

Legislative update

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Please contact Sandra with any queries. Contact details below.

Update on Bills at 25.10.2010

Bill 33 - Rural Development and Land Reform General Amendment Bill Effective 1.10.2010

To amend various laws under the administration of the Minister of Rural Development and Land Reform, so as to substitute certain obsolete definitions to ensure legal certainty; to effect certain consequential amendments in this regard; and to provide for matters connected therewith.

Comment

'Few land reform farms productive'

October 08, 2010 *Edition 2* Cape Argus

RURAL Development and Land Reform Minister Gugile Nkwinti says very few of the farms transferred to black people are productive, partly owing to poor management.

The land reform programme has caused unease and slowed investment in the agricultural sector as white commercial farmers remain unsure of whether to re-invest in farms under claim by black farmers.

"(The) government didn't have a strategy to ensure that the land was productive. If there was a strategy, it was not backed with proper resources," Nkwinti said yesterday.

The government has set a target of handing over 30 percent of commercial farmland to black people by 2014. But the programme has not worked due to hurdles including lack of funds and poor management.

"The other problem is that we gave land to big groups of people and, when there are conflicts within the group, nobody develops the land anymore? in-fighting takes all their energy," Nkwinti said.

He said the government would address some of the challenges in its green paper aimed at resuscitating the reform programme. - Reuters

Bill 32 - Immigration Amendment Bill Effective 1.10.2010

To amend the Immigration Act, 2002, so as to substitute certain words of the Preamble to the Act; to delete, insert or substitute certain definitions; to revise provisions relating to the Immigration Advisory Board; to revise provisions relating to the making of regulations; to provide for the designation of ports of entry; to revise provisions relating to visas for temporary sojourn in the Republic and for the procedures with regard thereto; to provide for the mandatory transmission and use of information on advance passenger processing; to provide for the transmission of passenger name record information; to revise provisions relating to permanent residence; to revise penal provisions; to correct certain important technical aspects in the text of the Act; and to provide for matters connected therewith.

Comment from Julian Pokroy – Immigration Attorney

Minister of Home Affairs Publishes Immigration Amendment Bill – Comment [Download here](#)

Bill 31 - Merchant Shipping (Safe Containers Convention) Bill Effective 16.9.2010

To give effect to the International Convention for Safe Containers, and to provide for matters connected therewith.

Bill 30 - Refugees Amendment Bill Effective 20.8.2010

To amend the Refugees Act, 1998, so as to amend, insert and delete certain definitions; to clarify how applications for refugee status rejected as manifestly unfounded and unfounded must be dealt with; to empower the Director-General to establish the Status Determination Committee; to revise the provisions relating to withdrawal of refugee status; and to provide for matters connected therewith.

Comment**[LHR Submission on the Refugee Amendment Bill \[B30- 2010\]](#)**

LHR has made submissions on the Refugees Amendment Bill on 22nd October 2010. These submissions will be presented to the Portfolio Committee for Home Affairs on the 26th October 2010.

Bill 26 – 2010 Higher Education and Training Laws Amendment Bill Effective 14.9.2010

To amend—

- the Adult Basic Education and Training Act, 2000, so as to amend certain definitions; to make provision for the employment of educators at public centres by inserting provisions in the said Act with regard to employers of educators, salaries and other conditions of service of educators, the educator establishment, powers of employers, appointments and the filling of posts, the transfer of educators, the secondment of educators, the retirement of educators, the discharge of educators, incapacity and misconduct and the performance of other work by educators; to provide for transitional arrangements with regard to public centres; to make provision for the determination of national education policy for public

centres, for directive principles of national education policy, for consultation on policy and legislation, for the publication of national education policy and for the monitoring and evaluation of adult education and training; and to provide for quality assurance in respect of the qualifications offered by public and private centres; and

- the Further Education and Training Colleges Act, 2006, so as to amend certain definitions; to make provision for the determination of national education policy for colleges, for directive principles of national education policy, for consultation on policy and legislation, for the publication of national education policy and for the monitoring and evaluation of further education and training; to make provision for the Council of Education Ministers and the Heads of Education Departments Committee and for their administrative functions; to provide for transitional arrangements with regard to colleges; and to provide for quality assurance in respect of the qualifications offered by colleges; and to provide for matters connected therewith.

