

MONITOR

A monthly briefing sheet to keep communities informed about what is happening in Parliament

DID YOU KNOW?	OUR LEAD STORY
<p>A new Joint Committee to deal with delegated legislation (usually Ministerial regulations) has been established, on resolution of both Houses of Parliament. Parliamentary Committees have been increasingly insistent, when passing legislation, that it is specified that the regulations must be approved by, or at least tabled to, Parliament before coming into effect, although several older pieces of legislation do not have this requirement.</p> <p>The Gambling Review Commission Report has noted the need for South Africa to address online gambling, and the Department of Trade and Industry is busy compiling its own working paper, whilst the Portfolio Committee will be tabling its own report to the Minister, including any recommendations for draft legislation.</p> <p>There is a need for reform and restatement of laws and regulations on the regulatory bodies, as well as for legislation and policy on the new forms of gambling, such as electronic Bingo terminals, online gambling, betting exchange, and greyhound racing, as well as a consideration of the social impact of gambling. In addition, it has been suggested that the Council will need strengthening and concurrent jurisdiction has been mooted as a possibility, although this has not finally been agreed upon.</p>	<p>The Lotteries Amendment Bill was introduced into Parliament on 24 July by the Department of Trade and Industry (dti), which has carried out extensive consultation with the public. The amendments are aimed at solving existing challenges when non-profit organisations apply for lottery funding and have to wait a very long time for a response from the National Lotteries Board about whether they have been successful. dti noted that there had been a huge increase in the demand for grants, although the Lotteries Fund has remained static for many years, at around R16 billion. dti acknowledged that many of the problems arise not through legislative deficiencies, but shortcomings in the practical management of the National Lotteries Board (NLB), and those will need to be addressed before the impact of legislative change can be felt.</p> <p>Amongst the policy changes proposed are the reorganisation of the structure, re-named the "National Lotteries Commission", and its board will have extended powers and more members. The manner of distributing funds is to be simplified. Grants are to be re-categorised, and the Reconstruction and Development Programme removed as a category, since it has historically never had funds allocated to it. More categories will be added to recognise differences in approach, to clarify the process and shorten the lead times for approval. The process and accountability for the distribution agencies is to be made clearer and simplified, with its members now appointed full-time, as dti believes that this is the most cost-effective solution, and is satisfied that it will not compromise their independence. The overlap between the Minister and Board has been eliminated. Another change is that the Bill will allow the Minister to authorise an organ of state to conduct the National Lottery for a period of not more than eight years, if there are justifiable grounds such as national government priorities which are not achieved if a third party is appointed.</p> <p>The current funding process, requiring formal applications before funding could be received, had resulted in many worthy causes being unable to get funding, as the Board was unable to take any proactive decisions to fund even the most obvious needs in the absence of a formal application. However, a new "miscellaneous" category will not only increase the scope of funding, but allow for proactive decisions by the Board, and additional support. The new Commission will have to ensure that its goals are more closely aligned to the strategic goals and priorities of the country. Nothing in the new legislation will prevent NGOs from applying for multi-year funding. Initial proposals to establish an independent appeal tribunal to consider rejected applications were not pursued, because of the cost.</p> <p>MPs will debate further whether in principle the Lottery should remain privately run or be an organ of state. There have been some poor and ineffective organs of state, but it has been pointed out that other good examples, such as SARS, prove that this model can work. MPs have given advance notice that they need more detail on the financial implications. Public hearings on the Bill start on 13 August 2013.</p>

Reports to Parliamentary Committees

The Portfolio Committee on Energy recently held a roundtable discussion on the benefits and disadvantages of the National Treasury proposals for a carbon tax on the energy sector. This proposal emanated from the Department of Environmental Affairs White Paper on Climate Change. The tax is proposed not only to raise revenue, but to change behaviour in the sector. National Treasury believes that South Africa must act now to strengthen its own position and legitimacy. It accepts that it will need to formulate a plan to lessen the costs being passed on to consumers. Industry commentators agreed that there was a need to act on climate change, but differed in their opinions of the impact of a carbon tax. Whilst they conceded that it might change behaviour and reduce emissions, they cited the likely negative effects as increased energy prices, leading to higher costs of production for manufacturing industries, increases in goods and transport prices and South Africa losing international competitiveness. They questioned why this tax should be introduced now, when the economy was not growing, and when electricity renewables were already taxed. Some suggested that the tax would be inappropriate in a regulated market. They were critical of inconsistent approaches and stances across different departments. MPs concluded that it would be impossible for all stakeholders to reach consensus, but said that more work, within a defined time frame, was needed, to try to reach an acceptable compromise.

