EXPLANATORY SUMMARY OF THE CHILDREN'S AMENDMENT BILL, 2015 PUBLISHED

The Minister of Social Development intends to introduce the Children's Amendment Bill, 2015 in the National Assembly shortly.

The Bill provides for the amendment of the Children's Act, 2005, so as to:

- insert certain definitions;
- to deem person convicted of a certain offences against children unsuitable to work with children;
- to provide for the Court, before making an order directing that the particulars of a child offender convicted of a sexual offence to be included in the Register, to afford the child offender an opportunity to make representations as to why such an order should not be made and to have the best interests of that child considered of paramount importance;
- to provide for a child offender, to apply in the prescribed manner, to have their particulars removed from the Register;
- to provide for the review of a decision to remove a child without a court order;
- to extend the circumstances as to when a child is adoptable,
- to extend the effects of an adoption order by providing that an adoption order does not automatically terminate all parental responsibilities and rights of a guardian of a child when an adoption order is granted in favour of the spouse or permanent domestic life-partner of that guardian;
- and to provide for matters connected therewith.

Source: GG 38703 (17.04.15)

EXPLANATORY SUMMARY OF THE CHILDREN'S SECOND AMENDMENT BILL, 2015 PUBLISHED

The Minister of Social Development also intends to introduce the Children's Second Amendment Bill, 2015 in the National Assembly shortly.

The Bill provides for the amendment of the Children's Act, 2005, so as to:

- extend the definition of adoption social worker;
- to insert new definitions
- to provide that the removal of a child to a temporary safe care without a court order be placed before the Children's Court for review before the expiry of the next court day;
- to provide for the review of decisions to remove a child without a court order;
- to provide for the provincial head of social development to transfer a child or a person from one form of alternative care to another;
- to provide for the provincial head of social development to transfer a child or a person from a more restrictive form of alternative care to a less restrictive form of alternative care and that such transfer may only be given effect to with the approval by the Children's Court;
- to extend the provisions relating to alternative care of children beyond the age of 18 years;
- and to provide for matters connected therewith.

Source: GG 38704 (17.04.15)
RECOMMENDED READING

The obligation to pay severance pay to fixed-term employees, by Johan Botes, Cliffe Dekker Hofmeyr, www.polity.org.za

May an employer take on the right to alter a chairperson’s decision in a disciplinary hearing?, by J van Wyk and A Van Heerden, Werksmans Attorneys, www.polity.org.za

Court orders end to racist bursaries, LegalBrief Today, Issue No 3740, May 2015

SOUTH AFRICAN LAW REPORTS FOR MAY 2015

STRATFORD AND OTHERS v INVESTECP BANK LTD AND OTHERS 2015 (3) SA 1 (CC)
Insolvency - Compulsory sequestration—Provisional sequestration—Application—Furnishing of copy of petition to employees of debtor—Employees including also domestic employees—Petition must be made reasonably accessible to them—Insolvency Act 24 of 1936, s 9(4A).

Insolvency—Compulsory sequestration—Final sequestration—Facta probanda—Advantage to creditors—Reasonable prospect that some pecuniary benefit will result—Concept of ‘advantage’ broad and not to be rigidified—Potentially impeachable transactions making sequestration advantageous to creditors—Insolvency Act 24 of 1936, s 12(1)(c).

B BRAUN MEDICAL (PTY) LTD v AMBASAAM CC 2015 (3) SA 22 (SCA)
Contract - Breach—Repudiation—Demand for performance—Not reasonably perceived as indicating repudiation.

Contract—Interpretation—Evidence—Extraneous evidence to be used as conservatively as possible.

COETZEE v FINANCIAL PLANNING INSTITUTE OF SOUTH AFRICA AND OTHERS 2015 (3) SA 28 (SCA)
Disciplinary body - Disciplinary proceedings—Charge—Facts underlying—Test for sufficiency of.

