IMPORTANT NEWS & CIRCULAR

STATE ATTORNEY AMENDMENT ACT IN FORCE SOON

The 2014 State Attorney Amendment Act is ‘currently being considered’ by President Jacob Zuma, according to Justice and Correctional Services Minister Michael Masutha – tending to suggest that it could soon come into effect, notes Pam Saxby for Legalbrief Policy Watch. Among other things providing for the appointment of a solicitor-general, the new statute is expected to ‘institutionalise the preferential allocation of state legal work to female and other previously disadvantaged practitioners’.

Delivering an address to delegates at a conference hosted by the South African chapter of the International Association of Women Judges (IAWJ), the Minister alluded to the ‘special attention’ now being paid to creating opportunities for ‘aspirant judges and lawyers to pursue a career in the legal sector’. He referred in particular to provisions in the Legal Practice Act and the State Attorney Amendment Act ‘intended to level the playing field’.

As Legalbrief Today has already reported, in 2014 Masutha spoke of plans to direct 75% of all briefs emanating from the Office of the State Attorney to ‘previously disadvantaged practitioners’. Also addressing an IAWJ South African chapter function at the time, he said that this should help to ‘widen the pool’ from which judges are appointed. Earlier this year, however – noting the extent to which inadequate preparation and inexperienced counsel have ‘unnecessarily’ cost the state far too many cases – the Minister conceded that consolidating government’s ‘litigation account’ continues to present challenges.

Source: Legalbrief, 17 August 2016

DECISION ON 2017 UNIVERSITY FEES POSTPONED

Government has postponed announcing a decision on next year’s university fees pending the outcome of ‘further consultations’ (Polity). According to Department of Higher Education and Training spokesperson Khaye Nkwanyana, discussions are ongoing with key stakeholders in the hope of arriving at ‘broad consensus’ on the issue between an array of stakeholders – including the institutions representing vice-chancellors, students and university councils, reports Pam Saxby for Legalbrief Policy Watch.

Meanwhile, information on the feasibility of making higher education and training fee-free for certain sectors of the student population is still being gathered. The commission responsible held public hearings and now has until the end of next June to finalise its recommendations – although an interim report is expected to be presented to President Jacob Zuma in November.

As Legalbrief Today reported at the beginning of August, the South African Union of Students has already threatened to ‘shut down universities’ should rumours of a 6% fee increase become official policy (eNCA). With that in mind, university management and students were reportedly ‘anxiously awaiting’ a media briefing (RNews) at which Higher Education and Training Minister Blade Nzimande was expected to ‘make recommendations’ to university councils on ‘possible fee increases’ for the next academic year. This is noting that, according to Nkwanyana, a Council on Higher Education report on the issue was presented to the Minister.

Scheduled at short notice and cancelled before a specific time was ever announced, the briefing may have been ‘put on ice’ following decisions by some student organisations to ‘boycott’ the hearings (SABC News). The South African Students Congress allegedly warned that campuses will become ‘battlefields’ if university management attempt to ‘initiate fee increase discussions’ (RNews). A National Treasury submission to the commission has alluded to the inevitability of ‘significant’ tax hikes if more funds are to be channelled towards higher education – especially in the absence of sustained economic growth. Otherwise, resources will need to be shifted ‘away from other priorities’ – with serious implications for government’s other developmental imperatives.

Source: Legalbrief, 15 August 2016
ANNOUNCEMENT OF MINIMUM WAGE ‘BY OCTOBER’?

Negotiations on a national minimum wage have deadlocked to the point where a panel of seven academic experts will now attempt to resolve the ‘impasse’ between government and its social partners in the National Economic Development and Labour Council – ‘by October’ (Financial Mail). This follows 18 months of work that was recently described as ‘frantic’ by Deputy President Cyril Ramaphosa (Business Day). Predictably when it comes to wages, numbers are the problem, notes Pam Saxby for Legalbrief Policy Watch. Labour is reportedly arguing for a monthly minimum of ‘around R3 500’ and business for approximately half that amount – with government ‘somewhere between the two’.

The panel’s job is to ‘make sense of conflicting research’ apparently emanating from the University of Cape Town (UCT) and Wits – informed by ‘completely different economic modelling techniques’, neither of which ‘takes explicit account of prevailing business conditions’. While the UCT team has concluded that the amount favoured by organised labour would result in considerable job losses (with only a ‘modest’ beneficial impact on wage inequality and poverty), the Wits findings suggest that – ‘set at a meaningful level’ above the lowest sectoral determination – a national minimum wage ‘could reduce working poverty and inequality’ (lifting income, spending, productivity, investment, output and growth) without a ‘significant’ loss of jobs.

As Legalbrief Today reported last month, commenting on a Financial Times of London interview with Finance Minister Pravin Gordhan – in which the Minister said that government was ‘close’ to making an announcement on the issue – Cosatu president S’dumo Dlamini referred to the pronouncement as ‘premature’ (Fin24). At the time, not only were national minimum wage negotiations at ‘a delicate stage’; talks on pre-strike balloting and ‘other’ labour market reforms were also ‘nowhere near closure’. Investor concerns about Cosatu’s ability to undermine reforms aimed at stimulating economic growth are well documented. In June – drawing attention to a media statement blaming unemployment, poverty and inequality on government’s ‘neoliberal policies’ – Bloomberg noted the extent to which investors have been ‘spooked’ and consider SA to be higher risk that ‘some junk-rated countries’.

Source: Legalbrief, 15 August 2016

COMMENT SOUGHT ON FICA BILL GUIDELINES

Financial Intelligence Centre Amendment Bill specifics on which affected institutions may require guidance are identified in an issues paper released for comment, notes Pam Saxby for Legalbrief Policy Watch.

Having completed its passage through Parliament shortly before the pre-elections recess, the Bill now awaits presidential approval. Once operational, it is expected to assist financial institutions in their efforts to: strengthen internal compliance regimes; and mitigate the risk of product and service abuse. With the aim of ensuring that the guidelines envisaged are as comprehensive as possible, an accompanying notice invites stakeholder input during a 19-day commentary window scheduled to open on 1 September 2016.

Posted on the Financial Intelligence Centre website, the paper discusses issues likely to arise with the introduction of a risk-based approach to customer due-diligence processes and procedures. These include: assessing, understanding and managing risk; applying the new approach to existing clients; dealing with exemptions to the ‘know your client’ requirements currently in force; establishing and verifying a client’s identity; applying the single transaction threshold; obtaining beneficial ownership information in respect of legal persons, trusts and partnerships; establishing business relationships with foreign prominent public officials and domestic prominent influential persons; developing in-house risk management and compliance programmes; and implementing UN Security Council asset-freezing resolutions.