The Department of Home Affairs provincial offices have noted that their accommodation continues to be of major concern in several areas, hampered by the apparent inability of the Department of Public Works to secure suitable accommodation that is disabled-friendly, client friendly or even meets basic health and safety requirements. Temporary accommodation at some border posts has had to be abandoned, resulting in worse queues. Several of the mobile offices are not operative, pending upgrading of the satellite systems. MPs expressed concern about the vulnerability of ports of entry and the knock-on effects for security, and for employment of South African citizens. Dual ID documents and illegally-obtained documents continue also to be a problem throughout most provinces, although the Department is attempting to eradicate them.

The Department Of Labour continues to update Parliament on the continuing problems at Aurora Orkney and Grootvlei Mines. At Orkney, no assets could be sold to pay the workers, and criminal charges have been laid against the directors for fraudulently paying money to themselves. The unions were unhappy that the liquidators had nominated Aurora as preferred bidder. At Grootvlei, the Court ordered that R2.03 million be paid to the 1 287 workers who earned below the threshold, who also could claim Unemployment Insurance Fund benefits, and retrenchment packages, but the unions were also critical of the way this was handled. Parliament has requested further reports that should clarify responsibilities and actions taken.

The Portfolio Committee on Mining has been asked to try to resolve a deadlocked relationship between Riversdale Holdings and Maweni Mining Consortium, its 26% BEE partner, at the Zululand Anthracite Colliery. This mine produces a unique quality of anthracite essential to the metallurgical industry in the country, employs 1 200 people and its closure would have serious effects on the local communities. On 14 June 2012, following disputes, the Department of Mineral Resources had done inspections and ordered mine operations to cease. Four complaints were resolved, but a decision on sale of shares was still of concern. Parliament has called for further reports during this current term.

The Department of Public Works reported back on its role in improving school infrastructure, specifically eradicating mud schools. It was proposing some interventions to reduce consultant costs, improve efficiency, ensure standardised designs and provide better estimates of billing. This Department, and the Independent Development Trust (IDT), have worked on twelve schools using alternative construction methods (ACM), with a substantial cost reduction. Over 8 000 work opportunities were created, with 30% of the contracts, worth R1.73 billion, awarded to women service providers and contractors, whilst R667 million was spent on youth contractors, and R3.8 billion on broad based black economic empowerment contractors. MPs questioned the viability of using ACM, as the lifespan of such structures was anticipated to be around 30 years only, substantially less than traditional bricks and mortar. They were critical of DPW's delivery capacity and monitoring of projects, thought it may not have followed its full mandate, and questioned if enough jobs were created with ACM. The Deputy Minister of Public Works conceded that DPW indeed lacked capacity to programme-manage some of the projects, but said that IDT did have this capacity and could assist. He also said it was important to address public perceptions that ACM was "second-class" and emphasised that these methods were being successfully and extensively used in other countries (including for the Empire State Building in the USA), could be adapted to South Africa's geographic and climate realities, and would provide urgently-needed solutions within a much shorter time-frame. It was also noted that maintenance by communities and schools, after construction, was equally important.

