

LEPPARD LEGISLATION WATCH

JUNE 2017

Yet another relatively quiet month on the legislative front. One could have expected some interest for us, with the Financial Intelligence Centre Act being signed, but the commencement date has not yet been determined, so we'll leave that for a later date.

What to watch – selected recent developments

Financial Zone

- ❖ Financial Advisory and Intermediary Services Act – the list of qualifications for compliance officers and the financial services providers' qualification list was updated on 13 April 2017.
- ❖ Financial Intelligence Centre Act 1 of 2017 – the Act has been gazetted, but will only commence on a date to be decided by the Minister of Finance. The amendments will make significant improvements to the Financial Intelligence Centre Act, 2001 (FIC Act). They will strengthen the FIC's ability to produce high quality financial intelligence and to share this with a wider range of government departments and agencies in the pursuit of combating financial crimes such as money laundering and terrorist financing while protecting the confidentiality of personal information. The amendments also introduce new concepts to the FIC Act which are designed to further safeguard South Africa's financial system against abuse and illicit activities. These concepts include: • The introduction of a risk-based approach to the implementation of the Act, which will enable institutions and businesses to use more efficient means to comply with their legal obligations and, at the same time, to make it easier for their customers to do business with them; • A change in the customer due diligence measures, which will require that institutions understand their relationships with their customers rather than only identifying their customers, as is required currently; • Having to identify the beneficial owners of corporate customers, which implies knowing the real, natural persons who benefit from the business done by financial and other institutions with companies, trusts and other similar entities; and • Managing relationships with prominent persons.

Employment and Staff Zone

- ❖ Compensation for Occupational Injuries and Diseases Act (COIDA) – the compensation payable in terms of the Act has been increased from 1 April 2017, with the maximum amount of earnings now being R403 500 per annum. (See Government Gazette #40782 dated 10 April 2017)
- ❖ Employment Equity Act: Code on implementation of Employment Equity plan – the revised Code of good practice on the preparation and implementation of an employment equity plan commenced on 27 April 2017, and provides for the following, amongst others. (i) Confirms that the Code is meant as a guideline for designated employers, and that designated employers must consider their specific circumstances; (ii) Confirms that the Code must be read with all relevant laws and other codes; (iii) Suggests preparation, consultation and analysis steps to be taken, such as quarterly consultation meetings; (iv) Suggest actions to be considered when developing a plan, such as:
 - Only reviewing a plan during the duration that it is set for, if a major event or restructuring takes place;
 - Stating, within the Plan, all corrective measures to be considered; and
 - Consider planned vacancies and natural attrition in the numerical goals/targets; and(v) Suggest the manner in which reporting should take place, including:
 - Consulting employees before submitting the report;
 - Reflecting progress made against an employment equity plan in an annual report;
 - Using annual reports to monitor and evaluate, in order to inform strategies and plans; and
 - That public companies must include workforce profiles in their financial reporting.

General

- ❖ International Arbitration Bill – the Bill incorporates the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration as law in our country to regulate international arbitrations. Domestic arbitration will continue to be regulated by the Arbitration Act 42 of 1965. This development is important for those businesses whose contracts make provision for disputes to be settled other than under South African law. Among other things, the Bill provides that disputes may be settled through conciliation proceedings, and grants recognition and enforcement of foreign arbitration awards in South Africa, subject to certain requirements.

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