

## Legislative Updates November 2022

Welcome to the first edition of the Exclaim Integrated Legislation Updates and the introduction of our Compliance Library!

This update includes information pertaining to all legislative updates for the period 1 August till 31 October 2022.

We have included a section explaining the whole update process from the newsletter up to seeing the detailed changes in the Exclaim Checklists. Future developments include podcasts, compliance specialists introducing methodologies, news on software and technology developments in the GRC space and much more.

We hope that this newsletter will give you as much pleasure as the team had in creating the website.

kindest Regards

The Exclaim Team





# INDEX

## Legislative Updates November 2022



### Agriculture

- Plant Improvement Act: Regulations: Establishment, Varieties, Plants and Propagating Material: Amendment of Table 8 GoN 2568 and GoN 2411
- Agricultural Product Standards Act: Regulations: Classification, packing and marking of certain raw processed meat products intended for sale in South Africa GoN 2410
- Plant Breeder's Rights Act: Regulations: Amendment GoN 2440



### Banking & Finance

- Banks Act: Regulations: Amendment GoN 2561
- Financial Intelligence Centre Act: Regulations: Money Laundering and Terrorist Financing Control: Amendments GoN 2638
- Financial Advisory and Intermediary Services Act: Declaration of a crypto asset as a financial product GeN 1350
- Prescribed Rate of Interest Act: Rate of interest from 1 May 2022 GoN 2378



### Constitutional

- Border Management Authority Act: Commencement P 86
- Legal Practice Act: Code of Conduct: Amendment GeN 1230
- Foreign Service Act: Commencement P 87
- Consumer Protection Act: Guidelines to be followed by the National Consumer Commission for the accreditation of consumer protection groups Gen 1366



### Education

- Employment of Educators Act: Personnel Administrative Measures (PAM) GoN 2468

# INDEX

## Legislative Updates Nov. 22 Continued



### Employment

- Labour Relations Act: Code of Good Practice: Protest Action to Promote or Defend Socio-Economic Interests of Workers GoN 2433



### Environment

- National Environmental Management: Biodiversity Act: Revised National Biodiversity Framework 2019 to 2024 for implementation GoN 2386
- National Environmental Management: Integrated Coastal Management Act: General discharge authorisation GoN 2290



### Health & Safety

- Pharmacy Act: South African Pharmacy Council: Standard for Tutor Training Programmes BN 318
- Pharmacists providing Family Planning Services (Reproductive Health Services): Scope of practice BN 314
- Occupational Health and Safety Act: National Code of Practice for Electrical Machinery in Hazardous Locations: Regulatory Requirements for Explosion-protected apparatus GoN 2398
- Medicines and Related Substances Act: Regulations: Transparent Pricing System for medicines and Scheduled substances: Dispensing Fee for Pharmacists GoN 2343
- Incorporation of Safety Standards for Lift, Escalator and Passenger Conveyor Regulations 2010, GON 2683



### Local Government

- Local Government: Municipal Systems Amendment Act 3 of 2022 GeN 1233

# INDEX

## Legislative Updates Nov. 22 Continued



### Transport

- National Railway Safety Regulator Act: Railway Safety and Security Regulations Gen 1067
- National Railway Safety Regulator Act: Regulations on Notifiable Railway Occurrences Gen 1066
- Civil Aviation Act: Coming into operation of the Amended National Aviation Security Program Gen 1368

### Understanding the Updates

We will provide an overview of the update process and highlight the main features.



## Agriculture

- **Plant Improvement Act**

The Regulations: Establishment, Varieties, Plants and Propagating Material: Amendment of Table 8 was amended by the insertion and removal of the denominations of Annexure A and B respectively.

*These regulations have been updated in the Exclaim Library.*

- **Agricultural Product Standards Act**

The Minister of Agriculture, Land Reform and Rural Development has under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) made the regulations pertaining to the classification, packing and marking of certain raw processed meat products intended for sale in the republic of South Africa. These regulations shall apply only to the classes of raw processed meat products set out in regulation 4 and intended for sale in the Republic of South Africa to which and under circumstances in which a prohibition in terms of section 3 of the Act regarding the sale of raw processed meat products apply.

*This document is included in the Exclaim Library. Contact is for the new checklist.*

- **Plant Breeder's Rights Act**

The application fees for the Plant Breeders' Right has been announced at R2 922,00.