Health matters	Health and Agriculture matters	Environmental matters
<p>The Department of Health has reported on the progress made in the implementation of the National Health Insurance (NHI) Pilot Project, over 12 months, in eleven districts across the country. The Department was insistent that if money was properly awarded, and the right people appointed, the NHI could succeed. Facility assessments had focused on infrastructure, staffing, equipment, access to drugs and pharmacy services and transport. Although there had been a slight fall in inspection scores of facilities between the assessments, this was ascribed to improvements in the tools used in the later inspections. There were, however, concerns that three of the trial sites had spent only between 50% and 55% of the conditional NHI grants.</p> <p>The Department wants to have a different structure for the district health authorities, to allow them to determine and run their own budgets. It is hoping to contract with general practitioners (GPs), specialists, pharmacists and other professionals to work at the sites, and has identified about 300 GPs so far.</p> <p>The Department of Performance Monitoring and Evaluation has named some of the challenges to NHI as including current inequitable distribution of resources and varying standards, shortage of health professionals in the public sector, poor spending on the NHI conditional grant (which has now been redesigned to try to achieve improvements), infrastructure and maintenance backlogs, and high private health care costs.</p> <p>MPs suggested that the role of the Office of Health Standards Compliance, and achieving a good balance of delegated power, will be critical. Parliament will be looking into monitoring of remunerative work outside the public sector and how medical practitioners might be contracted to work in both.</p>	<p>Several Portfolio Committees have recently met jointly to consider concerns around meat inspection services and labelling in South Africa, following reports on misleading labelling of meat. One of the most serious concerns related to the current lack of capacity, primarily at the Department of Agriculture, Forestry and Fisheries (DAFF), for carrying out meat inspection, leading to serious risks in food safety. DAFF recently ran a seminar to consider how challenges in the whole food value chain – not only for meat – could be resolved. Participants remarked on the difficulties caused by the currently fragmented processes, where live animals fell under control of the Department of Agriculture, but abattoirs fell under the Department of Health, and imports fell under different departments at different times. Both private and provincial health inspection services are used. They emphasised the need for an official traceability and recall policy, as well as stronger border controls. Meantime, veterinarians are also trying to come up with a model for “roadside” slaughters and sales that will satisfy health requirements without unduly inhibiting social customs. A proposal, shortly to be submitted to Cabinet, will raise the possibility of securing more funding for new veterinary posts, and action plans will then be formulated.</p> <p>MPs were critical of the lack of attention to detail and enforcement. They felt that not enough was being done, and with sufficient speed, to restore public confidence, and called for more reports on damage-control. They were dismayed to hear that 262 environmental health practitioners who should be working at the municipalities are currently not being employed because of mismanagement of municipal funding. They urged that the departments must name, shame and prosecute those responsible.</p> <p>Finally, the joint meeting insisted on plans and timeframes being presented back to Parliament by the beginning of August.</p>	<p>The Department of Environmental Affairs (DEA) has presented its Green Paper on National Environmental Management of the Oceans. This is in line with similar efforts in other countries, some of whom are also attempting to set up ocean governance structures, in order to improve management of the ocean sector as a whole. DEA has recognised that South Africa needs to improve its research, to get more information, and to monitor ecosystems, to develop policy. There should be a shift away from the current sectoral management to a more integrated approach, although this may take several years.</p> <p>Some commentators on the Green Paper said that although spatial mapping was mentioned, there was no procedure to take it further, and suggested the need for phased implementation. They felt that insufficient attention was paid to monitoring and evaluation, and that there was insufficient synergy between ocean and land use. A fishing industry association called for fishing community empowerment, and the need to address the difficulties of small and medium companies resulting from market collapse, poor harvests and price fluctuations. It suggested the need for better consultation, to achieve a finer balance of user groups when declaring marine protected areas, as well as more clarity on conservation status of islands. Another group criticised the lack of policy and control over sites, safety and security in respect of liquefied natural gas (LNG) maritime projects, which had the potential to cause serious damage. This group called for a moratorium on LNG activities until definitive action was taken to regulate. MPs asked the DEA to commit to establishing a national database.</p>

