certain regulations; to provide for the phasing in of the prohibition on the levying of rates on certain types of public service infrastructure; to provide for transitional arrangements in respect of municipalities that have been affected by a redetermination of municipal boundaries; to provide for transitional arrangements for the implementation of section 8; and to provide for matters connected therewith.

Customs Duty Act 30 of 2014

To provide for the imposition, assessment, payment and recovery of customs duties on goods imported or exported from the Republic; and for matters incidental thereto.

Customs Control Act 31 of 2014 (Date of commencement to be proclaimed)

To provide for customs control of all vessels, aircraft, trains, vehicles, goods and persons entering or leaving the Republic; to facilitate the implementation of certain laws levying taxes on goods and of other legislation applicable to such goods and persons; and for matters incidental thereto.

Customs and Excise Amendment Act 32 of 2014 (Date of commencement to be proclaimed)

To amend the Customs and Excise Act, 1964, so as to delete all provisions superseded by general provisions of the Customs Control Act applicable to all tax levying Acts; to delete all provisions relating to the customs control of imported goods and goods to be exported; to delete all provisions relating to the imposition, collection and refunding of customs duties and other matters relating to customs duties; to limit the remaining provisions of the Act to excise duties, fuel levies, Road Accident Fund levies, environmental levies, air passenger taxes and matters relating to such duties, levies and taxes; and to change the name of the Act to the Excise Duty Act, 1964; and to provide for matters connected therewith.

Financial Management of Parliament Amendment Act 34 of 2014 (commencement to be set)

To amend the Financial Management of Parliament Act, 2009 so as to insert further definitions; to deal with the financial management of provincial legislatures; to amend the provisions dealing with the oversight mechanism; to amend provisions dealing with Parliament's annual budget, appropriations and approvals; to amend the provisions dealing with donor funds; to delete certain provisions dealing with Parliament's own revenue sources; to align the provisions dealing with reporting and auditing with the Public Finance Management Act, 1999; to repeal certain sections of the Powers and Privileges Act, 1963; to delete certain references to "provincial legislatures" in the Public Finance Management Act, 1999; to include references to performance management; to amend the long title; and to provide for matters connected therewith.

B. PARLIAMENTARY BILLS

Legal Aid Bill B8-2014

To ensure access to justice and the realisation of the right of a person to have legal representation as envisaged in the Constitution; for that purpose to establish an entity called Legal Aid South Africa with a Board of Directors and to define its objects, powers, functions, duties and composition; to provide for the independence and impartiality of Legal Aid South Africa; to provide for the appointment of the Board of Directors and qualification for membership thereof; to provide for the appointment of a chairperson and a deputy chairperson; to provide for the term of appointment of a member of the Board of Directors; to provide for the termination of membership of the Board of Directors; to provide for meetings of the Board of Directors, quorum and procedure; to provide for the establishment of committees by the Board of Directors; to provide for the delegation of powers and the assignment of duties or functions of the Board of Directors; to provide for the appointment of a chief executive officer and his or her functions; to provide for the appointment of employees and agents of Legal Aid South Africa and their terms and conditions of employment; to provide for the protection of client privilege in certain circumstances; to provide for the recovery of costs by Legal Aid South Africa; to provide for the finances of Legal Aid South Africa; to provide for the provision of legal aid by direction of courts in criminal matters; to provide for the compilation of a Legal Aid Manual; to provide for the making of regulations; to provide for the amendment or repeal of laws; to provide for transitional arrangements; and to provide for matters incidental thereto.

Attorneys Amendment Bill B9-2014

To amend the Attorneys Act, 1979, as an interim measure, pending the enactment of legislation aimed at rationalising the legal profession, so as to address disparities in relation to attorneys and candidate attorneys in the territories comprising the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, and, for that purpose, repeal the laws of the former territories in so far as they are still applicable to attorneys and candidate attorneys in these territories; to further regulate the engagement of candidate attorneys and their right of appearance in courts; to give effect to a Constitutional Court judgment; to further regulate juristic persons conducting legal practice; to enable actions against the Attorneys Fidelity Fund to be instituted in other courts than the High Court; to restructure the areas of jurisdiction of law societies; to amend or delete certain obsolete provisions and expressions; to provide for transitional arrangements; and to provide for matters connected therewith.

