



MONITOR

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

DID YOU KNOW	OUR LEAD STORY: MIGRATION MATTERS
<p>The Financed Linked Individual Housing Subsidy Programme details can be found at www.dhs.gov.za and details can also be obtained from the call centre at 0860 011 011.</p> <p>The Department of Health is now providing health services for every Quintile 1 or 2 school, as well as mobile clinics.</p> <p>The Department of Labour will hold a number of Annual Employment Equity road shows in August and September, promoting cooperation between worker and employer organisations.</p> <p>Parliament has ratified the international labour conventions' guidelines on implementation of HIV and Aids policies. The Employment Equity Act prevents unfair discrimination on the basis of HIV status and privacy is protected through prohibition of pre-employment HIV testing.</p> <p>The HIV and AIDS Technical Assistance Guidelines have been revised to guide employers, ensure better implementation of the Codes by workers and their organisations, and give practical information on implementation of HIV and TB treatments.</p>	<p>Several NGOs recently urged that South Africa needs a coherent and systematic migration management policy that benefits migrants and its own citizens, whilst addressing the ill effects of unlawful migration and organised crime. They said that although the legislation is generally good, there are problems in its implementation. The United Nations High Commission for Refugees stressed the need to distinguish clearly between migration and asylum and to recognise that better migrant management can bring in beneficial skills and investment. It has a ten-point action plan and offered its assistance to government in correcting the legislation and providing training.</p> <p>The Consortium for Refugees and Migrants in South Africa emphasised the need to mainstream migration into municipal and provincial planning processes, and urged that regional movement must be made easier. The Law Society of South Africa agreed that people with skills were needed, but also suggested the need for permits for less-skilled persons, who were often willing to take up jobs that South Africans did not want. It also mooted that the enforcement provisions should concentrate on employers. It suggested that there could be merit in rolling out something similar to the Zimbabwean amnesty also for other countries. It was not entirely in agreement with the amendments to the Refugee Act (which are not yet in operation) and recommended that a Green Paper was needed to engage on policies and practices before they were implemented. The Law Society also highlighted the need to protect people who do not qualify as refugees, to ensure that they will not face torture or other threats if repatriated.</p> <p>The African Centre for Migration and Society stressed the need for thorough and objective research. It felt that stricter border controls would not solve or control migration problems and would merely encourage more people to enter the country undocumented, whilst the deportation policy also served no purpose and did not address crime or labour issues. The Centre noted that the statistics on asylum seekers are skewed, as many are in fact economic migrants, but also noted that, contrary to general perception, a recent census reported that only 3.3% of people in South Africa are foreign-born. It highlighted abuse and harassment of migrants by the police, and said they were also targeted for crime as they tended not to report it.</p> <p>Human Rights Media Centre focused on the Rwandan refugees, who must, in terms of a cessation clause now proposed by the United Nations, opt for voluntary repatriation by 30 June 2013, or take up permanent citizenship in their host country, as they will lose their refugee status after that date. There are many concerns around this ruling. The International Organisation for Migration noted the positive contributions of migrants, urged greater respect for human rights, dignity and well-being of migrants, called for better inter-state and agency co-operation and said the needs of all different migrant sub-groups should be met. Other more general suggestions included a possible modelling on the Russian system of tracking migrants, the need to re-examine legislation, strengthen the Immigration Advisory Board, reinforce the labour inspectorate, dedicate more resources to fighting xenophobia, and establish a multi-stakeholder platform dedicated to migration. The Refugee Reception Centres should remain open and the personnel must be better trained. Criteria for exemptions must be clearly stated, reasons delivered on time, and reasonable periods for processing defined.</p>

