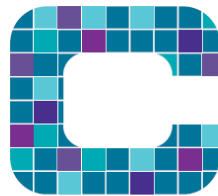


The Contemporary Gazette

relevant new legislation for your business



COMPLIANCE
INSTITUTE
SOUTHERN AFRICA

Pro-active Compliance Volume 18 Issue 19, 13 November 2023

This Update

This update overviews new relevant National laws up to **10th November 2023**.

Log-in to www.gazette.co.za, peruse the list, and follow the hyperlinks to laws that interest you.

Please note that you can keep up to date, in-between newsletters and by visiting latest updates.

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General

1. NOTABLE ONE LINERS

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

The Bill proposes confirming amendments to [sections 5](#) (rate of tax) and [6](#) (calculation of amount of tax).

Carbon Tax Act: Taxation Laws Amendment Bill

The Bill proposes amending [section 12](#) (carbon budget allowances) and the schedules.

Children's Act: Amendment Act

The Act, [amongst others](#), includes a child abandoned or orphaned with no family member who is able and suitable to care for that child; an unaccompanied migrant child from another country; a victim of trafficking; or a child sold by a parent, care-giver or guardian, as a 'child in need of care and protection'.

Note: A child is also included in the definition of abandoned child if the child has, if applicable, no knowledge as to the whereabouts of the parent, guardian, or caregiver and such information cannot be ascertained by the relevant authorities.

Further note: A childrens court may hear an application for granting guardianship as well as matters relating to an unaccompanied or separated migrant child or a child who is an asylum seeker or refugee; and must refer a criminal matter arising from non-compliance with an order or a [section 305](#) offence.

Further note: Reminder that in terms of [section 138](#) a person must have lawful authority or reasonable grounds to remove a child from the care of a person who lawfully cares for the child; or to detain a child with the result that the child is kept out of the care of a person entitled to lawfully care for the child.

Final note: Related laws may include, amongst many others, the Basic Conditions of Employment Act ([hazardous work](#)); the Child Justice Act ([persons using children to commit crime](#)); the Constitution ([children](#)); the Criminal Law (S Offences and Related Matters) Amendment Act ([duty to report](#)); the Prevention and Combating of Trafficking in Persons Act ([trafficking by person with parental responsibilities](#)); and the Special Investigating Units and Special Tribunals Act ([guardians fund Gauteng and KwaZulu-Natal](#) and [masters offices](#)).

Children's Act: Regulations

Regulations [amended](#) to provide for quality assurance of child protection services and organisations; placing, monitoring and supervision of children in need of care and protection; and placing for approval of child in alternative care to leave SA.

Note: All foster care orders that may lapse after 11 November 2023 but before 30 June 2024 due to not being extended in terms of section 159 of the Children's Act as amended, shall be deemed to be valid until 30 June 2024 or until they are extended by the children's court, whichever occurs first.

Final note: Related laws may include, amongst others, the [Prevention and Combating of Torture of Persons Act](#); and the [laws listed on the right side of the Act](#).

Companies Act: Practice note 4 of 2023

[Clarification](#) that any document filed and challenged successfully in terms of regulation 168(6) is a nullity and removed from the register as per regulation 168(7); and that no subsequent filings, based on the same documentation that was nullified, will be accepted by the CIPC, available from the CIPC.

Compensation for Occupational Injuries and Diseases Act: Commissioner notices

Final reminder for the submission of 2022 and prior years outstanding return of earnings; and list of documents to clear employers flagged for audit by the fund, available from the fund.

Compensation for Occupational Injuries and Diseases Act: Schedule 3 list of occupational diseases

Notice, available from the fund, that the proposed schedule has been updated as per annexure A of the notice - annexure A could not immediately be found in the notice.

Council for the Medical Schemes Levies Act: Proposed levies

Proposed levies available from the relevant council. Comment by 1 December 2023.

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

The Bill amendment schedule is available from SARS.

Customs and Excise Act: Taxation Laws Amendment Bill

The Bill proposes amending the [continuation schedule](#).

