

Covid-19 Regulatory Update

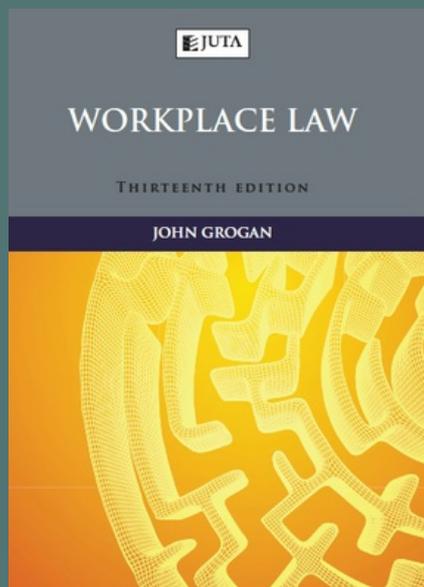
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Covid-19 Regulatory Update: 22 June 2020

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New: Thirteenth edition Workplace Law by John Grogan



The thirteenth edition of the well-known *Workplace Law* by John Grogan will be available soon.

The publisher's website provides the following information on the book:

"First published in 1996, *Workplace Law* has become one of the most widely used and frequently quoted text books on South African labour law. This 13th edition has been revised and supplemented to incorporate the latest case law, as well as the latest amendments to labour legislation.

Workplace Law provides a complete overview of issues that have arisen and are likely to arise on the shop floor, in court and in arbitration proceedings – from unfair labour practices, through employment equity, dismissal and collective bargaining, to strikes. Students, HR and IR practitioners, lawyers, employers, employees and trade union officials will find this updated, comprehensive and reliable work a convenient and indispensable guide to a complex and fascinating area of law. *Workplace Law* is also available in electronic form in Juta's Labour Law Library, where it is updated quarterly."

The printed edition can be pre-ordered from our Book Supply Service. The price is R895.00 including Vat but excluding delivery. Email books@lexinfo.co.za to order your copy.

CONFIRMED CASES

Reports

National Institute for Communicable Diseases. Covid-19 Daily Report: 21 June 2020.

<https://www.nicd.ac.za/wp-content/uploads/2020/06/COVID19-Daily-Report-National-Public-21June2020.pdf>

National Institute for Communicable Diseases. Latest confirmed cases of COVID-19 in South Africa (20 June 2020). 20 Jun 2020.

<https://www.nicd.ac.za/latest-confirmed-cases-of-covid-19-in-south-africa-20-june-2020/>

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CORRECTIONAL SERVICES

Internet Article

Voigt, Elri. COVID-19: Parole release numbers set to rise as lockdown-arrests continue.

2020 Jun 19 Spotlight

“The number of COVID-19 infections in correctional facilities has been climbing steadily since April when Spotlight first reported on concerns raised by civil society organisations and prison rights activists over safety measures to prevent virus transmission in these facilities.

By Tuesday 16 June, the Department of Correctional Services (DCS) confirmed in a media update that there were 1622 COVID-19 infections in correctional facilities across the country. Of these infections, 623 were correctional staff members and 999 were inmates. The update also noted a total of 12 deaths.”

<https://www.spotlightnsp.co.za/2020/06/19/covid-19-parole-release-numbers-set-to-rise-as-lockdown-arrests-continue/>

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EMPLOYMENT

Media Comments

Tsunga, Arnold [et al.] The implications of Covid-19 on workers rights: A regional overview.

2020 Jun 19 Daily Maverick

“The Southern Africa Human Rights Roundup is a weekly column aimed at highlighting important human rights news in Southern Africa. It integrates efforts of human rights defenders and facilitates evidence-based engagement with key stakeholders, and institutions on the human rights situation across the region. The weekly roundup is a collaboration between the Southern Africa Human Rights Defenders Network (SAHRDN) and Maverick Citizen.... This issue focuses on the impact of Covid-19 on workers’ rights across Southern Africa.”