Source: Legalbrief, 18 August 2016

PARLIAMENTARY HEARINGS ON AARTO BILL

Parliamentary hearings on the 2015 Administrative Adjudication of Road Traffic Offences (Aarto) Amendment Bill could be scheduled soon – in anticipation of which the deadline for submissions was extended by two weeks, notes Pam Saxby for Legalbrief Policy Watch.

Published on the Parliamentary Monitoring Group website shortly before the pre-elections recess, the original notice inviting comment also set the deadline at 30 August 2016 – although whether it was circulated more widely remains unclear. The media statement announcing the extension noted the importance of avoiding a ‘situation’ in which ‘people are not given adequate opportunity to comment’ and to ‘influence’ the legislation-making process.

Tabled in Parliament last December, once in force the Bill is expected to improve the financial stability of issuing
authorities as well as a renamed Road Traffic Infringement Agency – among other things by addressing inefficiencies apparently identified during an ongoing pilot phase in Tshwane and Johannesburg. It also provides for notices to be served electronically, aligning the Act with draft amendments to the Aarto regulations – which were released in December for public input but have yet to be finalised. While the media statement refers to an infringement ‘tribunal’ for dealing with offences, the term does not feature in the Bill at this stage. A ‘national roll-out’ of the Aarto programme is planned for 2017/18.

Source: Legalbrief, 17 August 2016

MORE CHANGES TO JSE DERIVATIVES RULES

Comment is sought on proposed amendments to the JSE’s interest rate and currency derivatives market rules, among other things with the aim of: replacing the term ‘dealer’ with ‘trader’; removing provisions in the rules for temporary registration; and preventing changes to the JSE member recorded on officer’s registration documents, reports Pam Saxby for Legalbrief Policy Watch.

A trader is defined in the draft amendments as: the employee of a trading member, authorised by the JSE and registered by the member in terms of the rules, to trade for the member’s own account, on behalf of clients or both. Since temporary registration while obtaining the necessary qualifications will no longer be an option, anyone applying to register with the JSE as an officer would need to satisfy all the prescribed requirements.

While the notice calling for comments was gazetted, the draft amendments themselves only appeared on the Financial Services Board website. It is therefore not clear when the 14-day commentary period actually began.

Source: Legalbrief, 16 August 2016

EXTENDING UIF BENEFITS FACES PROBLEMS – DEPARTMENT

Providing unemployment cover for people who resign and those who work in the informal sector – as recommended by the National Economic Development and Labour Council (Nedlac) – is fraught with problems, says a Business Day report. The Unemployment Insurance Fund (UIF) has an accumulated surplus of about R120bn and benefits have been extended to make use of it. A Bill before the National Council of Provinces aims to extend unemployment benefits to 12 months from eight months, provide cover for scholars undergoing training and public servants, and increase maternity benefits. Labour Department chief director of labour market policy, Thembinkosi Mkalipi said including the informal sector and the self-employed would place strain on the fund and raises the problem of defining when a person in the informal sector became unemployed. Providing for paternity leave – another Nedlac proposal – would be affordable if the informal sector was not included within the ambit of the fund, he said. Covering those who resigned would have cost implications and there was the possibility that benefit payments would exceed income if this was introduced. The income replacement rate might have to be lowered if this proposal were adopted, Mkalipi said. The department was reluctant to create an incentive for people to leave their jobs to access benefits.

Source: Legalbrief, 18 August 2016

CHIEF REGISTRAR’S CIRCULAR 11 OF 2016 – CHANGE OF NAME CONCERNING VKB LANDBOU (PTY) LTD TO VKB BELEGGINGS (PTY) LTD

VKV Landbou (Pty) Ltd has changed its name in terms of the provisions of the Companies Act 71 of 2008 to VKB Beleggings (Pty) LTD, with effect from 30 March 2016.

Contact the Knowledge Centre if you require a copy of above circular.

RECOMMENDED READING

Die reg op die gevoelslewe (en die moontlike relevansie daarvan by ‘n aksie wees owerspel), by Potgieter, Journal of South African Law, 2016.3


The interaction between public polity, constitutional rights and public private arbitration (part 1), by Schlemmer, Journal of South African Law, 2016.3

Payment distribution agents’ role in the consumer credit industry, by Schlemmer, Journal of South African Law, 2016.3


RECENT CONSTITUTIONAL COURT JUDGMENT

RADUVHA v MINISTER OF SAFETY AND SECURITY AND ANOTHER (CCT151/15) [2016] ZACC 24 (11 AUGUST 2016)

The rights of a child not to be detained except as a measure of last resort have been confirmed by the Constitutional Court, which ruled that a teenager can go ahead with a claim for damages against the state, notes a BDLive report. Joyce Raduvha wants damages from the Minister of Safety and Security after she was arrested without a warrant. She was 15 at the time. The police officers were responding to a complaint of assault and resultant breach of a protection order against her mother in April 2008. When her mother was arrested, the teen physically intervened and was ultimately arrested for obstructing police officers. Both she and her mother were detained together in a cell at Brixton Police Station for 19 hours. Both were released on warning the next day. The prosecutors later declined to press charges. Raduvha instituted an action in the Gauteng High Court (Johannesburg) for damages arising from her arrest and detention, but her claim was dismissed on the ground that her arrest and detention were lawful. An appeal to a full Bench was also dismissed and the SCA refused to grant her leave to appeal, following which she approached the Constitutional Court.

In a unanimous judgment handed down by Judge Lebotsang Bosielo, the Constitutional Court ruled that while police officers have a discretion to arrest, this discretion must be properly exercised in accordance with the facts of the case and the dictates of the Bill of Rights. Since the police officers failed to consider her best interests as a child in exercising their discretion to arrest her, the arrest was unlawful. The court also held that her detention was unlawful, notes a TimesLIVE report. Her father was at the station and willing to take her home. As a result, the police officers’ decision to detain her was not a measure of last resort and was as a result inconsistent with the Constitution and invalid. Bosielo commented that the Constitution ‘seeks to insulate (children) from the trauma of an arrest by demanding in peremptory terms that, even when a child has to be arrested, his or her best interests must be accorded paramount importance’.

‘Given the importance which our Constitution places on the rights of children, this means that an arrest of a child should be resorted to when the facts are such that there is no other less invasive way of securing the attendance of such a child before a court. This requires police officers to consider and weigh all the facts carefully and exercise a value-judgement whether an arrest can be justified.’

Source: Legalbrief, 12 August 2016

IMPORTANT OTHER JUDGMENTS

DRUGS ACT RULING TOO LATE FOR SOME ...