Note: The proposed amendments to schedule 6 is available from SARS.

Customs and Excise Act: Tax Administration Laws Amendment Bill

The Bill proposes amending [sections 7A](#) (passenger data); [15](#) (persons entering or leaving SA); [39](#) (payment of duties); [76](#) (general refunds); [101B](#) (protection of personal information); and [120](#) (rules relating to traveller declaration and deferment of payment of duties).

Note: The provisions relating to passenger data and persons entering or leaving SA will be expanded to cover all conveyance.

Disaster Management Act: Severe weather classifications

Weather classifications (Eastern Cape; Western Cape; and Kwazulu-Natal) available from the Centre.

Electronic Communications Act: Inquiry into subscription television broadcasting services

Notice of further consultation on the inquiry available from ICASA.

Eskom Debt Relief Act: Amendment Bill

The Bill [proposes](#) that Eskom must pay interest on the amounts advanced as a loan; and that the Minister may reduce amounts if Eskom fails to comply with a condition for the conversion of parts of the loan for each financial year into ordinary shares.

Financial Markets Act: Joint communication 3 of 2023

Communication on draft exemption of an external central counterparty or external trade repository from the Act, available from the FSCA. Comment by 11 December 2023.

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

The Bill proposes confirming amendments to [section 6](#) (normal tax rebates); [section 6A](#) (medical scheme fees tax credit); [section 8](#) (certain amounts to be included in income - motor vehicles); and [paragraph 9](#) of the Seventh Schedule (employment or office residential accommodation benefit).

Income Tax Act: Tax Administration Laws Amendment Bill

The Bill proposes amending [sections 3](#) (powers and duties); [6quat](#) (foreign taxes on income); [10](#) (exemptions); [11D](#) (scientific or technological research and development); [12I](#) (industrial policy projects); [30](#) (public benefit organisations); [30A](#) (recreational clubs); [30B](#) (associations); [30C](#) (small business funding entities); [76A to 76P](#) (advance pricing agreements); and [89bis](#) (overdue employees tax and provisional tax).

Note: The Bill also proposes amending the [First Schedule](#) paragraph 1 and the [Fourth Schedule](#) paragraph 2, 9, 10 and 20.

Interim Protection of Informal Land Rights Act: Extension

This interim measure, now extended to 31 December 2024, [provides that](#) informal rights to land cannot be taken away without the consent of the person holding that right; and any disposition of any land is subject to existing informal rights to that land.

Local Government Municipal Structures Act: Draft amendment member bill

A member bill that proposes an electoral threshold so that parties must first obtain the number of the votes equal to the seat quota +1 before being entitled to be considered for seat calculations and allocations, is available from Parliament.

Mineral and Petroleum Resources Development Act: Upstream Petroleum Resources Development Bill

The Bill [proposes](#) removing sections and references relating to petroleum.

Mineral and Petroleum Resources Royalty Act: Taxation Laws Amendment Bill

The Bill proposes amending [sections 3](#) (royalty), [4](#) (formula) and [5](#) (earnings).

Mineral and Petroleum Resources Royalty Administration Act: Tax Administration Laws Amendment Bill

The Bill proposes amending [section 19](#) (reporting, secrecy and disclosure).

National Council on Gender Based Violence and Femicide Bill

The Bill proposes, amongst others, defining femicide and gender-based violence; and a council to develop an action plan, co-ordinate education and training, encourage co-ordination, and facilitate partnerships.

Note: Related laws to consider may include, amongst others, the [Children's Act](#); the [Commission for Gender Equality Act](#); the [Criminal Law \(S Offences and Related Matters\) Amendment Act](#); the [Criminal Procedure Act](#); the [Domestic Violence Act](#); the [Employment Equity Act](#); the [Films and Publications Act](#); the [Health Professions Act](#); the [Mental Health Care Act](#); the [Occupational Health and Safety Act](#); the [Older Persons Act](#); the [Prevention and Combatting of Trafficking in Persons Act](#); the [Prevention and Combatting of Torture of Persons Act](#); the [Promotion of Equality and Prevention of Unfair Discrimination Act](#); the [Social Service Professions Act](#); the [South African Human Rights Commission Act](#); and the [S Offences Act](#).