<https://www.dailymaverick.co.za/article/2020-06-19-the-implications-of-covid-19-on-workers-rights-a-regional-overview/#gsc.tab=0>

Wicks, Jeff. Covid-19 relief: NPA freezes 28 bank accounts as huge UIF ‘fraud’ comes to light.

2020 Jun 21 TimesLive

“Nearly R6m in Covid-19 relief funds - intended for 200 workers at risk of starvation - were diverted to one man in what Asset Forfeiture Unit (AFU) investigators are calling a glaring instance of fraud and money-laundering.

In what appears to be a manipulation of the Unemployment Insurance Fund (UIF) relief system that has given a lifeline to 3.6-million people, a large labour broker's Covid-19 Temporary Employment Relief Scheme (Ters) claim was allegedly paid to one man - Tshepang Phohole.”

<https://www.timeslive.co.za/sunday-times/news/2020-06-21-covid-19-relief-npa-freezes-28-bank-accounts-as-huge-uif-fraud-comes-to-light/>

Workman-Davies, Bradley. Conflicting judgments on 'no work no pay' cases.

2020 Jun 19 BizCommunity

“The Johannesburg High Court recently found in the matter of *Mhlonipheni v Mezepoli Melrose Arch and Others* (2020) that employees (in this case, employed by the Mezepoli and Plaka chain of restaurants) were able to tender their services during Level 5 and Level 4 of the National Lockdown, and accordingly that their salaries were owing by their employers during that period. This resulted in their unpaid salaries being regarded as debts owed by the employers, and the employers' self-professed inability to pay these amounts lead them to be placed into business rescue.... Fortunately, the Labour Court has recently pronounced on the issue in the recent case of *Macsteel Service Centres SA Proprietary Limited v Numsa and Others*. Although the case dealt with an urgent application brought by Macsteel to try and prevent a strike by Numsa (which application was ultimately unsuccessful for unrelated reasons), the judge correctly dealt with the issue of whether employees could tender their services, and therefore be entitled to payment of salary, during these restricted periods of economic activity during Level 5 and Level 4 stages of the lockdown.”

<https://www.bizcommunity.com/Article/196/548/205290.html>

Media Release

Department of Employment and Labour. Employment and Labour on closure of Sea Harvest due to non-compliance with Coronavirus COVID-19 regulations. 20 Jun 2020.

“The Department of Employment and Labour in the Western Cape closed the doors of one of the biggest employers in the West Coast Region this week.

Sea Harvest, located in Saldanha Bay in the West Coast, was served with several prohibition notices on Wednesday after the Inspectorate found the plant to be in contravention of the Occupational Health and Safety Act no. 85 of 1993.”
<https://www.gov.za/speeches/employment-and-labour-closure-sea-harvest-due-non-compliance-coronavirus-covid-19>

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ENERGY

Government Gazette

Disaster Management Act 57 of 2002

Directions issued by Minister of Mineral Resources and Energy in terms of regulation 4(10) of the Regulations made under section 27(2) to address, prevent and combat the spread of Coronavirus COVID-19: Supply of energy and petroleum products and maintenance and construction work for energy projects.

The purpose of these Directions is to

- provide for the continuous supply of energy and petroleum products to society; and
- allow maintenance and construction work for energy projects to resume under strict safety, hygiene, sanitisation and social distancing protocols.

GN697 GG 43460 p3 19Jun2020

https://www.gov.za/sites/default/files/gcis_document/202006/43460gon697s.pdf

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FINANCIAL AID

Case

Democratic Alliance v President of the Republic of South Africa and others. Case no.: 21424/2020. High Court of South Africa, Gauteng Division, Pretoria. 19 June 2020.

Disaster Management Act 57 of 2002.

