

IMPORTANT CIRCULAR, NEWS & NOTICES

CHIEF REGISTRAR'S CIRCULAR NO 1 OF 2014: LODGEMENT OF RATES CLEARANCE CERTIFICATES THAT DO NOT COMPLY WITH THE PROVISIONS OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT NO 32 OF 2000

Chief Registrar's Circulars No CRC 29 and 30 of 2013 are withdrawn and substituted by this Circular.

Contact the Knowledge Centre for a copy of the Circular.

DRAFT NATIONAL ROAD TRAFFIC LAW ENFORCEMENT CODE GAZETTED

The public have been invited to make inputs to the draft National Road Traffic Law Enforcement Code (NRTLEC), which is aimed at informing the implementation of government policies on road traffic management. The draft code was gazetted on 10 January 2014.

The draft policy is a basis through which authorities can ensure satisfactory delivery of services. It includes a code of ethics for both on and off-duty activities that, among other things, also seeks to address the more complex issues such as the improper personal 'job-related gains', prohibited association and personal debt.

The gazetted NRTLEC is accessible on www.gpwonline.co.za and www.gov.za and will soon be available on the RTMC website. The 10th of February 2014 is the last date for the submission of the comments. Written representations can be submitted by post, hand delivery or email to Mr Buluru David Paul, RTMC, Private Bag x147, Tshwane or Boardwalk Office Park, Phase 5, Boardwalk Boulevard, Faerie Glen, Tshwane or NRTLEC@rtmc.co.za

Source: www.SAnews.go.za, 16 January 2014

CIPC NOTICES

Please take note of the latest notices on the CIPC's website, which include a Guide to submitting company and close corporation applications via dedicated email addresses; additional requirements regarding the model constitutions of Co-Operatives, etc

Source: www.cipc.co.za

RECOMMENDED READING

Prior notice before selling a trading business, E McCaul, [LexisNexis' Property Law Digest](#), Vol 17 Part 4, December 2013

Additional exclusive use areas – Dealing with conflicts of interest, T Maree, [LexisNexis' Property Law Digest](#), Vol 17 Part 4, December 2013

SEMINARS

2ND ANNUAL INTELLECTUAL PROPERTY PROTECTION, DISTRIBUTION & COSTING MASTERCLASS

20th & 21st February 2014 - Southern Sun Hotel, O R Tambo International Airport, Johannesburg.

This Master class will give an opportunity to better discuss legal protection of designs or inventions with intellectual

property rights lawyers and practitioners that deal with it daily, who will guide delegates in this regard. The speaker line up includes Dr. Marisella Ouma, who is the Executive Director of the Kenya Copyright Board, Marco van der Merwe, Partner at Spoor & Fischer as well as representation from the African Regional Intellectual Property Organization (ARIPO), Mr. Christopher Kiigi the Director of Industrial property.

Benefits of Attending:

- Understanding the available types of IP and how they add value to business
- Streamlining your organization's IP policy's according to IP act
- Increasing awareness to inventors so as to protect their life's work
- Understanding the role of IP in the developing African continent
- Networking with different industry leaders and make valuable contacts
- Understanding process of commercialising your IP

Contact Pauline Morake at 011-341 1000 or paulinem@amc-intsa.com

THE PRACTICAL AMENDED BEE CODES WORKSHOP

The revised codes of good practice will have an enormous effect on the way business is conducted in South Africa. This workshop is the ideal opportunity to ensure that you are well informed of the application of the codes and are able to mitigate any negative effects the new legislation will have on your Broad-Based Black Economic Empowerment Score.

17 February 2014 – Pretoria
 18 February 2014 – Johannesburg
 19 February 2014 – Cape Town
 21 February 2014 – Durban

One delegate R2 500
 Two or more delegates from the same firm 10% discount – R2 250

For more information visit <http://www.lexisnexis.co.za/>

MICHALSON'S PROTECTION OF PERSONAL INFORMATION SEMINAR

The Protection of Personal Information Act (POPI) sets conditions for how you can process information. It will soon be signed by the President. You will only have one year from the commencement date to comply or face significant consequences. If your organisation processes personal information, then complying with POPI is your problem. Those in the Financial Services, Healthcare and Marketing sectors, in particular, will be affected by this Act. Why does it matter? What could happen to you if you don't comply?

