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## **ATTENDING A CORPORATE FUNCTION – CONSIDER THE RISKS**

**Article by CGF Research, written by Terrance M. Booysen and reviewed by Hogan Lovells, South Africa**

South Africa, and indeed many other countries, has an insatiable desire and craving for sport and the outdoors. Whether it's about a Tri-Nations or World Cup rugby or soccer match, the spectators are fixated on the game and its participants, including of course its outcome and all the hype when these spectators are actually at the event. Ask any enthusiast regarding their choices and whether they'd prefer watching a play-off between two rival teams on television, or attending the event in person; be this a sporting event, or attending a musical, ballet or orchestra as further examples. There's no question about it; in almost all cases people would prefer being in the stadium or in the theatre and 'living every second' of the event. In the case of a major rugby game for example – the stands in the stadium literally vibrate as the teams are encouraged by their devoted supporters. The air is intoxicated with excitement, and the player's grit and pain penetrates the psyche of their on-looking fans. Clearly none of this intensity can be experienced when people do not attend such events in person and watch them on television, and this may be just one of the reasons why our preference is to attend them.

Many companies treat their customers and/or employees and host them to a sporting or recreational event, amongst others. In most cases the company's organisers may have inadvertently overlooked, or worse, they may not have considered the safety of their guests to events of this nature; be this at their own premises or at a public venue to where their guests are being invited.

And this is where the challenge begins: in the case of the Oppenheimer stadium disaster (1991), 42 people died as a result of a stampede during a soccer match. Then in 2001, 43 people died in a stampede at Ellis Park as a result of a lack of security measures. Not long after the Ellis Park disaster, the Commission of Enquiry led to the introduction of the **Safety at Sports and Recreation Events Act 2 of 2010** ('SASREA'). This law was introduced into South Africa in August 2010 in order to prevent future tragedies of this nature. It is now almost three and a half years since SASREA came into operation but the regulations to the Act are still not finalised. The SASREA is, however, enforceable and is being enforced.

Until the regulations are finalised, interim measures have been put in place by the Department of Sports and Recreation to facilitate the implementation of SASREA.

In this regard, the Minister of Sports and Recreation has issued a directive in terms of which event organisers need not submit annual schedules of events at the start of the calendar year where it is not possible or practical to do so. Instead, event organisers are to submit the required information to the National Commissioner when they start initiating plans to arrange the event in question. Such leeway has not been extended to the venue/stadium owners.

*"SASREA has a very similar effect as the Consumer Protection Act. In terms of the CPA, where damages arise as a result of defective products, consumers can seek recourse against any one of the parties in the supply chain, be it the manufacturer, the wholesaler or the retailer.*

*Similarly, in terms of SASREA, in the event of individuals being injured at events, they can choose to seek recourse against any of the stakeholders in the event, be that a sponsor, a supplier or indeed an advertiser."*

**Source: Joint and several liability for events organisers, sponsors, venue and owners**



The SASREA defines an event to include any “sporting, entertainment, recreational, religious, cultural, exhibitional, organisational and similar activity hosted at a stadium and / or venue, or along a route that falls within the respective precincts”. Clearly with this broad range of events in mind, companies who operate in South Africa -- and who incorporate these types of events within their businesses and marketing functions -- will need to understand the onerous obligations that are involved.

The SASREA categorises events and venues/stadiums according to low, medium and high risk categories. In order to host events venue/stadium owners have to have a corresponding safety certificate reflecting the correct grading as either low, medium or high risk, depending on the nature of the event being hosted. This has already been implemented as at November 2010.

In order to accommodate for the drastic renovations that were necessary in some instances, venue/stadium owners were given a grace period to comply with the provisions of SASREA. Venue/stadium owners applying for low risk events have five years from the date of the Act coming into effect to apply. Unfortunately, the time period for those applying for medium and high risk events has already expired.

Interestingly, the drafters of SASREA clearly understood that a *venue* is not only those of a large sports stadium, but it also includes *any area or place* where people can either stand or be seated with a capacity of 2000. Companies should not be fooled into believing that their risks are contained simply because their function was held, for example, for a small group of people. The crux of the matter is that it's *those* five to ten people whom the company invited to a rugby game -- and where there are thousands of people -- that makes this Act applicable to the company. Expectedly, the *structure* of the venue need not be permanent; in other words the event could also have taken place in a tent which poses even further potential liability upon the shoulders of the company hosting its guests.

There is no doubt that the law makers are tightening up on many governance, risk and compliance related issues, and particularly so when companies disregard their responsibilities associated with events and functions of this nature. In the case where employees and / or consumers are involved, SASREA is right there and on top of matters in order to protect the safety, security and physical well-being of all the people in South Africa. That said, when things go wrong and damage has been incurred by the employees and / or customers in respect of an event being organised by the company; a number of parties may be held liable, either jointly or severally. Such liability may be attached to the controlling body, for example the company, the event organiser, the venue owner and even the sponsors of the event. Incidentally, a broad ranging public liability cover may not have provided the fullest form of protection the company may have wished for, and in the case of SASREA, any form of indemnities governing the relationships between these parties would not be enforceable.

Against the backdrop of the various risks that may be attached for companies who are well known for their entertaining of customers and employees; companies are strongly encouraged to familiarise themselves with the various categories of events envisaged in SASREA, furthermore understanding and mitigating the associated risk-grading factors which are linked to the low, medium and high level indicators. As with most companies who manage their risk, SASREA is bound to become yet another topic which will need to be added to their risk register and area of focus, particularly as the company assesses its SASREA compliance with respect of client and employee functions, sponsorships and the like. Furthermore, companies should plan carefully before hosting an event (internal or external), particularly where there are large groups of people present and who may be exposed to unwanted risks. Unfortunately year-end and other similar functions do have a tendency to instigate or aggravate employee issues and this could result in misconduct, injuries and even death. Any incidents that occur during or after the event can be claimed to be the employer's responsibility, with obvious damages to the company's brand and reputation. To this extent, companies can also be held liable for additional claims relating, but not limited to physical injury, harassment, discrimination, bullying and workplace violence.

It seems that arranging an impromptu 'happy hour' session after work -- for example -- with colleagues and customers may not be as simple as in previous times; a lot more consideration needs to be given to the many risks associated with these types of functions. What may have appeared to be quite simple and unimportant may indeed not be the case anymore.

**ENDS**

Words: 1,325

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