The Accused people facing drug charges cannot rely on the Constitutional Court’s decision in Minister of Police and Others v Kunjana to have evidence against them declared inadmissible, as it was decided that effect of the order of invalidity would be prospective, says Safura Abdool Karim, in an analysis on the GroundUp site. She notes that search warrants are a meaningful way to protect constitutional rights. ‘Searches without warrants can only be justified in limited circumstances. In the case of the Drugs Act, this was not the case and, going forward, searches, irrespective of whether they relate to suspected contraventions of the Drugs Act or other crimes now, generally, require warrants.’ However, she points out that there are circumstances where a warrant is not necessary, no matter the crime involved. Under section 22 of the Criminal Procedure Act, a police official may execute a search if the suspect or owner of the property consents to a search and seizure; or when the need to execute the search is so urgent that the delay caused by obtaining a warrant would ‘defeat the object of the search’. This, she says, allows police to search and seize evidence if they believe the it is about to be destroyed or removed. The official concerned has to have reasonable grounds to believe that if he
In the event that there was no real urgency or if there were insufficient grounds for the search to take place, the evidence will have been unconstitutionally obtained and cannot be used against the accused during his or her trial.”

Source: Legalbrief, 16 August 2016

**RULING HELPS CCMA BECOME ‘ONE-STOP SHOP’**

A new judgment by the Labour Appeal Court in *CCMA v MBS Transport CC and Others, CCMA v Bheka Management Services (Pty) Ltd and Others* could mean an employee whose employment had terminated, could have more convenient and affordable access to justice than under the old system. So say Bradley Workman Davies and Kerry Badal, of Werksmans Attorneys, in an article on the *Fin24* site. In their view, this could be the practical effect of the court’s decision in the recent case between the CCMA and MBS Transport regarding a party who is successful in the CCMA and who receives a monetary arbitration award in their favour. Davies says that when an employee receives an award in his or her favour – if the CCMA found an employee had been unfairly dismissed – the question was how to enforce a monetary award, for instance. He explains that the Labour Appeal Court decision adds to the ability of the CCMA to be ‘a one-stop shop for the first stage of the resolution of labour disputes’. The case recognises the right of the CCMA to enforce arbitration awards issued by it, through its own process of certifying awards, and without having to revert to the Labour Court to issue the writ of execution. Accordingly, they say, the new case law has the effect that once the CCMA has certified an arbitration award, such an award is enforceable as if it were an order of the Labour Court in respect of which a writ had been issued.

Source: Legalbrief, 16 August 2016

**UNFORESEEN CONSEQUENCES OF DRAFT DEBT COLLECTORS BILL**

It is evident that the recent ruling in *University of Stellenbosch Legal Aid Clinic and others v Minister of Justice and Correctional Services and Others* has significantly influenced the proposed inclusion of attorneys within the ambit of the draft Debt Collectors Amendment Bill, says Woodhead Bigby Inc’s Sean Barrett, in an analysis on the *Polity* site. He notes that the proposed amendment to section 8 reads as follows: ‘any person, including an attorney or his or her employee or agent contemplated in section 8A, or a party to a factoring arrangement, who for reward collects debts owed to another on the latter’s behalf’. The result will be that all attorneys will be brought under the jurisdiction of the regulatory body responsible for debt collectors. ‘This means that attorneys – who are not registered as debt collectors – will effectively be prevented from engaging in litigation in respect of money owed. This is clearly a far-reaching consequence that was never intended,’ he says. In addition, in terms of section 8, if an incorporated firm of attorneys is in any way involved in debt collecting, the company will have to be registered, and all the directors of the firm will in turn have to register.’ ‘The result of this is that directors who have nothing to do with debt collection will be required to register,’ he says. Barrett adds further confusion is created by the words ‘contemplated in section 8A’ in relation to attorneys in the definition. The phrase, he says, should rather be removed from the definition for the sake of clarity.

Source: Legalbrief, 15 August 2016

**RECENT OTHER CASES**

**COURT SETS ASIDE ESKOM TARIFF HIKE**

Electricity tariffs are in limbo after Gauteng High Court (Pretoria) Judge Cynthia Pretorius set aside a decision by the National Energy Regulator of SA (Nersa) to grant Eskom an effective 9.4% increase for 2016 on the grounds that neither Eskom nor Nersa had complied with the prescribed methodology for interim tariff increases, notes Legalbrief. *A Business Day* report says the effect of the ruling is that unless Eskom or Nersa appeals the decision, Eskom is not permitted to continue to charge customers the tariff increase, and will have to revert to a 3.4% increase on 2015 tariffs. It would also mean it would have to refund customers the difference since the tariff came into effect on 1 April. The report says the ruling is also highly significant in that it is the first time a court has disciplined a regulator for deviating from its stated procedures. The ruling follows an application by a group of businesses from the Eastern Cape to have Eskom’s 2013-14 application under the Regulatory Clearing Account (RCA) set aside. The RCA, notes *Business Day*, is the mechanism allowed by the regulator to enable Eskom retrospectively to recover costs after the close of the financial year through raising revenue in the following year. It says the RCA application for 2013-14 allowed Eskom a tariff increase of 9.4%, which only came into effect in the 2016 year, due to the lateness of the application. Without the RCA portion of the increase, tariffs would have risen only 3.4% in 2016. Pretorius ruled that Eskom had not fully complied with the Nersa methodology in two respects. The application had been submitted outside of the permitted timeframe and was out of...
time. Secondly, the RCA application should have been based on quarterly reports by Eskom to Nersa. These had not been submitted.

The technical nature of the decision is best referred back to Nersa to sort out, Pretorius decided. According to a Moneyweb report, Pretorius ruled: ‘I find it was irregular for Nersa not to have the quarterly financial reports for the 2013/14 year; not to alert customers and the public that it intended to deviate from the MYPD (Multi-Year Price Determination) methodology; and not to allow customers and the public to deal with the deviation in the public hearings and submissions to Nersa’. She added: ‘I further find that it was irrational, unfair and unlawful not to deal with the deviation in 2014, which was the subsequent year, but to wait 27 months before launching the RCA application.’ Nersa did not properly assess the efficiency ‘in an adequate manner or at all’, Pretorius found. She also found there was some double counting, notes Moneyweb. ‘In the present instance Nersa allowed a variance for decreased revenue, but this could only be done if the lower sales had not been due to Eskom’s own inefficiencies. Nersa ignored the fact that Eskom actively encouraged its customers to use less electricity and provided monetary incentives to customers in this regard. According to the applicants, this conduct by Eskom is irrational and the decision by Nersa to compensate Eskom for the lesser income, is therefore irrational, unfair and thus unlawful. I must agree that this results in some double counting. Eskom receives money from consumers; pays money to other consumers to use less electricity, which results in a decreased income for Eskom; and then Nersa decides to grant a RCA increase to compensate for the decreased income.’