Reports to Committees		
<p>The Portfolio Committee on Trade and Industry held public hearings on the Broad Based Black Economic Empowerment Amendment Bill on 8, 13, 15 & 20 March. Solidarity did not support the Bill, saying that it merely facilitated reallocation of capital along political priorities, and that transfer of capital to ineffective entrepreneurs could hinder production of goods and services. All other commentators supported the Bill and said the amendments could enhance government's ability to drive transformation. They all stressed that consistent, transparent and predictable policy was needed, to attract more foreign investment.</p> <p>Most commented on the discrepancies between scorecards in the Bill and sector codes, but some suggested the codes and charters were not necessary. They debated the function, independence, status, powers and responsibilities of the Commission, and made suggestions on sanctions. Some welcomed the definition changes, others suggested more, including stricter wording for fronting. There were divergent views on whether the BBBEE Act should trump other legislation. There was substantial debate around numbers of black-owned businesses; the Black Management Forum claimed that only 2% of JSE companies were black-owned, but the JSE estimated the figure at around 35%. SA Women in Construction pointed out that there was no promotion of BBBEE status for businesses wholly owned by black women.</p> <p>The Preferential Procurement Policy Framework Act (PPPFA) was seen by some as a major impediment. Specific sector concerns and calls for alignment of legislation were raised by several companies, verification professionals, disabled businessmen, and small finance businesses.</p> <p>Other suggestions included a rehabilitation mechanism for transgressors, an exemption clause for the private sector, cancellation of contracts and consultation of NEDLAC prior to issue of regulations and notes.</p>	<p>The Department of Social Development (DSD) briefed the Portfolio Committee on its food security programmes. Over 5 million children are vulnerable to hunger. The Zero Hunger Programme was launched in North West, but community nutrition and development centres are needed in all provinces, with support from the Food Banks Network. Some municipalities are distributing seeds, but all policies must be identified and aligned. All farm workers also need to be tracked. DSD monitors distribution to ensure that food parcels go to the correct beneficiaries and employs agents to reach the disabled. They also educate on proper use of the food and discourage selling of the parcels. Most food is locally sourced, from cooperatives, its nutritional content is checked, and the programme aims also to align with providing clean water.</p> <p>DSD also reported on setting of uniform standards for Early Childhood Development Centres and initiatives. The model emphasises not only teachers, but also community and parents' involvement and empowerment. It aims to identify children at risk early, because properly structured programmes addressing their social, emotional, cognitive and physical needs will prevent later problems.</p> <p>DSD is drawing a database of all registered facilities and programmes, whether semi-formal or formal structures, based at centres or homes or community halls, as well as child-minding and other programmes. ECD centres should also offer outreach and prevention programmes, all staff must be properly qualified, centres should run programmes for children, youth and families from the surrounding communities, with priority given to the poor. Anyone offering ECD services must register as a partial-care facility, then register the programmes, and also register as a non-profit centre in order to qualify for funding. There are subsidies of R15 per day available, to allow children of poor parents to attend centres.</p>	<p>The Department of Public Works (DPW) has featured prominently in the Auditor-General's report on under-expenditure in government departments, and it was recently called again to SCOPA to explain the latest disclaimer audit, which was given because its performance information was unreliable, it lacked internal controls and inadequate action was taken to deal with non-compliance.</p> <p>The Special Investigating Unit is investigating leases entered into by the DPW, and trying to set some aside. It has identified collusion between landlords and departmental officials for six properties that were never occupied. It is trying to stop contracts, recover money and prevent future losses.</p> <p>The Deputy Minister conceded that absence of a coherent policy had caused irregularities and inconsistencies in renovations to Ministerial houses and prestige portfolios, and stated also that the DPW had in the past been subject to bullying by politicians.</p> <p>MPs called for details on the Nkandla project, but were told that because this involved not only construction, but also security issues, it was impossible to give full details in an open meeting. It was acknowledged that R208 million has been spent to date on this project. The Ministry said it was clear that prices had been inflated in this and other prestige projects, and there were deviations from proper supply chain processes. The matter has been reported to the Auditor-General and Special Investigating Unit. Compliance issues are "at the heart of the problem". The Committee wanted a full list of services provided, and the Minister agreed to give this in a closed session. The Minister would also provide information on collusion in school building projects in the Eastern Cape.</p>

More Reports to Committees

The Department of Labour (DOL) summarised the history behind, and developments in, the 2012 agricultural workers' strikes. Farm workers have traditionally been unable to organise into functioning trade unions, and the farmers' sector is only partially organised into employer groups. The farming sector has been guided by a sectoral determination, not a minimum wage, until now. The Ministry of Agriculture, Forestry and Fisheries (DAFF), and later also the Department of Labour, attempted to get parties to negotiate, and they did agree in November on the short, medium and long-term challenges that must be addressed. It was also agreed that the Bureau for Food and Agricultural Policy (BFAP) must provide an agricultural economic analysis. However, when BFAP failed to do this on time, there was a breakdown of the negotiations, and more strikes. Attempts to resume the process were frustrated when employers' organisations claimed to have no mandate. DOL, meanwhile, was also running public hearings. Worker organisations demanded a wage of at least R150 per day, but when the BFAP report was eventually drawn, it concluded that most farms would be unable to absorb that increase as well as cover their operating costs and debts. BFAP also said that even R150 per day would not give food-security to the workers.

The Employment Conditions Commission then recommended a minimum wage of R105 per day, on condition that farmers should be able to apply for exemptions if they claimed this was unaffordable, and that DOL must do impact assessments. About 1 432 exemption applications were made.