STUPEL & BERMAN INC v RODEL FINANCIAL SERVICES (PTY) LTD 2015 (3) SA 36 (SCA)
Conveyancer - Relationship between conveyancer and parties to transaction—Conveyancer undertaking to pay net proceeds of sale of immovable property to third party upon transfer—Seller later instructing conveyancer to withdraw undertaking—Third party claiming payment from conveyancer on basis that undertaking irrevocable—Undertaking given as agent which seller entitled to revoke as principal.

SPENMAC (PTY) LTD v TATRIM CC 2015 (3) SA 46 (SCA)
Contract - Consensus—Mistake—Seller’s innocent misrepresentation inducing buyer to make material and reasonable mistake as to nature of merx—‘No representations’ clause—Whether seller may employ.

GM v KI (GJ) 2015 (3) SA 62 (GJ)
Children - Parents—Responsibilities and rights—Suspension or termination—Right may not be terminated or suspended while responsibility preserved and vice versa—Permissible duration of suspension—Children’s Act 38 of 2005, s 28(1)(a).

Children —Parents—Biological father—Duty to maintain child—Duty existing independently of whether father holder of parental rights and responsibilities—Children’s Act 38 of 2005, s 21(2).

VISSER v 1 LIFE DIRECT INSURANCE LTD 2015 (3) SA 69 (SCA)

REGENT INSURANCE CO LTD v KING’S PROPERTY DEVELOPMENT (PTY) LTD t/a KING’S PROP 2015 (3) SA 85 (SCA)
Insurance - Extinctive prescription—Period of prescription—Debt secured by general notarial bond—Not constituting ‘mortgage bond’ to which 30-year prescription period applying but ‘notarial contract’ to which 6-year prescription period applying—Prescription Act 68 of 1969, ss 11(a)(i) and 11(c).

LAND AND AGRICULTURAL DEVELOPMENT BANK OF SOUTH AFRICA v PHATO FARMS (PTY) LTD AND OTHERS (GP) 2015 (3) SA 100 (GP)

Prescription - Extinctive prescription - Period of prescription - Debt secured by general notarial bond - Not constituting 'mortgage bond' to which 30-year prescription period applying but 'notarial contract' to which 6-year prescription period applying - Prescription Act 68 of 1969, ss 11(a)(i) and 11(c).

Mortgage - Notarial bond - General notarial bond - Extinctive prescription - Period of prescription - General notarial bond constituting 'notarial contract' to which 6-year prescription period applying - Prescription Act 68 of 1969, ss 11(a)(i) and 11(c).

HANGER v REGAL AND ANOTHER (FB) 2015 (3) SA 115 (FB)

Animals - Wild animal - Liability of owner for damage by wild animal kept in captivity - Himalayan bear kept in cage, on owners' farm, surrounded by jackal-proof wire fence - Bear biting plaintiff's hand causing injuries after pulling her arm through fence - Plaintiff allowing fingers to protrude through fence, enabling bear's action - Safety measures taken reasonable in circumstances - Owners not liable for plaintiff's damages.

YORK TIMBERS (PTY) LTD v NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS (GP) 2015 (3) SA 122 (GP)


OMAR v INHOUSE VENUE TECHNICAL MANAGEMENT (PTY) LTD AND OTHERS (WCC) 2015 (3) SA 146 (WCC)

Company - Oppressive conduct - What constitutes - Adverse offer for shareholding - Companies Act 71 of 2008, s 163.

Company - Directors and officers - Director - Personal financial interests - Non-disclosure - Consequences - Companies Act 71 of 2008, ss 75(5) and 75(7).

MAKWICKANA v ETHEKWINI MUNICIPALITY AND OTHERS (KZD) 2015 (3) SA 165 (KZD)

Local authority - Powers and duties - To regulate informal trading - Impounding of street trader's stock for failing to produce permit - Constitutionality - Remedy.

Trade and industry - Trade - Informal trading - Regulation - Constitutionality - Impounding of street trader's stock for failing to produce permit - Remedy.