C. FROM THE GOVERNMENT GAZETTES

COMMENCEMENT OF STATUTES

Basic Conditions of Employment Act (20/2013)... 1 September 2014

Proc 60 GG 37955 29.8.2014

This act amends the Basic Conditions of Employment Act, 1997, so as to substitute certain definitions; to prohibit employers from requiring employees to make payments to secure employment and from requiring employees to purchase goods, services or products; to prohibit anyone from requiring or permitting a child under the age of 15 years to work; to make it an offence for anyone to require or permit a child to perform any work or provide any services that place at risk the child's well-being; to provide for the Minister to publish a sectoral determination for employees and employers who are not covered by any other sectoral determination; to provide for the Director-General to apply to the Labour Court for an employer to comply with a written undertaking by the employer; to provide for a compliance order; to delete certain obsolete provisions; to provide the Labour Court with exclusive jurisdiction in respect of certain matters; to provide for certain offences and penalties; to increase the penalties for certain offences; and to provide for matters connected therewith.

Employment Equity Amendment Act (47/2013)....w.e.f. 1 August 2014

Proc 50 GG 37871 25.7.2014

This Act amends the Employment Equity Act, 1998, so as to substitute or amend certain definitions; further regulates the prohibition of unfair discrimination against employees; further regulates the certification of psychometric testing used to assess employees; provides for the referral of certain disputes for arbitration to the Commission for Conciliation, Mediation and Arbitration; makes further provision regarding the evidentiary burden of proof in allegations of unfair discrimination; further regulates the preparation and implementation of employment equity plans and the submission of reports by designated employers to the Director-General; further regulates undertakings by designated employers to comply with requests by labour inspectors; regulates the issuing of compliance orders; provides afresh for the assessment of compliance by designated employers with employment equity and the failure of those employers to comply with requests and recommendations made by the Director-General; extends the powers of commissioners in arbitration proceedings; provides for that fines payable in terms of the Act must be paid into the National Revenue Fund; extends the Minister's power to issue a code of good practice and delegates certain powers; increases and provides for the increase by the Minister of certain fines which may be imposed under the Act; and amends and provides for the amendment by the Minister of annual turnover thresholds applicable to designated employers; and provides for matters connected therewith.

South African Human Rights Commission Act 40 of 2013..... w.e.f. 5 Sep 2014

Proc R63 GG 37977 5.10.14

This act provides for the composition, powers, functions and functioning of the South African Human Rights Commission; to provide for the repeal of the Human Rights Commission Act, 1994; and to provide for matters connected therewith.

Legal Metrology Act (9/2014).... w.e.f. 1 Aug 2014

Proc 58 GG 37887 1.8.2014

This Act provides for the administration and maintenance of legal metrology technical regulations in order to promote fair trade and to protect public health and safety and the environment; and to provide for matters connected therewith.

REGULATIONS AND GOVERNMENT NOTICES

Basic Conditions of Employment Act (75/1997): Regulations amended
GN 655 GG 37955 29.8.2014

Department of Justice and Constitutional Development: Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa: Proposed qualification standards for accreditation of mediators published for comment
GN 598 GG 37883 1.8.2014

Employment Equity Act (55/1998): new regulations
GN R595 GG 37873 1.8.2014

National Credit Act (34/2005): Draft amendments to the National Credit Regulations (for affordability assessment) and to the Regulations for matters relating to the functions of the Tribunal and Rules for the conduct of matters before the National Consumer Tribunal published for comment
GN R597 GG 37882 1.8.2014

Prescribed Rate of Interest Act (55/1975): 9% p.a. with effect from 1 Aug 2014
R.554 GG 37831 18.7.2014

Road Accident Fund Act (56/1996): Adjustment of statutory limit (R 224 120.00) in respect of claims for loss of income and loss of support published with effect from 31 July 2014
BN 83 G GG 37854 25.7.2014

Small Claims Courts Act (61/1984): Establishment of a Small Claims Court for the areas of Glen Grey and Calitzdorp
GN 604 & 5 GG 37889 8.8.2014