National Environmental Management Biodiversity Act: Game meat strategy

Strategy available from the relevant department.

Note: Related laws may include, amongst others, the [Agriculture Products Standards Act](#); the [Animal Diseases Act](#); the [Animals Protection Act](#); the [Consumer Protection Act](#); the [Foodstuffs, Cosmetics and Disinfectants Act](#); the [Game Theft Act](#); the [Meat Safety Act](#); the [National Environmental Management Biodiversity Act](#); the [National Regulator for Compulsory Specifications Act](#); and the [Tourism Act](#).

Prevention of and Treatment for Substance Abuse Act: Prevention of and treatment of substance use disorders policy

The policy is available from the relevant department.

Note: Employers may wish to consider [this Act](#) whenever considering the following [duties regarding intoxication](#), read with the general duty to provide a safe workplace [for employees](#) and [for persons on their premises](#):

(i) Do not allow any person who is, or appears to be, under the influence of intoxicating liquor or drugs, to enter or remain at a workplace;

(ii) No person at a workplace may be under the influence of intoxicating liquor or drugs, have in his or her possession intoxicating liquor or drugs or partake of or offer any other person intoxicating liquor or drugs; and

(iii) Where a person is taking medicines, only allow such person to perform duties at the workplace if the side effects of such medicine do not constitute a threat to the health or safety of the person concerned or other persons at such workplace.

Rates and Monetary Amounts and Amendment of Revenue Laws Act

The [Amendment Bill 2023](#) proposes confirming rate adjustments referenced in the annual budget 2023.

South African Police Services Act: Draft national policing policy

A draft policy that proposes a focus on professional and quality policing; efficient and effective policing service delivery; improved trust relations; and a strong and ethical leadership and management, is available from the relevant department. Comment by 30 November 2023.

Note: Related laws may include, amongst many others, the Childrens Act ([investigations](#)); the Civilian Secretariat for Police Services Act ([functions](#)); the Constitution ([police service](#)); the Control of Access to Public Premises and Vehicles Act ([access](#)); the Criminal Procedure Act ([arrest](#)); the Firearms Control Act ([possession](#)); the Independent Police Investigative Directorate Act ([matters to investigate](#)); the National Conventional Arms Control Act ([disposal](#)); the National Environmental Management Act ([police powers](#)); the National Health Act ([forensic pathology services](#)); and the Special Investigating Units and Special Tribunals Act ([2011 investigation](#)).

Standards Act

New, proposed, amended, and withdrawn [standards](#) gazetted for 3 November 2023.

Tax Administration Act: Tax Administration Laws Amendment Bill

The Bill proposes amending [sections 1](#) (beneficial owner); [69](#) (disclosure of public benefit organisation information); [70](#) (disclosures to the CIPC, the Directorate of Nonprofit Organisations, and the Master); [80](#) (rejection of application for advance ruling); [95](#) (estimation of assessments); and [246](#) (person disqualified in terms of section 6 of the Trust Property Control Act, section 25A of the Nonprofit Organisations Act, or section 69 of the Companies Act may not be appointed as a public officer).

Note: Related laws, for the purposes of considering public officers disqualification include, amongst others, the common law (eg fraud conviction); the Close Corporations Act (eg [management disqualifications](#)); the Companies Act ([delinquent director or probation](#)); the [Competition Act](#); the [Financial Intelligence Centre Act](#); the [Financial](#)

Markets Act; the Insolvency Act; the Prevention and Combating of Corrupt Activities Act; the Protection of Constitutional Democracy Against Terrorist and Related Activities Act; and the Tax Administration Act.

Tax Administration Act: Third party returns

Third party returns amended so that trusts covered by the notice must submit returns by 30 September each year.

Transfer Duty Act: Rates and Monetary Amounts and Amendment of Revenue Laws Bill

The Bill proposes confirming amendments to [section 2](#) (imposition of transfer duty) amounts.