BARNARD AND OTHERS v REGISTRAR OF MEDICAL SCHEMES 2015 (3) SA 204 (SCA)

Medicine - Medical aid - Medical aid scheme - Placing under curatorship - Whether appropriate - Test - Medical Schemes Act 131 of 1998, s 56; Financial Institutions (Protection of Funds) Act 28 of 2001, ss 5(1) and 5(2).

COMBINED DEVELOPERS v ARUN HOLDINGS AND OTHERS (WCC) 2015 (3) SA 215 (WCC)

Contract - Legality - Contracts contrary to public policy - Specific instances - Acceleration clause in loan agreement - Not per se contrary to public policy, but draconian and unfair implementation would be - Court refusing to allow applicant to use trivial default to trigger acceleration clause in order to gain commercial advantage over respondent.

YOUNG MING SHAN CC v CHAGAN NO AND OTHERS (GJ) 2015 (3) SA 227 (GJ)

Administrative law - Administrative action - What constitutes - Ruling of rental housing tribunal - Rental Housing Act 50 of 1999, s 13(4).

Electricity - Supply - Service charges - Whether landlord permitted to charge tenants its own electrical service charge in addition to municipality's electrical service and consumption charges - Unfair Practices Regulations, 2001 (Gauteng), reg 13.

DE MONTLEHU v MAYO NO AND OTHERS (GJ) 2015 (3) SA 253 (GJ)

Company - Winding-up - Claim against company in liquidation - Proof - Late proof - Statutory framework - Whether Insolvency Act 24 of 1936, s 44(1), or Companies Act 61 of 1973, s 366(2), applying to late proof of claim.

KHOZA v MEC FOR HEALTH AND SOCIAL DEVELOPMENT, GAUTENG (GJ) 2015 (3) SA 266 (GJ)

Medicine - Medical practitioner - Negligence - Proof - Secondary evidence of contents of lost or destroyed hospital records - Prima facie inadmissible in absence of acceptable explanation as to why original records not preserved...
Semble: Such failure may also result in application of res ipsa loquitur doctrine in appropriate cases, or in adverse inferences being drawn—Law of Evidence Amendment Act 45 of 1988, s 3; National Health Act 61 of 2003, ss 13 and 17.

S v Litako and Others 2015 (3) SA 287 (SCA)
Criminal procedure - Evidence - Admissibility - Extra-curial statement by accused - Inadmissible against co-accused, whether classified as confession or admission - Law of Evidence Amendment Act 45 of 1988, s 3(1) not applicable.

Shepherd v Emmich (GJ) 2015 (3) SA 309 (GJ)
Practice - Pleadings - Summons - Service - Validity - Contractually chosen domicilium citandi et executandi - Where specific method of effecting service contractually agreed, that method to be strictly complied with.

Source: https://jutalaw.co.za/newsletter/law-reports-advance-notification/

BILLS

CHILDREN’S AMENDMENT BILL, 2015
Notice of intention to introduce and explanatory summary published
GG 38703 (17.04.15)

CHILDREN’S SECOND AMENDMENT BILL, 2015
Notice of intention to introduce and explanatory summary published
GG 38704 (17.04.15)

NOTICE OF DRAFT INSURANCE LAWS BILL, 2015
Published for comment
GG 38724 (20.04.15)

NOTICE OF DRAFT FINANCIAL INTELLIGENCE CENTRE AMENDMENT BILL, 2014
Published for comment
GG 38728 (22.04.15)

PROCLAMATIONS AND NOTICES

INCOME TAX ACT 58 OF 1962
Notice in terms of s. 11D (6) (b) in respect of certain categories of research and development deemed to constitute the carrying on of research and development published
GG 38729 (23.04.15)

Regulations on the additional criteria for clinical trials for the purposes of the deduction for research and development in terms of section 11D of the Income Tax Act, 1962, published with effect from 1 October 2012
GG 38730 (23.04.15)