MPs, at a joint meeting of several portfolio committees, questioned if the R105 per day was a living wage, and expressed fears that farmers may choose to mechanise rather than offer employment. They emphasised the need to find holistic agriculture and labour solutions, including improvements to rural infrastructure, and said each case must be judged on its own merits. They urged that the resolutions of the National Vulnerable Workers Summit of 2010, which called on departments to coordinate their efforts, must be implemented, noting that only five provincial delivery forums had been created so far. They recognised that farmers, as well as workers, were vulnerable, as they faced challenges from shrinking markets, lack of subsidies and cheap imports.

DOL reported that it is establishing a provident fund for farm workers, is reviewing the Security of Tenure Act and creating a land rights management facility. Bursaries are being offered for farm children. The Department of Health is involved, to arrange for health visits. The DOL is also in contact with the Department of Home Affairs, to monitor the numbers of applications for permits for migrant workers. DAFF has also called on the DOL to support programmes for farm workers.

The Minister of Police requested the opportunity to brief Parliament on recent incidents of police brutality, and stressed that the incidents were completely unacceptable and should not be seen as reflective of the attitude in the whole of SAPS. Criminal charges had been laid against perpetrators, and the whole disciplinary system at SAPS was under debate. The possible causes of brutality were being investigated, although it was widely recognised already that SAPS officials faced enormous stress, but would not readily seek professional counselling, since they tended to see this as a sign of weakness. The Minister suggested that in future the names of potential candidates for SAPS should be published, to allow for public comment, before they were appointed. The White Paper on Policing would spell out how SAPS would be professionalised. MPs suggested that the lapses in command and control seemed to indicate that incorrect people were at the helm, urged that recruitment and training must be improved, and were highly critical of lack of discipline in senior ranks that had gone unpunished.

The Department of Social Development (DSD) reported on the implementation of the Older Persons Act, which establishes a framework for empowerment and protection of older persons, and the promotion of their status, rights, well-being, safety and security. The South African Older Persons Forum has been established nationally and in provinces, and Older Persons Desks have been established in KwaZulu Natal and Limpopo, with other provinces being encouraged to do the same. A Charter on the Rights of Older Persons has been launched, nationally and provincially. The Act has been translated into some of the official languages, and conferences have been held. DSD is training caregivers on the implementation manual, and there is also focused training on care for Alzheimer's Disease and dementia-related conditions. DSD continuously assesses the adherence to norms and standards. 412 residential facilities were audited for quality of service, and 58 for infrastructure compliance, although DSD is not responsible for maintaining the buildings. It has drawn up a Departmental Protocol for Management of Elder Abuse, and it funds the National Elder Abuse Line. An electronic Older Persons Register is being developed. DSD faces insufficient funding challenges and there is a need for coordination of the work of departments and municipalities. It also needs dedicated personnel to coordinate provincial work around older persons. Inaccurate reporting on abuse must be corrected. The Older Persons Act will be amended, after consultation, and annual assessments will be done. MPs questioned if it was possible to grant exemptions to older persons from paying for healthcare, and urged DSD to monitor facilities that received grants but continued to charge their residents. They also felt that more focus was needed on dementia related problems.

The Department of Sports and Recreation will be running a National Sports Development Plan, which will be incorporated into the National Development Plan. This aims to establish school sport code committees and train coaches, negotiate for broadcasting rights, re-establish the Soweto Open Tennis Championships and promote netball. School Sports Leagues have started and other campaigns will include a Big Walk, recreation and healthy lifestyles campaigns, and inter-department leagues

The Department of Health (DoH) has started an audit of the 3 808 public health facilities, focusing on patient safety, availability of medicine, cleaning procedures, infection prevention and control, caring and staff attitude, and waiting times. It is also investigating easy accessibility of facilities, their operating hours, the condition of infrastructure, if there are adequate consultation spaces, bulk services, equipment and human resources. South Africa has about R320 billion worth of health assets, but about 30% of its infrastructure has to be fixed or replaced, and the DoH is insisting that infrastructure grants must go to maintenance. Facility improvement teams have been sent to ten districts, and have identified basic repairs and unfinished tasks to be completed. DOH is aware of and working on the need to change some staff attitudes.

The Portfolio Committee on Mineral Resources noted that the Mining Charter was first signed in 2002, and an Impact Assessment Report was published in 2009. The Charter was then amended in 2010, to make transformation more effective, although there were complaints about lack of consultation. In 2011, the Committee held public hearings involving mining industry stakeholders, organised formations, mining communities and mine workers, to hear their views on the revised Charter. In November 2011 it also asked the top ten mining companies to report on their compliance with the Charter, but it soon became apparent that because the Committee had not provided sufficiently clear guidelines, there were ambiguities in the self-scoring process. The Committee has now decided on a further workshop to tell the companies exactly what is required, and to get their views on the challenges related to the implementation of the Mining Charter.