Upstream Petroleum Resources Development Bill

The Bill proposes, **amongst many others**, that a petroleum right holder must pay fees, revenue and insurance; conduct exploration and production operations as per approved commitments and health and safety provisions; and comply with the right, environmental authorisation and applicable law conditions.

Note: The holder must also comply with specific requirements for State participation and empowerment.

Further note: Development activities as per approved development programmes will be mandated.

Final note: The holder will be required to relinquish the percentage of the total extent of the original petroleum right area.

Value-added Tax Act: Tax Administration Laws Amendment Bill

The Bill proposes amending [section 45](#) (interest on delayed refunds).

Value-added Tax Act: Taxation Laws Amendment Bill

The Bill proposes amending sections [1](#) (Corporation for Deposit Insurance); [2](#) (financial services - derivative definition); [8](#) (reinstatement under contract of insurance); [10](#) (value relating to temporary letting of residential property); [18D](#) (temporary letting of residential property); [21](#) (prepaid vouchers by an electronic communications service licensee registered vendor); and [54](#) (gold export), as well as [schedule 1](#) (FIFA).



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Tax

2. INCOME TAX ACT: REVENUE LAWS AMENDMENT BILL

The Bill proposes amending [section 10C](#) (qualifying annuities), and the [Second](#) and [Fourth Schedule](#) to implement the 2 pot retirement system from 1 March 2025; provide for certain access by the member of the retirement fund to a portion of the available balance in the retirement fund on 1 March 2025; and make amendments to include defined benefit funds in an equitable manner.

Note: The amendments also provide for the treatment of legacy retirement annuity funds.

Further note: [Definition](#) amendments (gross income, legacy retirement annuity funds, member's interest in the retirement component, member's interest in the savings component, member's interest in the vested component, pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund, retirement component, retirement interest, savings component, savings withdrawal benefit, total retirement contribution, vested component) are also proposed.

Final note: There may be value in moving these area specific definitions to a separate area away from section 1 to ease complexity and reader fatigue.



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Tax

3. INCOME TAX ACT: TAXATION LAWS AMENDMENT BILL

The Bill proposes amending sections:

- (i) **1** (contributed tax capital and pension, pension preservation, provident, provident preservation and retirement annuity fund definitions);
- (ii) **6C** (solar energy tax credit); **7C** (loan, credit or grant to trust by connected person); **8** (certain amounts to be included); **8EA** (dividends on third-party backed shares); **8F** (interest on hybrid instruments);
- (iii) **8FA** (hybrid interest); **9** (source of income); **9D** (net income of controlled foreign companies); **9H** (change of residence, ceasing controlled foreign company or becoming headquarters company);
- (iv) **10**(exemptions); **10B** (exemption of foreign and headquarter company dividends); **11**(general deductions); **11D** (scientific or technological research and development); **11F**(retirement fund contribution);
- (v) **11G** (deduction of expenses incurred in the production of interest); **12B** (deduction for certain renewable energy machinery, articles etc); **12BA** (enhanced deduction in respect of certain machinery, plant, implements, utensils and articles used in production of renewable energy);
- (vi) **12E** (small business corporations); **12N** (improvements not owned by taxpayer); **12P** (government grants); **12T** (tax free investments); **13quat** (buildings in urban development zones); **15** (mining operations);
- (vii) **19** (reduction of debt); **23A** (limitation to allowances for lessors); **23G** (sale and leaseback); **23M** (limitation on interest deductions); **24** (credit agreements and debtors allowances); **24I** (foreign exchange transactions); **25** (deceased estates);
- (viii) **25B** (trusts and beneficiaries); **25E** (determination of contributed tax capital in foreign currency); **28** (short-term insurance); **29A** (long-term insurance); **35A** (non-resident sellers of immovable property);
- (ix) **36** (mining operations); **40CA** and **42** (assets for shares); **46** (unbundling); **49D** (withholding tax royalties); and **50D** (withholding tax interest);

(x) the [Second Schedule](#) paragraph 6A and [Eighth schedule](#) paragraph 12A, 64B and 66.



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