Regulations on the other criteria for multisource pharmaceutical products for the purpose of the deduction for research and development in terms of section 11D of the Income Tax Act, 1962, published with effect from 1 October 2012
GG 38732 (23.04.15)

MEDICINES AND RELATED SUBSTANCES CONTROL ACT 101 OF 1965
Regulations relating to the Transparent Pricing System for Medicines and Scheduled Substances published under GN R1102 in GG 28214 of 11 November 2005 amended
GG 38731 (23.04.15)

ALLIED HEALTH PROFESSIONS ACT 63 OF 1982
Allied Health Professions Council of South Africa (AHPCSA):
Requirements for continuing professional development
GG 38707 (24.04.15)
for the cycle 1 July 2015 to 30 June 2017 published

Notice regarding use of professional titles published under BN 130 in GG 38128 of 31 October 2014 rescinded

DIAMONDS ACT 56 OF 1986
Amendment of regulations published in GN R736 in GG 38013 of 22 September 2014 corrected

OCCUPATIONAL HEALTH AND SAFETY ACT 85 OF 1993
Notice of directive in terms of s. 7 (1) of the Act to Class XXI (Medical services, Animal hospitals etc.) employers published

COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT 130 OF 1993
Annual increases in medical tariffs for:
• physiotherapists
• dental services
• hospitals
• social workers and psychologists
• renal care
• wound care
• ambulances
• blood services
• occupational therapists
• chiropractors
published with effect from 1 April 2015

Annual increases in medical tariffs: Rules governing the tariff published with effect from 1 April 2015

LABOUR RELATIONS ACT 66 OF 1995
Metal and Engineering Industries Bargaining Council (MEIBC):
Notices inviting representations from the public in response to the MEIBC’s applications for extension to non-parties of its-
• Registration and Administration Expenses Collective Agreement; and
• Dispute Resolution Collective Agreement, published

Motor Industry Bargaining Council (MIBCO):
Notice inviting representations from the public in response to MIBCO’s application for the extension of the period of operation and the extension to non-parties of its Administrative Agreement published

MINE HEALTH AND SAFETY ACT 29 OF 1996
Regulations amended

Regulations made in terms of the Minerals Act 50 of 1991 amended

ROAD ACCIDENT FUND ACT 56 OF 1996
Adjustment of statutory limit in respect of claims for loss of income and loss of support published with effect from 30 April 2015

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<td>Independent Communications Authority of South Africa (ICASA): Notice to broadcasting, electronic communications services (ECS) and electronic communications network services (ECNS) licensees regarding submission of financial information for 2014/2015 annual compliance published</td>
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<td>Independent Regulatory Board for Auditors (IRBA): Proposed amendments to the code of professional conduct for registered auditors published for comment</td>
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PROVINCIAL LEGISLATION

Eastern Cape


PG 3376 (20.04.15)

Gauteng


Ekurhuleni Metropolitan Municipality: Proposed amendment to Standing Orders By-laws published for comment
PG 131 (22.04.15)

Limpopo

Limpopo Traditional Leadership and Institutions Act 6 of 2005

Correction notice: Removal of headmen, recognition of headmen, Senior Traditional Leaders and Regents as published under PremN 6 in PG 2399 of 29 July 2014 corrected
PG 2500 (17.04.15)

National Road Traffic Act 93 of 1996

Registration of Aganang Local Municipality as Grade 'A' driving license testing centre published
PG 2502 (21.04.15)

North West


Umjindi Local Municipality: Waste Management By-law published
PG 7431 (17.04.15)

Western Cape

Western Cape Additional Adjustments Appropriation Act (2014/15 Financial Year) 1 of 2015

Date of commencement: 10 April 2015
PG 7377 (10.04.15)

National Heritage Resources Act 25 of 1999

Regulations made by Heritage Western Cape in terms of section 25(2)(h) as published under PN 298 in PG 6061 of 29 August 2003 amended
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For more information visit [http://www.lssalead.org.za/](http://www.lssalead.org.za/)

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