Transport issues	Who are they?
<p>The Portfolio Committee on Transport has been closely questioning, on many occasions in this year, the reports and activities of the Department of Transport (DOT). It has more recently been in favour of some of the Department's proposals, such as improving safety by improving driver training, testing and introducing more safety measures. It is also appreciative of the move to change the current system of subsidies, which will result in the departmental subsidies effectively being spread more fairly over the different modes of transport, offering a greater choice (because of better fare spreads) to passengers, instead of the current situation where only some bus companies are being subsidised. This will be coupled with moves for better integrated transport planning.</p> <p>One of the matters that was raised, and that caused concern to Parliament a few months ago, related to broad based black economic empowerment in the road freight sector. Emerging companies in the trucking industry face challenges with lack of finance, difficulties in obtaining long-term contracts, unscrupulous brokers and the lack of skills and know-how in the trucking industry in general. The Road Freight Association complained of huge discrepancies in loading between the provinces, lack of standardised policies, corruption, lack of research to support policy, and cost drags on the industry caused by corruption and delay. A smaller truck service confirmed that the main challenge for small businesses is getting access to contracts, without which the small businesses cannot grow. At the moment, the smaller companies tend to be sub-contracted by larger ones, at rates that barely allow them to pay off their vehicles, let alone maintain them, and they are unable to amass any savings as a stopgap should they be threatened with repossession of their vehicles. If this does happen, the small service providers are then deprived of their livelihood.</p> <p>MPs were very critical of DOT's failure, over almost ten years, to redress the fact that the majority of long term contracts are only with large companies, also of DOT's failure to report any unscrupulous brokers for criminal investigation. MPs felt that perhaps the DOT had not gone far enough to assist small entrepreneurs, and questioned why it had not proactively undertaken training to meet its assertion that the main problem was lack of skills. They felt that DOT did not seem to really understand the situation on the ground. They suggested that the metros' example, where contracts had been divided into smaller parts so more people could participate, was useful. They noted the possible need for amending legislation, and wanted DOT to undertake more investigations and then to participate in follow up meetings, which should be better publicised, to allow more participation from the industry.</p>	<p>The Medicines Control Council (MCC) comprises 24 people, serving on a part-time basis, chosen for their clinical knowledge, public health experience and scientific subject knowledge. The MCC protects the public by ensuring that any medicines are efficient, safe and of high quality, and monitors medicines throughout their lifecycle. It licenses manufacturers, wholesalers and distributors, conducts clinical trials and oversees methods of synthesizing pharmaceutical-drug ingredients. It only approves drug trials that are regarded as beneficial to South Africans. All properly imported drugs must be registered by the MCC.</p> <p>The MCC is currently evaluating around 1 500 applications, including the Caprisa-HIV medication, which has not been tested elsewhere. It encourages consumer protection agencies to circulate leaflets on important medical information. It cautions the public about internet advertisements that target vulnerable people. It recognises the dangers of people over-dosing on over-the-counter medication.</p> <p>MCC is in future likely to play a larger role in regulation of indigenous medicines, and has already researched characterisation and use of African traditional plants for medicines. A Council for Traditional Health Practitioners might be set up. It has published regulations and guidelines for complementary medicine in South Africa, including traditional Indian, Chinese and Middle Eastern remedies.</p> <p>The Sports Trust aims to enhance education through sports and to promote playing of sport in previously disadvantaged communities. It is governed by a Board with representatives from the corporate, government and sports sectors. It has, since starting up, spent R62 million on just over 215 000 projects nationally. It partners with various donor trustees, and focuses on schools and clubs, with a particular emphasis on putting up multi-purpose, sustainable and low-maintenance facilities, accessible by disabled and abled communities. It aims to ensure that sporting events do take place. Of particular importance are its Athletes Development Programmes, and the attempts to increase the number of participants, and sports played, in communities. Although it has applied for Lottery funding, it is stretched for finance, and faces challenges in vandalism of facilities. Parliamentarians have been impressed with the presentations it has made, and the range of activities and offerings, as also the link between promoting confidence through sport and achieving good academic performance. However, they did question whether perhaps the Sports Trust needed to have more control over where facilities will be set up, to achieve maximum benefit, and commented that more attention must be paid to rural areas.</p>