The ruling is a ‘massive win for electricity users in SA’, according to the Nelson Mandela Bay Business Chamber, which brought the application along with several Eastern Cape intensive-energy users, notes a Fin24 report. A BDLive report, though, says it is unclear what this means for consumers and whether it would have the effect of disallowing the tariff increase. Eskom and Nersa both said they were still studying the judgment. But Eskom it would await a decision by Nersa on the way forward.

Source: Legalbrief, 17 August 2016

R1.3M DAMAGES CLAIM FOR FACEBOOK POSTS

The danger of defaming someone on Facebook was again highlighted in a damages claim instituted by Paul Hechter, whose name was ‘dragged in the mud’ following a run-in with his neighbour, says a report in The Mercury. Hechter said in papers before the Gauteng High Court (Pretoria) that he was accused of being a Peeping Tom, a pervert and a paedophile. This smear campaign, he said, caused him immense hardship, as messages of hate poured in from ‘concerned Centurion citizens’. Apart from the community’s tongues wagging about his ‘misconduct’, he started to receive threats via Facebook. According to Hechter the author of the messages was Michelle Benade – twice his neighbour. He obtained an order against her in February this year in terms of which she had to retract the statements she had made about him on Facebook. She had to apologise for her comments and was interdicted from posting any similar comments in future. But Hechter turned to court again – this time claiming R1.3m in damages from Benade for defaming him. Benade did not defend the action and Hechter asked the court for summary judgment. Judge Mammon Teffo, however, postponed the matter indefinitely as Hechter was required to file a further affidavit in the matter.

Source: Legalbrief, 17 August 2016

FARMER’S WIFE CAN APPEAL MURDER CONVICTION

Gloudina ‘Koekie’ Botha (67) – convicted of shooting her husband Pieter Nicolaas Botha dead on their farm near Britstown in July 2010 – has been granted leave to appeal her conviction and sentence in the SCA, says a Diamond Fields Advertiser report. Botha – who is on bail – was sentenced in March to 12 years’ imprisonment. During judgment, the Northern Cape High Court dismissed the defence’s claim that Botha and her son were emotionally and physically abused by her husband and believed that it amounted to character assassination. The court came to the conclusion that the accused was driven by greed to take over the business that her husband ran ‘with an iron fist’. In her application to appeal, Botha pointed out that she was not afforded a fair trial and that the court had failed to prove beyond reasonable doubt that she had fired the fatal shots. She said she was subjected to extreme physical and emotional violence at the hands of the deceased for more than 30 years and stated that the prescribed sentence was ‘inappropriate and shocking’. Northern Cape High Court Judge Mmathethe Phatshoane – in her judgment on appeal – pointed out that the key issue of the trial was to determine if the deceased was murdered or if he had committed suicide. ‘The state’s case was largely based on circumstantial evidence. Having assessed the evidence, I was satisfied that Botha was complicit in the murder of the deceased’. Phatshoane stated that, due to the inferential nature of reasoning involved in the evaluation of evidence, she acknowledged that the SCA could arrive at a different conclusion.

Source: Legalbrief, 15 August 2016
RACE SLURS, DISBARRED LAWYER RAISE HEAT IN COURT

A judge hearing a billion-rand South Coast land claim cracked the whip, banning an aggressive troublemaker – a disbarred attorney – from her courtroom and ordering community representatives to publicly apologise to their lawyers for making ‘racial slurs’ against them, says a report in The Mercury. And in an attempt to finalise the matter – which involves 1 800ha of land and has been dragging on for 16 years – Land Claims Judge Shenaaz Meer ordered both sides to meet next week and ‘be realistic’ in their negotiations. The case pits the landowners – Crooks Brothers, Finningley Estates, Finningley Investments and Pegma Twenty Seven Investments – against the claimants, the Elembini Community of the Scottburgh area, who say they had exclusive occupation of the land before ‘the white people took it and planted sugar cane’. When the trial resumed, Robinson Manzi – a disbarred lawyer who was jailed for 14 years for the rape of a 14-year-old – announced he wanted to speak, claiming he was from ‘Scottburgh’. Manzi was paroled after seven years and has attempted to be readmitted to the profession. Meer said his manner had been ‘verging on, if not, contemptuous’ and he had insulted one of her assessors. Advocate Andrea Gabriel SC, who acts for the land owners, had also reported to the judge that after court adjourned Manzi threatened her. Two members of the community had to drag him away. Equally disturbing, she said, were reports from the community’s legal team, Advocate Rajesh Choudree SC and Advocate Dashendra Naidoo, that they had received letters containing ‘racial slurs and insults’. ‘It is an offence to attack someone on racial grounds,’ she warned community members. ‘Your legal team has said they will not continue to represent you unless you apologise.’ Community committee chairman Clement Dube and secretary Khehla Vundla addressed the court, both apologising.

Source: Legalbrief, 17 August 2016

DEPARTMENT FORKS OUT R23M MEDICAL NEGLIGENCE SETTLEMENT

A last-minute scramble by the Eastern Cape Health Department to settle a medical negligence lawsuit worth R23m has saved 20 of their vehicles meant to be auctioned, says a Daily Dispatch report. A provincial health spokesperson confirmed they had last week paid R23m to Johannesburg-based lawyer Zuko Nonxuba after he successfully sued them for medical negligence. The payment comes just days before 20 departmental vehicles – attached last week – were to go under the hammer. According to a court order issued by the Eastern Cape High Court (Mthatha), the vehicles were to be sold during an auction scheduled for King William’s Town on 25 August. This after personal injury lawyer Nonxuba successfully sued the department for R23m for a negligence case instituted on behalf of a Cacadu parent. He represented Mongi Tshetshani who claimed on behalf of son Axolile who was left disabled as a result of cerebral damage at birth. The department was proved to have been negligent in that ‘it failed to exercise reasonable skill, care and diligence’ when Axolile suffered injuries.

Source: Legalbrief, 16 August 2016

ALL SA VOLUME 3 – AUGUST 2016

COCHRANE STEEL PRODUCTS (PTY) LTD v M-SYSTEMS GROUP (PTY) LTD AND ANOTHER [2016] 3 ALL SA 345 (SCA)

Intellectual property – Trade mark – Use by competitor to link own product in internet search engine – Alleged unlawful competition or passing off – Essential element of passing off, in form of reasonable likelihood of confusion on part of members of public, not established – No unlawful competition established as use by one trader of the unregistered trade mark or trade name of another is not unlawful under the common law.

E.TV (PTY) LTD AND OTHERS v MINISTER OF COMMUNICATIONS AND OTHERS [2016] 3 ALL SA 362 (SCA)

Administrative law – Amendment of Broadcasting Digital Migration policy by Minister of Communications – Legality – Failure to consult in violation of section 3(5) of Electronic Communications Act 36 of 2005 – Minister purported to bind regulatory authorities and broadcasters and thus acted ultra vires – Amendment held to be unlawful; amendment reviewed and set aside.