## Banking & Finance

- **Banks Act**

The Minister of Finance has amended the Regulations relating to Banks in terms of section 90 of the Banks Act. Please find the link to the complete Schedule as published by the Government Notice.

*This Bank Act checklist has accordingly been updated. Select the Bank checklist in the checklist section of Exclaim software and view the Updates option and individual lines to review the changes.*

- **Financial Intelligence Centre Act (FICA)**

The Money Laundering and Terrorist Financing Control Regulations, 2002, promulgated in terms of section 77 of the Financial Intelligence Centre Act, 2001 has been amended. The amendments include:

- The substitution of Regulation 22B by inserting the 'Prescribed amount for cash transaction reporting.'

- Regulation 22C is substituted with the insertion of ‘Information to be reported concerning a cash threshold report’ of which the particulars are listed under sub-regulation (1)(a)-(f); (2)(a)-(b); (3)(a)-(b); (4)(a)-(b) and (5).
- Regulation 24 is amended by the substitution of sub-regulation (4) which now requires a report under section 28 of the Act to be issued to the Centre no later than 3 days after a person becomes aware of the relevant cash transaction.

*The FICA Act checklist has accordingly been updated. Select the FICA checklist in the checklist section of Exclaim software and view the Updates option and individual lines to review the changes.*

- **Financial Advisory and Intermediary Services Act**

Crypto assets have been declared a financial product under the Financial Advisory and Intermediary Services Act. Accordingly, the definition of ‘crypto asset’ is now reflected under section 1, the ‘Definitions,’ of the Act.

*The Key Definitions section in the Exclaim Software has been updated with this definition.*

- **Prescribed Rate of Interest Act**

The Minister of Justice and Correctional Services has, in accordance with section 1(2)(b) of the Prescribed Rate of Interest Act 55 of 1975, published a 7,75 percent per annum rate of interest as from 1 May 2022 for the purposes of section 1(1) of the abovementioned Act. Accordingly, Government Notice No. R. 1182 of 2020 has been withdrawn.



## Constitutional

- **Border Management Authority Act**

The Act establishes the Border Management Authority and provides for its organization, regulation, functions, and control. Certain offences are identified, and annual reporting is required by the Act and made subject to penalties. Sections 1, 2, 3, 4, 5, 6, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 and 41 of the Border Management Authority Act 2 of 2022 has now come into force.

*This document is included in the Exclaim Library. Contact is for the new checklist.*

- **Legal Practice Act**

The South African Legal Practice Council has, in terms of section 36(3) and (4) of the Legal Practice Act, 28 of 2014 amended Clause 9.9 of the Code of Conduct. The Amendment of Clause 9.9 reads:

‘A legal practitioner shall, in giving any advice about the prospects of success in any matter, give a true account of his or her opinion and shall not pander to a client's whims or desires. However, in any matter in which the legal practitioner's opinion is adverse to the prospects of success, the legal practitioner may upon client's insistence place before a court the client's case for the adjudicating officer to decide the matter and the legal practitioner shall advance that case as best as circumstances allow.’

*This Code has been updated in the Exclaim Library.*

- **Consumer Protection Act**

Guidelines to be followed by the National Consumer Commission for the accreditation of consumer protection groups has been published.



## Education

The Minister of Basic Education has, in terms of section 4 of the Employment of Educators Act, 1998 determined and consolidated all terms and conditions of the employment of educators.

*This document is included in the Exclaim Library. Contact is for the new checklist.*



## Employment

- **Labour Relations Act**

The Code of Good Practice: Protest Action to Promote or Defend Socio-Economic Interests of Workers GoN 2433 has been promulgated in terms of the Labour Relations Act. This Code intends to give practical guidance to parties engaging in discussions relating to promoting and defending the socio-economic interests of employees by employing facilitation, conciliation, mediation, or protest action as per section 77 of the Labour Relations Act (hereafter referred to as the ‘LRA’). The code shall not be interpreted in such a way that its consequence unconstitutionally limits the right to protest action as per the LRA.

*This document is included in the Exclaim Library. Contact is for the new checklist.*



# Environment

- **National Environmental Management: Biodiversity Act**

The Minister of Forestry, Fisheries and the Environment has, in terms of section 38 of the National Environmental Management: Biodiversity Act 10 of 2004, published the revised National Biodiversity Framework for implementation in accordance with the Schedule.