- Suffer reputational damage
- Lose customers and fail to attract new ones
- Pay out millions in damages to a civil class action
- Be fined up to R10 million or face 10 years in jail

This is serious, you need to take action now. You can also get business value out of complying with POPI – there is a strong business case. Attend a seminar, webinar, workshop, or executive briefing presented by an expert with practical experience.

Johannesburg: 11 March 2014 (9am – 4pm)
 Cape Town: 18 March 2014 (9am – 4pm)

One delegate is R2964 (incl VAT). Two or more qualify for 10% discount.

To register, visit www.michalsons.co.za

GENERAL

PROPRIETARY CONSEQUENCES OF MARRIAGE IN MAURITIUS

Lenferna v Lenferna (120/13) [2013] ZASCA 204 (2 December 2013)

The parties were married in Mauritius in 1983, after which they moved to South Africa.

The wife (respondent) sued her husband (the appellant) in 2006 for divorce and the question of the legal regime governing the proprietary rights of their marriage in the absence of an ante-nuptial contract arose, in particular whether this was in terms of Mauritian or South African law.

The wife claimed a 50 per cent share in two properties, arguing that, in terms of Mauritian law, the separation of goods legal regime entitled her to such due to her contribution to the maintenance and/or increased value of the appellant's estate during the marriage. In the alternative, she claimed that South African law governed the marriage which was thus in community of property, and thereby entitled her to a share of the properties.

It was common cause that the legal regime governing the proprietary consequences of the marriage is determined with reference to the *lex domicilii matrimonii*, being the husband's domicile at the time of the marriage.

The court *a quo* concluded that at the time of the marriage it had been the parties' intention that any property acquired after the marriage would be common property. The judge held further that the husband's domicile at the time of the marriage had been South Africa, and thus that the wife was entitled to a share in the properties. In any event, both the equities and Mauritian law would have sanctioned such an outcome. The husband appealed that finding.

On appeal, the court assessed the evidence and determined that, at the time of the marriage, the husband was domiciled in Mauritius, and accordingly that Mauritian law governed the proprietary regime of the marriage. In analysing Mauritian law, the court held that the separation of goods regime provides that each party to a marriage retains its separate estate during the marriage, and that on dissolution thereof neither party has a claim against the estate of the other unless they have funded the acquisition of particular assets in the other party's estate, to which they would then be entitled a share. However, as in this matter there were insufficient evidence to show that the wife contributed to the acquisition of either of the properties of which she sought a share, she did not make out a claim to either of them. Accordingly, the appeal was upheld with costs, and the wife's claim for 50 per cent of the value for the properties was dismissed.

CONSTRUCTION GUARANTEE – LIABILITY ABSOLUTE AND UNCONDITIONAL

Coface South Africa Insurance Co Ltd v East London Own Haven t/a Own Haven Housing Association (050/13) [2013] ZASCA 202 (02 December 2013)

The Supreme Court of Appeal dismissed an appeal by Coface South Africa Insurance Co Ltd. against the judgment of the South Gauteng High Court, Johannesburg. Coface had executed a construction guarantee in favour of the respondent, East London Own Haven pursuant to a construction contract it had entered into with Construct Construction (Pty) Ltd.

The construction contract was cancelled by the respondent which then called up the construction guarantee. Coface refused to honor it claiming that the cancellation was not the result of the default of the contractor but that of the respondent.

The court held that the construction guarantee had to be honored save in cases where it has been established that the claim thereon was tainted by fraud on the part of the claimant, in this case the respondent. It was completely independent of any dispute that might exist in terms of the principle construction contract and consequently found that Coface was liable to make payment to the respondent.

