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EMPLOYMENT ALERT

IN THIS ISSUE

PUBLIC COMMENTS CLOSE FOR DRAFT TOBACCO BILL

On 9 May 2018, following Cabinet approval, the draft Control of Tobacco Products and Electronic Delivery Systems Bill was released for public comment for a period of three months. This period came to an end on 8 August 2018.

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On 9 May 2018, following Cabinet approval, the draft Control of Tobacco Products and Electronic Delivery Systems Bill was released for public comment for a period of three months. This period came to an end on 8 August 2018.

The legislature will now consider the various public comments received and decide whether to amend the Bill in its current form. Following its publication, the Bill has received mixed reaction from the tobacco and e-cigarette industries, non-profit organisations and the public.

Smoking (including the sale, advertising and packaging of tobacco products) is currently regulated by the Tobacco Products Control Act 83 of 1993. The Bill will repeal and replace this Act and by implication, the current legislative regime for smoking in South Africa. The Bill ultimately aims to align South Africa's legislative regime for smoking to the World Health Organisation's Framework Convention on Tobacco Control. South Africa signed this convention in 2005.

If promulgated in its current form, the Bill will regulate cigarettes and electronic delivery systems (e-cigarettes and vapes) in largely the same manner. Electronic delivery systems include both nicotine and non-nicotine devices. The Bill seeks to protect non-smokers from exposure to "tobacco product emissions". It further states that the use of electronic delivery systems may encourage smoking of tobacco products. The Bill expressly states that "the long term harmful effects of using electronic delivery systems remain unknown". However, the Bill nevertheless adopts a "precautionary approach" to electronic delivery systems by regulating them in the same manner as traditional tobacco products.



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PUBLIC COMMENTS CLOSE FOR DRAFT TOBACCO BILL

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It is difficult to predict when the legislature will release a revised version of the Bill. For now, the Act continues to regulate tobacco products, and vapes and e-cigarettes remain unregulated in South Africa.

The main purposes of the Bill are as follows, to:

- control smoking;
- regulate the sale and advertising of tobacco products and electronic delivery systems;
- provide for export and manufacturing standards for tobacco products and electronic delivery systems;
- prohibit the sale of tobacco products and electronic delivery systems to minors; and
- prohibit the free distribution of tobacco products and electronic delivery systems.

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Our previous [Employment Alert](#) on the Bill (released on 28 May 2018) summarises the important implications of the Bill from a labour law perspective.

To read the Bill, in its current form, please [click here](#).

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Shane Johnson



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