Bill 29 - Voluntary Disclosure Programme and Taxation Laws Second Amendment Bill Effective 20.8.2010

To—

- introduce a voluntary disclosure programme;
- amend the Transfer Duty Act, 1949, so as to provide for electronic submission of returns and electronic payment of duty;
- amend the Income Tax Act, 1962, so as to amend certain provisions;
- amend the Unemployment Insurance Contributions Act, 2002, so as to effect a technical correction;
- amend the Mineral and Petroleum Resources Royalty (Administration) Act, 2008, so as to amend certain provisions; and
- provide for matters connected therewith.

Comment from Moneyweb

The South African Revenue Service (Sars) announced and published details of the voluntary disclosure programme (VDP) that will enable taxpayers to apply for relief from their current exposure to tax penalties and interest as a result of past tax transgressions.

In most cases taxpayers are not aware of tax exposures. However, with Sars systems becoming more rigorous over time, these inadvertent transgressions may be detected by Sars with the attendant cost of penalties and interest in addition to the related tax. Further taxpayers who have exposure in respect of offshore assets may find the exchange of information agreements concluded by the South African government with many countries, including tax havens, increase the likelihood of detection of these assets.

The VDP provides taxpayers with an ideal opportunity to identify any existing tax exposures and to regularise their tax affairs without fear of interest and penalties. The programme will run from November 1 2010 to October 31 2011 and is aimed at all taxes administered by Sars.

Bill 27 – Local Government: Municipal Electoral Amendment Bill Effective 20.8.2010

To amend the Local Government: Municipal Electoral Act, 2000, so as to supplement provisions relating to the election timetable and insert a related Schedule to the Act; to amend provisions relating to nomination of candidates; to provide for central payments of deposits by a party which contests election in more than one municipality; to empower presiding officers to alter boundaries of voting stations, if necessary; to revise provisions relating to number of party agents at a voting station; to clarify the rights and responsibilities relating to assistance to certain voters; to provide for special votes and the procedure related thereto; to enhance the powers and functions of the Electoral Commission and the Electoral Court in relation to the determination and declaration of the result of an election; to provide for further regulation of objections material to the result of an election; and to provide for matters connected therewith.

Bill 28 - Taxation Laws Amendment Bill Effective 1.10.2010

To—

- amend the Transfer Duty Act, 1949, so as to clarify a provision; to make new provision; and to correct a reference;
- amend the Estate Duty Act, 1955, so as to correct a reference and to clarify a provision;
- amend the Income Tax Act, 1962, so as to fix the rates of normal tax and amend monetary amounts; to amend, delete and insert certain definitions; to effect technical corrections; to repeal certain provisions; to amend certain provisions; to make new provision; and to effect textual and consequential amendments;
- amend the Customs and Excise Act, 1964, so as to amend rates of duty in Schedule No. 1; and to make provision for continuation;
- amend the Value-Added Tax Act, 1991, so as to amend certain definitions; to make new provision; and to amend certain provisions;
- amend the Revenue Laws Amendment Act, 2006, so as to amend the special measures relating to 2010 FIFA World Cup South Africa;
- amend the Securities Transfer Tax Act, 2007, so as to effect consequential amendments;
- amend the Revenue Laws Amendment Act, 2007, so as to amend a commencement date;
- amend the Mineral and Petroleum Resources Royalty Act, 2008, so as to amend and insert certain definitions; to clarify certain provisions; to make new provision; and to amend the Schedules;
- amend the Revenue Laws Amendment Act, 2008, so as to change commencement dates;
- amend the Taxation Laws Amendment Act, 2009, so as to change commencement dates; to clarify certain provisions; and to correct a reference; and to provide for matters connected therewith.

Comment

LSSA warns of pitfalls in Taxation Laws Amendment Bill, 2010

In September 2010 and on invitation from National Treasury, the Law Society of South Africa's Exchange Control and Taxation Committee commented on the Taxation Laws Amendment Bill 28 of 2010. The Bill envisages repealing s 64B(5)(c) of the Income Tax Act 58 of 1962, which deals with secondary tax on companies (STC) and the ambit of the pending s 9E, which deals with the passive holding regime.

Read the LSSA's submissions to the National Treasury.