The majority decision in *Dormell Properties v Renasa Insurance* NNO 2011 (1) SA 70 (SCA) was held to be clearly wrong.

Source: *The Supreme Court of Appeal's media summary*, <http://www.justice.gov.za/sca/judgments>

ACTS

MERCHANT SHIPPING (INTERNATIONAL OIL POLLUTION COMPENSATION FUND) CONTRIBUTIONS ACT 36 OF 2013	Date of commencement: to be proclaimed	GG 37219 (08.01.14)
--	--	---------------------

PROCLAMATIONS AND NOTICES

MERCHANDISE MARKS ACT 17 OF 1941	Designation of the 2014 African Nations Championship South Africa (CHAN 2014) as a protected event published	GG 37220 (09.01.14)
	Final prohibition on the use of certain words and emblems of African Nations Championship South Africa (CHAN 2014) published	GG 37221 (09.01.14)
SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS ACT 169 OF 1993	Correction notice to amendment rules published in BN 249 in GG 37092 of 6 December 2013 published	GG 37213 (10.01.14)
REMUNERATION OF PUBLIC OFFICE BEARERS ACT 20 OF 1998	Determination of salaries and allowances of the Deputy President, Ministers and Deputy Ministers published and Proc 46 in GG 35653 of 3 September 2012 repealed with effect from 1 April 2013	GG 37218 (09.01.14)
	Determination of salaries and allowances of members of the National Assembly and permanent delegates to the National Council of Provinces published and Proc 45 in GG 35653 of 3 September 2012 repealed with effect from 1 April 2013	GG 37218 (09.01.14)
	Determination of the upper limit of salaries and allowances of premiers, members of the Executive Councils and members of the Provincial Legislatures published and Proc 56 in GG 35700 of 18 September 2012 repealed with effect from 1 April 2013	
ROAD TRAFFIC MANAGEMENT CORPORATION ACT 20 OF 1999	Draft National Road Traffic Law Enforcement Code (NRTLEC) published for comment	GG 37149 (10.01.14)
LIQUOR ACT 59 OF 2003	African Nations Championship South Africa, 2014 Liquor Regulations published	GG 37217 (08.01.14)

PROVINCIAL LEGISLATION**Free State**

Local Government: Municipal Demarcation Act 27 of 1998	Electoral Commission: Correction Notice: PN 109 in PG 73 of 6 December 2013 corrected	PG 78 (10.01.13)
--	---	------------------

North West

Local Government:
Municipal Property Rates
Act 6 of 2004

Lekwa-Teemane Local Municipality: Resolution for the
levying of property rates published

PG 7206 (31.12.13)

Associated Firms**Free State**

Phatshoane Henney Attorneys
Breytenbach Mavuso inc.
Cloete & Neveling inc.
Be Beer & Claassen
Neumann van Rooyen inc.
Nostix (Pty) Ltd

North-West

Du Plessis & Van der Westhuizen inc.
Kotzé Low Swanepoel
Meyer van Sittert & Kropman

Western Cape

Brink de Beer & Potgieter inc.
Cluver Markotter inc.
Miller Bosman le Roux
Millers inc.
Mosdell, Pama & Cox inc.
Oosthuizen Marais & Pretorius inc.
Van der Spuy & Partners

Gauteng

Bouwers inc.
Cilliers & Reynders inc.
Erasmus de Klerk inc.
Neil Esterhuysen Attorneys
Van der Merwe du Toit inc.
Wright Rose-Innes inc.

Kwa-Zulu Natal

Barry Botha Breytenbach inc.
Kloppers Durban inc.
Kloppers Empangeni inc.
Kloppers Richards Bay inc.
Knight Turner inc.
Schulz Wiesinger O'Dwyer
Tatham Wilkes inc.

Limpopo

Davel de Klerk Kgatla inc.

Eastern Cape

Drake Flemmer & Orsmond inc.
Greyvensteins inc.

Northern Cape

Lange Carr Wessels inc.
Van de Wall & Partners

Mpumalanga

Seymore du Toit & Basson Attorneys