The introduction to the National Biodiversity Framework is presented under section 1. The context for implementation of the National Biodiversity Framework is set out under section 2. The integrated framework for strategic coordination in the biodiversity sector is explained under section 3 and section 4 introduces the mechanisms for coordination, co-operation and implementation of the framework.

*For Notification*

- **National Environmental Management: Integrated Coastal Management Act**

The Minister of Forestry, Fisheries and the Environment has, in terms of section 69(2) of the National Environmental Management: Integrated Coastal Management Act 24 of 2008, published a General Discharge Authorisation as set out in the Schedule.

This General Discharge Authorisation shall apply to discharges of effluent from land-based sources into coastal waters of the Republic but excludes the listed areas under Annexure 2. The General Discharge Authorisation is applicable to all listed ports under Annexure 3 and the proclaimed fish harbours, unless those fishing harbours are situated within a marine protected area which is subject to the Protected Areas Act. 'Discharge' of effluent is defined under section 3 'Description of General Discharge Authorisation' of this General Discharge Authorisation.

*For notification and compliance. This document is included in the Exclaim Library.*



# Health & Safety

- **Pharmacy Act**

**Pharmacists providing Family Planning Services (Reproductive Health Services): Scope of practice**

The South African Pharmacy Council published the scope of practice for Pharmacists Providing Family Planning Services (Reproductive Health Services), the competency standards to be met by such pharmacists and finally the criteria required for the approval of a curriculum concerning a Family Planning Services (Reproductive Health Services) course. The amendments are divided into three Parts.

*This document is included in the Exclaim Library.*

**Standard for Tutor Training Programmes**

The South African Pharmacy Council published for implementation the Standard for Tutor Training Programmes in terms of Section 33(g) of the Pharmacy Act, 53 of 1974, read together with Regulation 42 of the Regulations relating to pharmacy education and training (GNR 1156, published on 20 November 2000). The learning programme is for those pharmacists wishing to register as a tutor to supervise the internship of a Pharmacist Intern or the in-service training of a Pharmacist's Assistant.

*This document is included in the Exclaim Library. Contact is for the new checklist.*

- **Occupational Health and Safety Act**

**National Code of Practice for Electrical Machinery in Hazardous Locations: Regulatory Requirements for Explosion-protected apparatus**

The Department of Employment and Labour and the South African Flameproof Association has collectively made the information pertaining to statutory product conformity requirements, including approved standards, approved inspection authorities, approved test laboratories and approved certification bodies available to the public by way of this recommended practice.

**Incorporation of Safety Standards for Lift, Escalator and Passenger Conveyor Regulations 2010**

The Chief Inspector withdrew GoN R 829, GoN R1148 and R484 and incorporated in the Lift, Escalator and Passenger Conveyor Regulations, 2010, the safety standards specified in the Schedule.

*These documents are included in the Exclaim Library. Contact is for the new checklist.*

- **Medicines and Related Substances Act:**

**Transparent Pricing System for medicines and Scheduled substances: Dispensing Fee for Pharmacists**

The Minister of Health has substituted regulation 12. This regulation stipulates the new single exit price of medicines and the responsibilities of the person dispensing medicines to reflect the correct pricing structure and inform members of the public accordingly.

*The Medicines and Related Substances Act checklist has been updated.*



# Local Government

- **Local Government: Municipal Systems Act**

The Local Government: Municipal Systems Amendment Act 3 of 2022 amends the Local Government: Municipal Systems and Local Government: Municipal Structures act specifically. The amendment act provides for:

- The insertion and amendments of certain definitions under the Local Government: Municipal Systems Act, 2000.
  - The appointment of municipal managers and managers who are held directly accountable to them and the procedures and required competency criteria of the appointments. Provision is also made for the consequences of appointments made otherwise than in accordance with the Act.
  - The performance agreements of municipal managers and managers directly accountable to them to be concluded within a determined timeframe established by the Act.
  - Performance evaluations of the municipal managers and managers directly accountable to them.
  - Under this amendment all employment contracts and performance agreements of the municipal managers and managers directly accountable to them must comply with the requirements of the Act and any regulations issued by the Minister. The uniform standards set out under the regulations shall apply to all municipal staff systems and procedures.
  - Municipal managers and managers directly accountable to them will be prohibited from holding public office in political parties.
  - The employment of municipal employees who have been dismissed shall be subject to regulation. The Minister will have the necessary authority under this Act to make regulations concerning the duties, remuneration, benefits and other terms and conditions of employment of municipal managers and managers directly accountable to them. The Minister may also prescribe frameworks for the regulation of human resource management systems in local government and mandates for organized local government.
  - Staff establishments of municipalities by the respective municipal councils will be subject to approval. Municipal appointments will be restricted to only those posts provided for under the staff establishment of the municipality in question.
- **The Local Government: Municipal Structures Act, 1998** was amended by the deletion of the provision concerning the appointment of municipal managers.

*The Local Government: Municipal Systems Act checklist has accordingly been updated. Select the checklist in the checklist section of Exclaim software and view the Updates option and individual lines to review the changes. The relevant lines have also been archived in the Local Government: Municipal Structures Act.*



# Transport

- **National Railway Safety Regulator Act**

## **Railway Safety and Security Regulations Gen 1067**

The purpose of these Regulations is to prescribe the minimum persons safety and security requirements to be complied with by operators. These regulations apply to all operators defined in Section 1 and is effective. Some of the requirements include:

- The appointment or designation of a Compliance Security officer and Safety of Persons Officer
- Development and Implementation of a Safety of Persons Compliance Plan
- Reporting.

*This document is included in the Exclaim Library. Contact is for the new checklist.*

## **Regulations on Notifiable Railway Occurrences Gen 1066**

The purpose of these Regulations is to ensure that notifiable railway occurrences are adequately managed within the operator's Safety Management System and include-

- The reporting of notifiable occurrences to the Chief Executive Officer, within the manner required in the Regulations;
- Management of all notifiable railway occurrences;
- The provisions of all the information required by the Chief Executive Officer as per these Regulations; and
- The management of the scene of a notifiable railway occurrence and the preservation of evidence where reasonably practicable.

*This document is included in the Exclaim Library. Contact is for the new checklist.*

- **Civil Aviation Act**

The Minister of Transport issued a Notice indicating the commencement date of the amended NASP 2022 to be 12 August 2022. This replaces the NASP that came into operation on 11 May 2012.

Application for access to the amended NASP can be made in writing to the Aviation Security: Executive at the South African Civil Aviation Authority.

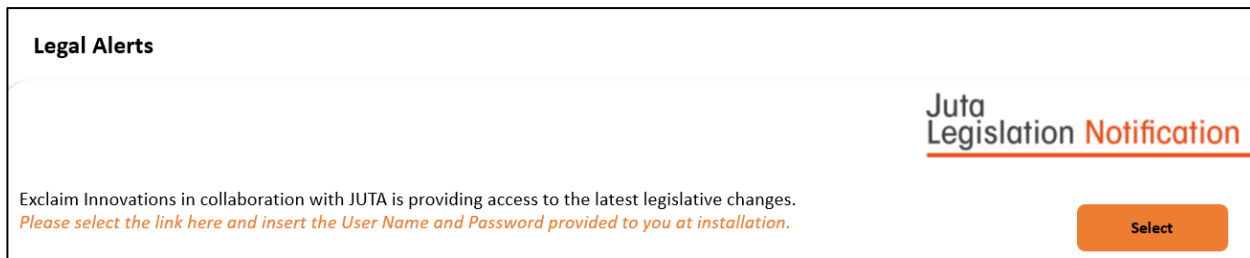
# Understanding the Updates

The legislative updates within Exclaim Integrated are comprehensive and therefore requires a quick highlight of the functionality.

## 1. Legal Alerts

Exclaim Innovations in co-operation with Juta provides a weekly update of all legislative changes. These include new developments, Bills and Notices from Government. The user requires a subscription to this newsletter. On subscription Exclaim will provide the user with a User Name and Password.

To access the Alerts navigate to the Library option on the menu and select the Alerts tab. Then select the Legal Alerts section. This button will provide a hyperlink to the Juta website. Enter your user name and password on this webpage.