GOWAR AND ANOTHER v GOWAR AND OTHERS [2016] 3 ALL SA 382 (SCA)

Trusts – Trust provisions – Variation of – Court’s powers – Section 13 of the Trust Property Control Act 57 of 1988 – A court’s power may be exercised where the trust instrument contains any provision which brings about consequences
which in the opinion of the court the founder of a trust did not contemplate or foresee and which hampers the achievement of the objects of the founder; prejudices the interests of beneficiaries; or is in conflict with the public interest.

Trusts – Trustees of trust – Removal of – Section 20(1) of the Trust Property Control Act 57 of 1988 – Court having inherent power to remove a trustee from office if the court is satisfied that such removal will be in the interests of the trust and its beneficiaries – A trustee will be removed from office when continuance in office will prevent the trust being properly administered or will be detrimental to the welfare of the beneficiaries.

KOUKoudis AND ANOTHER v ABRINA 1772 (PTY) LTD AND ANOTHER [2016] 3 ALL SA 398 (SCA)

Delict – Claim for damages – Alleged abuse of right – Requirements – Defendant must have exercised right solely for purpose of harming other party, and not to advance any self-interest – Conduct should not be regarded as being unlawful where it advances a legitimate right of the person exercising it, even if in doing so another may be prejudiced – No right, whether statutory or otherwise, should be regarded as absolute and capable of being exercised solely to cause harm without fear of the actor being held liable for abuse.

MV “NYK ISABEL”: NORTHERN ENDEAVOUR SHIPPING PTE LTD v OWNERS OF THE “NYK ISABEL” AND ANOTHER [2016] 3 ALL SA 418 (SCA)

Maritime law – Arrest of ship – Associated ship – Court confirming that arrested ship was an associated ship, and that respondent was a charterer of the ship concerned for the purposes of the deeming provision in section 3(7)(c) of the Admiralty Jurisdiction Regulation Act 105 of 1983 – Section 3(7)(c) provides that the charterer or subcharterer of the ship concerned is deemed to be the owner of the vessel for the purposes of effecting an associated ship arrest, where the charterer or subcharterer and not the owner is liable in respect of the claim.

PALALA RESOURCES (PTY) LTD v MINISTER OF MINERAL RESOURCES AND ENERGY AND OTHERS [2016] 3 ALL SA 441 (SCA)

Mining and minerals – Section 56(c) of the Mineral and Petroleum Resources Development Act 28 of 2002 – Section provides that any right or permit granted in terms of the Act shall lapse, whenever a company is deregistered and no application was made to the Minister for the consent in terms of section 11, or such permission has been refused – Section 73(6A) of the Companies Act 61 of 1973 states that when a company’s registration is restored, the company shall be deemed to have continued in existence as if it has not been deregistered – Court finding no tension between two statutory provisions – Deregistration of a company which is the holder of a mineral prospecting right does not result in that company irretrievably losing that right – Subsequent restoration of company’s registration having the legal effect of retrospectively reviving the lapsed prospecting right.

REGISTRAR OF MEDICAL SCHEMES AND ANOTHER v GENESIS MEDICAL SCHEME [2016] 3 ALL SA 449 (SCA)

Medical schemes – Annual financial statements – Funds in members’ personal medical savings accounts reflected as scheme’s own assets – Such funds held to be trust property in terms of the Financial Institutions (Protection of Funds) Act 28 of 2001 and are to be accounted for separately in terms of sections 4(4) and (5) of that Act, read together with section 35(9)(c) of the Medical Schemes Act 131 of 1998.

ROERING AND ANOTHER NNO v MAHLANGU AND OTHERS [2016] 3 ALL SA 466 (SCA)

Company law – Liquidated company – Enquiry in terms of sections 417 and 418 of the Companies Act 61 of 1973 – Summons to attend enquiry – Whether abuse of process – Critical question in determining whether there is abuse is whether the enquiry is being used for a purpose not contemplated by the Companies Act – Once it is accepted that a permissible purpose in causing a witness to be summoned to an enquiry is to enable the liquidator to make an informed assessment of the merits of a potential claim or defence to a claim, it must follow that the fact that the individual concerned is a potential witness in other civil litigation, actual or contemplated, is neutral in determining whether the summons is an abuse.

STANDARD BANK OF SOUTH AFRICA LTD v MIRACLE MILE INVESTMENTS 67 (PTY) LTD AND ANOTHER [2016] 3 ALL SA 487 (SCA)

Civil procedure – Prescription – Extinctive prescription – Loan agreement containing acceleration clause – Only enforceable where creditor has made election to cancel agreement and claim full amount – Prescription begins to run from date on which creditor makes election.
**BUSUKU v ROAD ACCIDENT FUND [2016] 3 ALL SA 498 (ECM)**

Motor vehicle accidents – Claim for compensation – Special plea – Failure by plaintiff to deliver medical report as contemplated by section 24(1) read with section 24(2)(a) of the Road Accident Fund Act 56 of 1996 – Statutory requirement relating to the submission of the claim form and medical report is peremptory and issue of substantial compliance of the content of the medical report cannot arise in circumstances where it is left blank – A medical report on form RAF 1 left blank and incomplete is tantamount to no medical report having been submitted and thus to having no legal force and effect, resulting in prescription of claim.

**CHAPELGATE PROPERTIES 1022 CC v UNLAWFUL OCCUPIERS OF ERF 644 KEW AND ANOTHER [2016] 3 ALL SA 508 (GJ)**


**DEMOCRATIC ALLIANCE v PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND OTHERS [2016] 3 ALL SA 537 (WCC)**

Administrative law – Decision of the President not to invoke the provisions of section 12(6)(a) of the National Prosecuting Authority Act 32 of 1998 to suspend the Deputy National Director of Public Prosecution – Principle of legality – Court must look at the process as a whole and determine whether the steps in the process were rationally related to the end sought to be achieved and, if not, whether the absence of a connection between a particular step is so unrelated to the end as to taint the whole process with irrationality.

Civil procedure – High Court – Jurisdiction – Section 167(4)(e) of the Constitution of the Republic of South Africa, 1996 – Only the Constitutional Court may decide that Parliament or the President has failed to fulfil a constitutional obligation – Where President’s failure to act did not breach an obligation to take action, High Court not prevented from enquiring into the question of whether the President had duly exercised his powers.

Civil procedure – Lis alibi pendens – Requirements – Litigation must be between the same parties; the cause of action must be the same; and the same relief must be sought in both matters.

