

LEPPARD LEGISLATION WATCH

JUNE/JULY 2018

There have been some interesting legislative developments over the last month or so, but as is the case so often, a lot of proposals have been forthcoming but nothing concrete. This applies in particular to the proposed amendments to the Medical Schemes Act and the introduction of the National Health Insurance Bill. In a similar vein, the proposed National Minimum Wage Bill is also keeping us waiting. Without being able to comment sensibly on these proposed pieces of legislation, this month's Leppard Legislation Watch lists some of the matters we will need to monitor going forward.

What to watch – selected recent developments

Financial Zone

- ❖ Short-term Insurance Act: A reminder that policyholder protection rules 6.2 to 6.4 (determining premiums and excesses), 10 (advertising), and 14 (ongoing review of product performance) commenced on 15 June 2018.
- ❖ State Liability Act: The Amendment Bill 2018 proposes structure settlements for claims over R1 million against the State arising from wrongful medical treatment. It is proposed that the courts will have a discretion to order future treatment at a public health establishment in lieu of the amount of damages awarded, amongst other proposals.

Employment Zone

- ❖ National Minimum Wage Bill: This Bill proposes a national minimum wage that must be calculated in accordance with the provisions of the Act, and reviewed annually by a National Minimum Wage Commission. The Bill also proposes possible one year exemptions for employers, provided that certain consultations have been carried out.
- ❖ Medical Schemes Act: Draft Amendment Bill: This Bill proposes many changes to the way in which medical schemes currently operate, but some key points to consider at this stage include the limitations proposed on brokers and broker fees, the removal of co-payments and penalties for joining a scheme late, as well as granting the Registrar control over benefit options. Obviously these proposed amendments are seeking to align medical cover with the National Health Insurance Bill. We are

unable to comment in detail at this stage due to the uncertainty of the provisions of both pieces of legislation.

- ❖ National Health Insurance Bill: This Bill proposes a mandatory prepayment health services system, and that the Fund will be the single public purchaser and financier of health services in South Africa. Some immediate concerns include the lack of any explanatory memorandum or draft regulations with the Bill, the financial viability of the Fund (perhaps the greatest concern about the Bill), the fact that many of the provisions will be able to be dealt with by regulations (not yet available) meaning that aspects of the Bill can be amended a lot easier without Parliamentary oversight. As they say in classics “Watch this space”. We could possibly expect a few Constitutional Court challenges.
- ❖ National Qualifications Framework Act: This amendment Act proposes a number of offences related to the false claiming of qualifications, offering qualifications when not registered on the framework, false claiming of accreditation, and the reproducing and passing-off of false documents. (This could be important for the insurance industry as we head into compulsory CPD and approved suppliers thereof.) There is also an onus placed on employers to verify whether qualifications that have been presented to them are registered on the national learners’ record database. Education providers must be registered with the relevant Department and accredited by the relevant quality council. While a recognised professional body must ensure that its professional designation is registered on a separate register.

General

- ❖ Property Practitioners Bill: This Bill looks at repealing Estate Agency Affairs Act, and as can be expected, is a wide-ranging, technical piece of legislation. One must be cautious of the definition of property practitioner, as one could inadvertently fall into the definition by for example, assisting a client as part of your business to perform the functions of a property practitioner. The activities which fall within the definition are also very broad, and include sales, rentals, lease collections, financing, assessments, facilitation, other services gazetted by the Minister, and property management. If in any doubt, obtain legal advice.

***Leppard Legislation Watch** is a monthly newsletter providing selected updates on legislation which could have an impact on the business of Leppard Underwriting and its clients. **Leppard Legislation Watch** is not intended as legal or professional advice and is published for general information purposes only. This newsletter is not a substitute for legal or other professional advice.*