Manner in which government designed program of financial aid to designated businesses in response to state of disaster declared – criteria to be applied when such funds are distributed to designated targets – applicant contends that BBBEE status or criteria such as race, gender and disability cannot be used as a basis for a decision as to the recipients of distributions from these two funds – vagueness challenge – criteria for the Debt Finance Scheme and the Business Growth Resilience Fund set aside and declared unlawful – declaration of unlawfulness does not affect any funds which have been distributed in terms of the existing criteria to persons or entities as at the date of the delivery of this judgment – Minister must take into account race, gender, youth and disability in the reformulation of criteria.

Copy available on request from alert@lexinfo.co.za.

Internet Article

October, Alicestine. The R500bn Covid-19 relief package and the case for procurement reform.

2020 Jun 19 Spotlight

“The multi-billion rand support package, a portion of which will come through budget adjustments that will be announced next week, is aimed to help mitigate the impact of the pandemic, especially in poorer communities. It is in the poorer communities where the need for support and services is real, said Aminah Abrahams, a community leader in Manenberg this week during a webinar titled: Our Voices matter, hosted by The Socio-Economic Rights Programme of the Dullah Omar Institute.

Abrahams said she helped 600 struggling community members apply for a food parcel, but only about 50 people (households) received one.”

<https://www.spotlightnsp.co.za/2020/06/19/covid-19-r500bn-and-the-case-for-procurement-reform/>

Media Comment

Hunter, Qaanitah. DA loses court bid to stop govt using race, BBBEE status as criteria for Covid-19 aid.

2020 Jun 21 News24

- A full High Court bench has dismissed the DA's bid to have government stop using BBBEE status, race, gender, age or disability in determining who will receive Covid-19 aid.

- The court also ruled that the criteria used on who gets aid is unlawful and has been set aside because it is too vague.
- The court ruled that Minister of Small Business Development Khumbudzo Ntshavheni must redraft the criteria.”
<https://www.news24.com/news24/SouthAfrica/News/da-loses-court-bid-to-stop-govt-using-race-bbbee-status-as-criteria-for-covid-19-aid-20200621>
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HAIRDRESSING AND PERSONAL CARE INDUSTRY

Government Gazette

Disaster Management Act 57 of 2002

Directions issued in terms of regulation 10(8) of the regulations made under section 27(2): Measures to prevent and combat the spread of COVID -19: Protocols for the Personal Care Services (COVID-19).

Scope:

- These Directions are issued in order to assist categories of services under the Personal Care Service industry that are deemed as safe to resume operations and specify conditions (protocols) under which such services may operate.
- The permitted services under this Directions may only commence with operations upon ensuring full compliance with the relevant protocols for their services.
- The categories of services that are deemed safe to resume operations are the following –
 - a) Hairdressing;
 - b) Barbering;
 - c) Nail and toe treatment;
 - d) Facial treatment and make-up;
 - e) Body massage; and
 - f) Tattooing and body piercing.”

RGN696 GG 43459 p3 19Jun2020

https://www.gov.za/sites/default/files/gcis_document/202006/43459rg11135gon696.pdf

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HEALTH AND SAFETY

Media Release

Department of Health. Minister Zweli Mkhize on Dexamethasone as treatment in Coronavirus COVID-19.

2020 Jun 20

“Whilst the MAC has made it clear their advisory is issued while awaiting the full study paper for closer assessment, we have learnt that leading clinicians in academic hospitals have been using the medicine and they are very excited that their anecdotal experiences have now been affirmed by higher levels of evidence. We therefore will be moving ahead to issue guidelines for the use of dexamethasone in all our facilities for desperately ill COVID-19 patients. We are so pleased that we have the wherewithal to deliver quality, evidence based health care to those who need it the most.”

<https://www.gov.za/speeches/minister-zweli-mkhize-dexamethasone-treatment-coronavirus-covid-19-19-jun-2020-0000>

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LOCKDOWN

Western Cape Legislature: Video of Meeting

Adhoc Standing Committee on Covid-19 (WCPP). Legal briefing on COVID-19 Lockdown judgment [De Beer and Others v Minister of Cooperative Governance and Traditional Affairs (21542/2020) [2020] ZAGPPHC 184 (2 June 2020)]. 18 June 2020.