**LIANG v S [2016] 3 ALL SA 571 (WCC)**

Criminal procedure – Appeal against sentence – Penal jurisdiction of lower courts – Section 92(1)(b) of the Magistrate’s Court Act 32 of 1944 regulates the penal jurisdiction of lower courts – Jurisdiction of regional courts relating to the imposition of fines at the time the appellant pleaded to the charges on 28 October 2013 was R300 000 – Trial court exceeded the powers conferred upon it by section 92(1) of the Magistrate’s Court Act in imposing the fine of R5 million – Sentence set aside to extent that it exceeded court’s jurisdiction.

**MINISTER OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS AND OTHERS v SIGCAU AND OTHERS [2016] 3 ALL SA 588 (GP)**

Civil procedure – Interpretation of section 26(2) of Traditional Leadership and Governance Framework Act 41 of 2003 – Appointment of a king or queen – Section 26(2)(a) provides for the implementation of a decision of the Commission regarding the position of a king or queen – Decision of the Commission must, within two weeks, be conveyed to the President for immediate implementation in accordance with sections 9 and 10.

Civil procedure – Leave to appeal – Interpretation of section 26(2) of Traditional Leadership and Governance Framework Act 41 of 2003 – Possibility of another court interpreting section differently – Reasonable prospects of success resulting in leave to appeal being granted.

**PAGE AND OTHERS v ADDITIONAL MAGISTRATE, SOMERSET WEST AND OTHERS [2016] 3 ALL SA 619 (WCC)**

Criminal procedure – Issue of search warrants – Criminal Procedure Act 51 of 1977 – Section 21 – Section requires that the decision to issue a warrant be made only if the evidence in support of the application objectively establishes the existence of a reasonable suspicion that a crime has been committed, and the existence of reasonable grounds to
believe that objects connected with the offence may be found on the premises or persons intended to be searched – Warrant must set out with reasonable particularity the offence which underlines the search and the article the police are directed to search for and seize.

Criminal procedure – Search and seizure – Issue of warrant – Warrant unlawful due to overbreadth – Despite setting side of warrant, court finding it just and equitable to preserve a mirror image of laptop seized with the necessary safeguard as to the owner’s privacy.

SS AND ANOTHER v ROAD ACCIDENT FUND [2016] 3 ALL SA 637 (GP)

Delict – Personal injury – Motor vehicle accident – Injury sustained by mother and child born after accident – Claim for damages – Whether brain injury suffered by child was caused by high-velocity impact, or whether it was a congenital defect – Court finding that the most natural and plausible conclusion was that the accident was the cause of the child’s present condition, as well as the injuries sustained by the first plaintiff.

Evidence – Expert evidence – Expert witnesses – Role of – Most important duty of an expert witness is to provide independent assistance to a court by way of an objective, unbiased opinion in relation to matters within his expertise – In case of conflicting medical expert evidence, a court must not assess the cogency of scientific evidence by scientific standards, but by the legal standard of the balance of probabilities.

Source: http://legalbrief.co.za

**BUTTERWORTHS CONSTITUTIONAL LAW REPORTS – AUGUST 2016**

**ELECTORAL COMMISSION v MHLOPE AND OTHERS 2016 (8) BCLR 987 (CC)**

Elections – registration of voters, and voters’ roll – publication and copies of voters’ roll – chief electoral officer’s obligation, on payment of the prescribed fee, to provide copies of the voters’ roll, or a segment thereof, which includes the addresses of voters, where such addresses are available, to all registered political parties contesting the elections – section 16(3) of Electoral Act 73 of 1998 (added to Act by the Electoral Laws Amendment Act 34 of 2003 which commenced on 17 December 2003) – meaning of “where such addresses are available” – provision refers to addresses that are objectively available or ascertainable and does not refer only to those addresses that the IEC chose to record.

Elections – registration of voters, and voters’ roll – publication and copies of voters’ roll – chief electoral officer’s obligation, on payment of the prescribed fee, to provide copies of the voters’ roll, or a segment thereof, which includes the addresses of voters, where such addresses are available, to all registered political parties contesting the elections – section 16(3) of Electoral Act 73 of 1998 (added to Act by the Electoral Laws Amendment Act 34 of 2003 which commenced on 17 December 2003) – IEC by failing to appreciate the true meaning and import of section 16(3) not considering itself obliged to record the available addresses of voters, as and when voters registered, with result that addresses of millions of voters, even after December 2003, not recorded on the voters’ roll – such failure inconsistent with section 1(c) of the Constitution – declaration of invalidity suspended – elections permitted to proceed in the interim without the recordal of available addresses – all available addresses to be recorded in the voters’ roll by 30 June 2018 and IEC to render six monthly reports to the Constitutional Court on progress in rectifying voters’ roll.

**FEDERATION OF GOVERNING BODIES FOR SOUTH AFRICAN SCHOOLS v MEMBER OF THE EXECUTIVE COUNCIL FOR EDUCATION, GAUTENG AND ANOTHER (EQUAL EDUCATION AS AMICUS CURIAE) 2016 (8) BCLR 1050 (CC)**

Education – schools – admission to public schools – section 5 of the South African Schools Act 84 of 1996 – admission policy – Gauteng – Regulations on Admission of Learners to Public Schools, 2012, published under General Notice 4138 of 2001 in Provincial Gazette 129 of 13 July 2001 as amended by General Notice 1160 of 2012 in Provincial Gazette 127 of 9 May 2012 – challenge to the constitutionality of several regulations – constitutional challenge brought by national organisation representing governing bodies of public schools – regulations challenged on basis of supposed conflict between national and provincial legislation, and on basis of contention that regulations irrational, unreasonable and unjustifiable – constitutional challenge failing, but MEC directed to determine feeder zones for public schools in Gauteng in the manner required by regulation 4(1) within a reasonable time but not later than 12 months from the date of the Court’s judgment.

National and provincial government – legislation – inter-relationship between the legislative powers of Parliament and the provincial legislatures – conflict between national legislation and provincial legislation falling within a functional area
of concurrent national and provincial legislative competence listed in Schedule 4 of the Constitution – section 146 of the Constitution – constitutional scheme for regulation of possible conflict between provincial and national legislation – conflict resolution scheme contained in sections 146, 149 and 150 of the Constitution – discussed in context of challenge to regulations made by a provincial department of education.