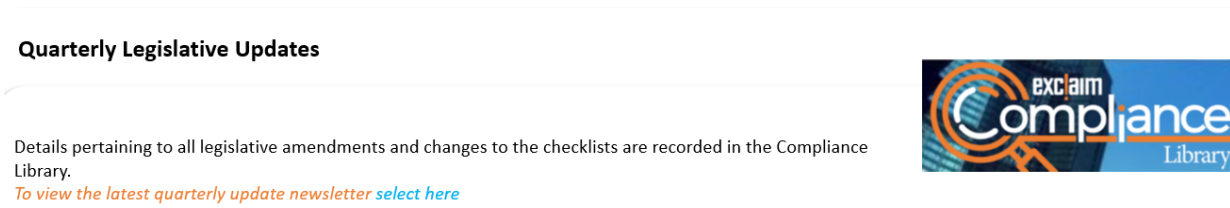


## 2. Quarterly Legislative Updates

Exclaim Innovations will provide information on all legislative amendments to statutory legislation and accordingly update the checklists and act or subordinate document relating to these updates.

### 2.1 Newsletter

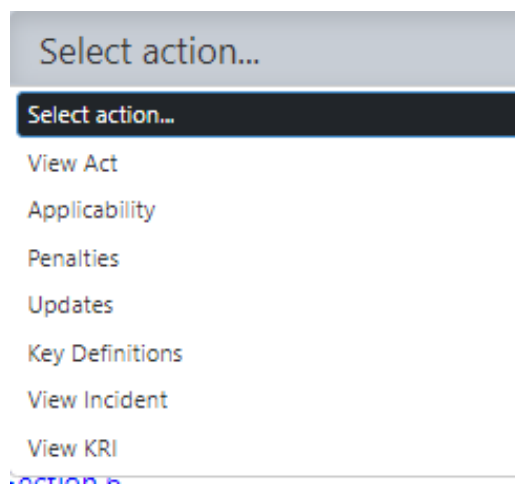
A comprehensive newsletter will be compiled documenting all legislative changes for the quarter. This newsletter will be available on the Library/ Alerts option as well.



This newsletter along with all the relevant government notices will also be made available on our Exclaim Compliance Library. Click on the "select here" option in the software and the hyperlink to this website will open. This website will also provide access to archives and historic newsletters.

### 3. Checklist Updates

Legislative changes might affect the requirements in the checklist. We will list the changes to the checklists in the newsletter and indicate the detailed changes in the individual checklists. Navigate to the checklist page and then select the checklist that has been amended. Then on the Select action box select the Updates option.



The changes will reflect as follow:

Updates

Search...

Amended By  
Pension Funds Act: Regulations: Amendments (GoN 2230 in GG 46649 of 1 July 2022)

1 - 1 of 1 items

Checklist Reference	Line Number	Update Date	Extend Of Amendment
Regulation 28	233 - 241	November 2022	New Requirements (s)
Regulation 28	153	November 2022	Requires Assessment

1 - 2 of 2 items

The upper section reflects the notice amending the checklist and the bottom section reflects the extend of the amendment e.g. new requirement, require assessment or for notification.

#### 4. Action required on the checklists

	GENERAL				
153	PENSION FUNDS REGULATIONS: PART VII GENERAL	Asset limits	Regulation 28(3)(f)	Not Assessed	
154	PENSION FUNDS REGULATIONS: PART VII GENERAL	Asset limits	Regulation 28(3)(g)	Not Assessed	
155	PENSION FUNDS REGULATIONS: PART VII GENERAL	Asset limits	Regulation 28(3)(j)		
156	PENSION FUNDS REGULATIONS: PART VII GENERAL	Look-through	Regulation 28(4)		

21 22 23 24 25 26 27 28 29 30 ... 5 Items per page

**Requirements**

Does the fund ensure that the aggregate exposure to assets specified in sub-section (i) to (vi) does not exceed 45 percent of the aggregate fair value of the total assets of the fund?

**Explanatory Notes**

**Risk Ratings** **Controls** **OS**

Search...

**Review**

Review	Update	Chapter / Paragraph	Asset limits	Does the Fund ensure that the aggregate exposure to assets does not exceed the specified percent of the aggregate fair value of the total asset of the Fund?
<input type="checkbox"/>	November 2022	PART VII GENERAL	Asset limits	Does the Fund ensure that the aggregate exposure to assets does not exceed the specified percent of the aggregate fair value of the total asset of the Fund?

Where an assessment is required the review button should be ticked to indicate that a re-assessment was completed.