<https://pmg.org.za/committee-meeting/30483/>

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REVENUE

Media Release

Merten, Marianne. Unprecedented Covid-19 emergency Budget to avoid debt crisis amid sharp economic downturn.

2020 Jun 22 Daily Maverick

“A debt-to-GDP of 80.5%, or some 20% worse than just four months ago, and economic contraction of 7.1%. That’s set to be confirmed on Wednesday when Finance Minister Tito Mboweni tables the Covid-19 emergency Budget. The question is whether anyone’s listening to warnings that South Africa must cut its suit according to its cloth.

Finance Minister Tito Mboweni has repeatedly indicated how South Africa is not as rich as it thinks it is — and that the country must now live within its means.

“We are no longer as rich as we used to think we are. So we have to adapt... We must start from scratch. Prioritise infrastructure... reduce all expenditure we thought we could afford, but can’t,” he told the National Assembly on 12 June.”

<https://www.dailymaverick.co.za/article/2020-06-22-unprecedented-covid-19-emergency-budget-to-avoid-debt-crisis-amid-sharp-economic-downturn/#gsc.tab=0>

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RULE OF LAW

Media Comment

Batohi, Shamila. Prosecutions and the rule of law are under pressure during Covid-19 pandemic.

2020 Jun 20 Daily Maverick

“The risk to the rule of law is especially acute when state officials, politicians and those with commercial interests misuse the Covid-19 crisis for political or financial gain.

The Covid-19 pandemic will have far-reaching implications for prosecution services worldwide. Many places are already experiencing significant changes in crime patterns and forms of criminality, and a reallocation of criminal justice resources to deal with lockdown-related public order issues.”

<https://www.dailymaverick.co.za/article/2020-06-20-prosecutions-and-the-rule-of-law-are-under-pressure-during-covid-19-pandemic/#gsc.tab=0>

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SPORT

Media Release

Minister Nathi Mthethwa on the implementation of the level 3 sport directions. 20 Jun 2020.

“If the sports body resumes training or matches either contact or non-contact without the approval of the Minister, it is tantamount to a violation of the Direction and Regulations. Any necessary or punitive measure will be taken against such sports body in terms of the Regulations.

The Department shall deploy officials to monitor compliance with the Directions and such officials shall be given special identity document.

Currently, there are sport bodies which have sent their plans and are being considered by the Department, together with the NICD (National Institute of Communicable diseases, an institute of the Department of Health).”

<https://www.gov.za/speeches/minister-nathi-mthethwa-implementation-coronavirus-covid-19-alert-level-3-sport-directions>

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TOBACCO

Media Comment

Naik, Sameer. Fita confident they have convinced the court that the tobacco ban is unlawful and irrational.

2020 Jun 20 IOL

The Fair Trade Independent Tobacco Association (Fita) is confident that its legal team has convinced the North Gauteng High Court that the government’s tobacco sales ban is unlawful and irrational.

The future of the ban is still being deliberated by the court, and there is no expected date when judgment will be handed down.

<https://www.iol.co.za/saturday-star/news/fita-confident-they-have-convinced-the-court-that-the-tobacco-ban-is-unlawful-and-irrational-49653227>

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TRANSPORT

Media Release

SA Government News Agency. Government avails R1.3 billion for taxi relief fund.

2020 Jun 19 SANews

“Transport Minister Fikile Mbalula has announced R1.135 billion relief package to the country’s taxi industry in an effort to mitigate the impact of the COVID-19 outbreak on the sector.

Addressing reporters on Friday, the Minister said reaching an agreement within government for this relief support for the taxi industry was a difficult process, which involved extensive lobbying and convincing the relevant authorities on the importance and need for this fund.

“Most of the special relief funds for sub-sectors provides on average maximums of about R350 million in comparison to what’s on offer the taxi industry,” he said.”

<https://www.sanews.gov.za/south-africa/government-avails-r13-billion-taxi-relief-fund>

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