**MEMBER OF THE EXECUTIVE COUNCIL FOR HEALTH, GAUTENG v LUSHABA 2016 (8) BCLR 1069 (CC)**

Access to court – right to have justiciable disputes settled by a court of law or other independent and impartial forum – section 34 of the Constitution – action against Member of Executive Council responsible for a provincial health department (“MEC”) arising from birth of child with disability in State hospital – defence of claim considered to be unjustified and reckless – trial court desiring to make costs order in favour of plaintiff an order of costs de bonis propria – rule nisi issued calling on MEC to show cause why she should not be personally liable for costs alternatively to identify the officials in her department and in the State Attorney’s office who should be held personally liable for the costs – trial court ultimately making costs order de bonis propriis against two Health officials and a member of the State Attorney’s staff – such order irregular and incompetent – officials against whom costs order made not parties to the action and never joined – their rights to procedural and substantive fairness arising from section 34 violated – furthermore, incompetent for trial court effectively to authorise one of the parties before it to exercise a judicial power by stating who should be held liable for the plaintiff’s costs – such not in accordance with section 165 of the Constitution – judicial authority is vested only in the courts.

Access to court – right to have justiciable disputes settled by a court of law or other independent and impartial forum – section 34 of the Constitution – scope and ambit of right – purpose of right – discussed in context of appeal against incompetent order of costs de bonis propriis holding three officials liable for payment of costs where none of the three officials a party to the matter, joined in the matter, or afforded opportunity to be heard.

**DEMOCRATIC ALLIANCE v ACTING NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS AND OTHERS(SOCIETY FOR THE PROTECTION OF OUR CONSTITUTION AS AMICUS CURIAE) 2016 (8) BCLR 1077 (GP)**

Criminal procedure – prosecuting authority – discretion in respect of criminal prosecutions – susceptible to review – decision to discontinue prosecution or not to prosecute – reviewable on grounds of legality and irrationality.

Prosecuting authority – discretion in respect of criminal prosecutions – review of decision – decision to discontinue prosecution – decision to discontinue prosecution of Jacob Zuma – prosecuting authority justifying decision on basis that the timing of the service of the indictment amounted to political meddling and was used as a tool to achieve a political advantage for then President Mbeki prior to ANC leadership elections, and that in order to preserve integrity of the National Prosecuting Authority necessary to discontinue prosecution – decision set aside for irrationality.

Prosecuting authority – discretion in respect of criminal prosecutions – susceptible to review – decision to discontinue prosecution or not to prosecute – reviewable on grounds of legality and irrationality.

Review – prosecuting authority – discretion in respect of criminal prosecutions – review of decision – decision to discontinue prosecution – decision to discontinue prosecution of Jacob Zuma – prosecuting authority justifying decision on basis that the timing of the service of the indictment amounted to political meddling and was used as a tool to achieve a political advantage for then President Mbeki prior to ANC leadership elections, and that in order to preserve integrity of the National Prosecuting Authority necessary to discontinue prosecution – decision set aside for irrationality.

**DEMOCRATIC ALLIANCE v PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND OTHERS 2016 (8) BCLR 1099 (WCC)**

Prosecuting authority – National Director of Public Prosecutions – appointment by the President – section 179 of the Constitution – person appointed to “be a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned” – section 9(1)(b) of the National Prosecuting Authority Act 32 of 1998 (“the NPA Act”) – inquiry into incumbent’s fitness to hold office – President’s power to provisionally suspend the National Director or a Deputy National Director from his or her office, pending an enquiry into his or her fitness to hold such office – section 12(6)(a) of the NPA Act – repeated judicial criticism of incumbent – General Council of the Bar (“GCB”) initiating application to strike person off the roll of advocates – President not acting to suspend incumbent in terms of section 12(6)(a), preferring to await outcome of court application brought by the GCB – political party seeking review of President’s decision not to act in terms of section 12(6)(a) – rationality review – Court concluding that decision not irrational in the circumstances in casu – application dismissed.

Review – rationality review – nature and scope – discussed in context of application seeking the review and setting aside of a decision by the President not to act in terms of section 12(6)(a) of the NPA Act by provisionally suspending a National Director of Public Prosecutions from office, pending an enquiry into her fitness to hold such office – application dismissed.

Source: http://legalbrief.co.za

ACTS

APPROPRIATION ACT 6 OF 2016
Date of commencement: 5 August 2016

PROCLAMATIONS AND NOTICES

DEPARTMENT OF TRADE AND INDUSTRY:

ELECTORAL COMMISSION

COMMISSIONS ACT 8 OF 1947

CUSTOMS AND EXCISE ACT 91 OF 1964
Schedule 2 amended with effect from 5 May 2016

MEDICINES AND RELATED SUBSTANCES ACT 101 OF 1965
Conditions of registration of a medicine in terms of the provisions of s. 15 (7) published

SMALL CLAIMS COURTS ACT 61 OF 1984
Establishment of a small claims court for the area of Thabamoopo and withdrawal of GN 1380 in GG 19389 of 30 October 1998 published

AGRICULTURAL PRODUCT STANDARDS ACT 119 OF 1990
Regulations relating to the grading, packing and marking of apples intended for sale in the Republic of South Africa published and regulations published under GN R725 in GG 40076 of 17 June 2016 repealed

NATIONAL WATER ACT 36 OF 1998
Restrictions on the use of water in terms of para. 6 (1) of Schedule 3 to the Act for urban and irrigation purposes from the catchment areas of the dams supplying the Integrated Vaal River System (IVRS) and from the system published

COMPETITION ACT 89 OF 1994
Competition Tribunal:
1998

| Notifications of decisions to approve mergers published | GG 40203 (12.08.16) |
| Notifications of complaint referrals published | GG 40203 (10.08.16) |

**NATIONAL REGULATOR FOR COMPULSORY SPECIFICATIONS ACT 5 OF 2008**

| Compulsory specification for hot water storage tanks for domestic use (VC 9006) amended with effect from immediately after publication, except requirement 3.2 which takes effect 12 months later | GG 40205 (12.08.16) |

**NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT 59 OF 2008**

| National Pricing Strategy for Waste Management published | GG 40200 (11.08.16) |
| Notice requiring the Paper and Packaging Industry, Electrical and Electronic Equipment Industry and Lighting Industry to prepare and submit their industry waste management plans for approval published | GG 40207 (12.08.16) |
| Proposed amendments to the Waste Tyre Regulations, 2009 published for comment | GG 40199 (11.08.16) |

**CIVIL AVIATION ACT 13 OF 2009**

| Notice of publication for comment of proposed amendment to the Civil Aviation Regulations, 2011 published | GG 40206 (12.08.16) |

**FINANCIAL MARKETS ACT 19 OF 2012**

| Notice of proposed amendments to the JSE Equities, Derivatives and Interest Rate and Currency Rules published for comment | GG 40203 (12.08.16) |