NEW AND PENDING LEGISLATION

The Criminal Law (Forensic Procedures) Amendment Bill, “the DNA Bill”, is still under intense discussion and critique by the Portfolio Committee on Police. Separate indexes of DNA information for Arrestees, Offenders, Crime Scenes, Volunteers, Elimination and Missing Persons are proposed, and there is provision for migration of profiles from one to another, although the process would have to be more tightly defined. MPs have insisted that they will not pass the Bill before getting adequate reports on the cost implications of the Bill. There has been wide-ranging debate on issues such as expungements of DNA records, whether this should be automatic, the volunteers’ index, and loading of only crime scene samples to Interpol. MPs have continuously questioned whether South African Police Service (SAPS) has the capacity to implement the Bill, including training. The Oversight Board provisions were also extensively debated, and the need for regular reporting to Parliament has been emphasised, as well as for a review of the Bill after three years. MPs insisted on a reference to “Ethics” in the Board’s title, said that the majority of Board members should not be drawn from government, that the Board must be chaired by a retired judge or human rights expert, and that strong appointments must be made to enable it to deal with substantive issues.

The Deeds Registries and Sectional Titles Amendment Bills have been tabled. The Deeds Office is aware of concerns around lack of title deeds for RDP houses, and the implications for home owners, but said that it was not yet convinced that alternative registration procedures (similar to car registration) proposed by commentators would offer adequate protection.

The Legal Practice Bill deliberations continue, with the drafters presenting a number of options, based on suggestions from the Committee and public submissions on the Bill. The Justice Portfolio Committee is also adamant that it needs a full costing for implementation of the Bill. In principle, there is agreement that the attorney and advocate professions will not be fused, although existing and future advocates may opt to take instructions directly from the public, but must then hold Fidelity Fund certificates and be subject to the same accounting requirements. Disciplinary procedures are to be substantially changed, and the public may be included in the decision making process, with open hearings. There has been no decision on whether practitioners and trainees should undertake community service, on how fees will be decided, and on the role and mandate of the Ombud, as also the involvement of the Minister in making regulations. The number of Ministerial appointees to the Legal Practice Council has been proposed as three (out of 26). Several options remain open for further debate.

The National Environmental Management: Integrated Coastal Management Amendment Bill has been introduced, to clarify definitions of coastal waters, municipalities, estuary and high water mark, and to align legislation with the National Environmental Management Act (NEMA). The Bill extends the powers of MECs, clarifies the composition and ownership of coastal public property and land reclamation, and tries to avoid conflict with ownership and assets of other organs of state. Fines for some offences are to be substantially increased, to a maximum of R2 million. Public hearings have been held in the last week of July.

The Private Member’s Bill to amend the Electoral Act will not be taken further at the moment, by majority decision. The Bill proposed changing to a mixed system combining elements of proportional (100 MPs) and constituency-based representation (300 MPs). The ANC was worried that the proposals would result in raising the threshold for smaller parties, which would offend against the principles of multi-party democracy, whilst the DA was concerned that there was an overlap with legislation to be presented by the Independent Electoral Commission and felt that longer-term debate was needed. It was suggested that the Bill may be re-introduced to the next Parliament.

The South African Language Practitioners Council Bill seeks to regulate the language profession, now that language policy and legislation has been put in place to honour the language rights of citizens. This should address the shortcomings arising from previous lack of regulated standards and fees, and the possibility of practitioners or the public being exploited. Language practitioners will in future need to be accredited and the Language Practitioners’ Council will regulate the training of language practitioners, control the accreditation process and advise the Minister, as well as promoting opportunities for people to enter the profession. However, the Pan-South African Language Board will continue to ensure that the rights of linguistic communities are protected. MPs asked that the Bill must be published in all languages.

The **Basic Conditions of Employment Amendment Bill** was passed after heated debate in the National Assembly. The **Labour Relations Amendment Bill** could not be voted on due to a lack of quorum.

For All Bills, go to: www.pmg.org.za/bill

CONTACT PMG: Phone 021 465 8885, e-mail info@pmg.org.za No 22