---

### PROVINCIAL LEGISLATION

**Eastern Cape**

**Local Government: Municipal Structures Act 117 of 1998**

| Disestablishment of Baviaans, Camdeboo and Ikwezi Local Municipalities and establishment of Dr Beyers Naude Local Municipality; Disestablishment of Nkonkobe and Nxuba Local Municipalities and establishment of Raymond Mhlaba Local Municipality; Disestablishment of Gariep and Maletswai Local Municipality and establishment of Walter Sisulu Local Municipality; and Disestablishment of Inkwanca, Lukhanji and Tsolwana Local Municipality and establishment of Enoch Mgijima Local Municipality published | PG 3717 (08.08.16) |

**Local Government: Property Rates Act 6 of 2004**

| Blue Crane Route Local Municipality: Promulgation of 2016/2017 property rates tariffs published with effect from 1 July 2016 | PG 3717 (08.08.16) |

**Lukhanji Local Municipality**

| Property rates and levies: Tariffs for 2016/2017 published | PG 3717 (08.08.16) |

**House of Traditional Leaders Act 1 of 1995**

| Determination of dates for community meetings (Imbizos) and sitting of electoral college to elect and nominate a member to the Provincial House of Traditional Leaders (Eastern Cape) published | PG 3719 (11.08.16) |
| Election of Makwenkwe Joseph Madlongwana to the Eastern Cape Provincial House of Traditional Leaders under the Whittlesea Constituency published | PG 3719 (11.08.16) |
### Free State
- **Local Government:** Municipal Structures Act 117 of 1998
  - Municipal Demarcation Board: Determination or re-Determination of Municipal Boundary: Implementation of the Determination number DEM 308 as published under PG 58 of 18 October 2013 published and PN 154 in PG 47 of 22 July 2016 replaced

### Gauteng
- **City of Tshwane Metropolitan Municipality**
  - Notice of rectification to the Fire Brigade Service By-laws as published under LAN 396 in PG 83 of 9 March 2016 published

### Kwazulu-Natal
- **Disaster Management Act 57 of 2002**
  - Extension of the declaration of a KwaZulu-Natal Provincial State of Drought Disaster for a period of one month from 11 August 2016 to 10 September 2016 published
  - uMhlathuze Local Municipality: Amendment to the By-laws relating to the Standing Orders for Council and its Committees as published under Notice 4 in PG 6082 of 31 January 2003 published
- **Local Government:** Municipal Property Rates Act 6 of 2004
  - Umvoti Local Municipality: Property Rates By-law and Rates Policy 2016/2017 published

### Limpopo
  - Maruleng Local Municipality: Spatial Planning and Land Use Management By-law, 2016 published with effect from a date to be fixed by the Mayor of the municipality by proclamation in the Provincial Gazette

### Mpumalanga
- **Mpumalanga Gambling Act 5 of 1995**
  - Amendment to the Mpumalanga Gambling Rules published

### Northern Cape
  - Emthanjeni Local Municipality: Standing Rules and Orders published

### Western Cape
- **Saldanha Bay Industrial Development Zone Licensing Company Act 1 of 2016**
  - Date of commencement: 5 August 2016
Witzenberg Local Municipality Amended By-law on Liquor Trading Days and Hours published and By-law on Liquor Trading Days and Hours as published under LAN 47857 in PG 7555 of 22 January 2016 repealed


Cederberg Local Municipality: Property Rates By-law published

Cederberg Local Municipality Care, Credit Control and Debt Collection Policy published with effect from 1 July 2016

**SEMINARS**

<table>
<thead>
<tr>
<th>NAME OF SEMINAR</th>
<th>DATES</th>
<th>PRESENTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>BEE SIMPLIFIED FOR YOUR PRACTICE</td>
<td>Port Elizabeth: 23 August 2016</td>
<td>Adv Jane Appasamy</td>
</tr>
<tr>
<td></td>
<td>Midrand: 4 October 2016</td>
<td></td>
</tr>
<tr>
<td>UPDATE ON THE NATIONAL CREDIT ACT 2016</td>
<td>Cape Town: 26 August 2016</td>
<td>Frans Haupt</td>
</tr>
<tr>
<td>DECEASED ESTATES UPDATE</td>
<td>Midrand: 15-16 September</td>
<td>Ceris Field</td>
</tr>
<tr>
<td></td>
<td>Durban: 20-21 October 2016</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cape Town: 10-11 November 2016</td>
<td></td>
</tr>
<tr>
<td>INTER-VIVOS TRUSTS</td>
<td>Cape Town: 24 October 2016</td>
<td>Prof Willie M van der Westhuizen</td>
</tr>
<tr>
<td></td>
<td>Durban: 25 October 2016</td>
<td></td>
</tr>
<tr>
<td></td>
<td>East London: 21 November 2016</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Midrand: 23 November 2016</td>
<td></td>
</tr>
</tbody>
</table>

For more information contact the Knowledge Centre or visit www.lssalead.org.za

---

Associated Firms

**Free State**
- Phatshoane Henney Attorneys
- Breytenbach Mavuso inc.
- De Beer & Claassen
- Neumann van Rooyen inc.
- Nostix (Pty) Ltd

**North-West**
- Bezuidenhout Van Zyl & Associates inc.
- Du Plessis & Van der Westhuizen inc.
- Kotzé Low Swanepeol
- Meyer van Sittert & Kropman
- Van Rooyen Tlapl & Wessels

**Limpopo**
- DDKK Attorneys inc.

**Gauteng**
- Bouwers Inc.
- Blake Bester De Wet & Jordaan
- Cilliers & Reynolds Inc.
- Erasmus de Klerk Inc.
- Neil Esteyhuyzen Attorneys
- PSN Incorporated
- Tonkin Clacey Attorneys
- Van der Merwe Du Toit Inc.
- Wright Rose-Innes Inc.

**Northern Cape**
- Lange Carr Wessels inc.
- Van de Wall & Partners

**Kwa-Zulu Natal**
- Barry Botha Breytenbach Inc.
- DBM Attorneys
- Klopplers Durban inc.
- Klopplers Empangeni inc.
- Klopplers Richards Bay Inc.
- Schulz Attorneys
- Wiesinger O'Dwyer
- Tatham Wilkes inc.
- Weich & Kriel inc.

**Eastern Cape**
- Drake Flemmer & Orsmond inc.
- Greyvensteins Inc.

**Mpumalanga**
- Seymore du Toit & Basson Attorneys
- Bekker, Brink & Brink Inc.
- Johan Coetzee Inc.

**Western Cape**
- BDP Attorneys
- Miller Bosman Le Roux Inc.
- Millers Inc.
- Mosdell, Pama & Cox Inc.
- Muller Terblanche & Beyers Inc.
- Oosthuizen Marais & Pretorius Inc.
- Terblanche Slabber Pieters Inc.
- Van der Spuy & Partners

South Africa’s Largest Association of Law Firms www.phfirms.co.za

**Phatshoane Henney**