The **Portfolio Committee on Police** has agreed that it cannot adopt the Dangerous Weapons Bill before being provided, by SAPS, with an implementation plan. It was severely critical of SAPS's failure to provide the plan on due date. It said this was disrespectful to the Committee, and it also questioned the excuses provided, and took exception to the fact that management attempted to shift the blame to another division. The whole implementation of the Act is essentially dependent on training. When first presented, the costing was nil, but this had now risen to R1.8 million, which the Committee thought excessive. Further reports are still awaited.

The Portfolio Committee on Cooperative Governance dismissed the South African Local Government Association when it failed to send its chief executive to the meeting to present the strategic plan. It has been very critical of what it regards as a disrespectful attitude and consistently poor communication with the Committee, from both SALGA and the Department.

The Portfolio Committee on Women, Children and People with Disabilities also dismissed the Department and Minister for failing to provide a full copy of a detailed presentation, in sufficient time for MPs to study it in depth prior to a meeting.

The Portfolio Committee on Energy expressed concern about the Department of Energy's (DoE) Free Basic Electricity and Free Basic Alternative Energy programme. This was first devised in 2000, with the intention of providing 50kWh free power to each household, which will cover basic standards of living. Indigent households without access to the grid get R48 worth of alternative energy, of coal, wood, paraffin or candles. However, DOE reported that only about 69% of indigent people are being reached. Eskom and some municipalities still tend to disconnect for non-payment, municipalities have failed to prioritise this, and lack indigent policies, have not identified beneficiaries, or merely provide token services. Many provinces have failed to meet the minimum service targets. Some rural beneficiaries remain suspicious of alternative energy. MPs criticised the lack of achievement, saying that DOE must hold municipalities accountable, as a pre-condition of their budget allocations, and urging a single policy and vision.

The Portfolio Committee on Human Settlements was unhappy with the Department of Human Settlements (DHS) 3rd quarter performance report. The Rural Housing Infrastructure Grant showed only 26% expenditure, and the National Upgrading Settlements Programme spent only 4%. Despite money provided through the Urban Settlements Development Grant, the bucket system is still prevalent in Nelson Mandela Bay Metro.

MPs noted the DHS's complaints about challenges with the State Information Technology Agency, shared also by other departments. MPs had previously questioned the performance of Mvula Trust and Independent Development Trust, and noted that these were now to be supplemented with other service providers. DHS itself had withheld some allocations to Eastern Cape and Limpopo. MPs asked why it had failed to visit the provinces, despite specific requests from this Committee, lambasted the lack of proper planning, and insisted that skilled and appropriate staff must be appointed urgently. MPs also questioned several rural areas that had been neglected, and wanted to be told of any shifts in budget, given an explanation on expenditure, and updated on specific projects.

Disability issues

The Portfolio Committee on Women, Children and People with Disabilities was recently briefed on the special problems facing blind and deaf people, in education and employment, in South Africa. Disabled People South Africa noted a host of discriminatory practices against the disabled, including human rights abuses, and said that attitudes and economic practices still posed the greatest hindrance to employment. South Africa had many good policies, but these regrettably did not translate into providing employment or access. Although government desks had been established for disabled issues, there was little coherence, particularly at local level, their measurement indicators were not effective, and rural areas simply were not reached. Proper frameworks and structures are needed for transport, access, reading material for the blind, deaf facilities, and to ensure privacy. Statistics SA had assessed that 5.6% of the population is disabled, but this organisation thought it was probably closer to 10%, and if a broader definition is used, incorporating those unable to care for themselves or using assistive devices, the figure could be as high as 19%. Not enough real support is given to government departments and NGOs. When disabled people were employed, this tended to be at lower levels, with insufficient accommodation given for personal assistants or assistive devices. The organisation suggested that the Ministry of Women, Children and People needed greater enforcement powers, and that there was a need for sensitisation, workplace profiling, reasonable accommodation and access, and different recruitment facilities, with proper incentives.

The Department of Basic Education (DBE) reported that it had devised White Paper 6 on Inclusive Education in 2001, but its implementation was very poor. Most learners with visual and hearing impairments were already hampered by insufficient programmes at early childhood development level, to prepare them for school. Even at special schools there were only limited braille instructors and braille material. Assistive devices were expensive, as most were imported. Insufficient time and guidance was given on independent daily living skills. About 80% of all teachers at blind and deaf schools are unable to use sign language themselves, although teachers are now being trained in Braille. This, as well as the lack of a specific curriculum, impacts on the quality of teaching, which is generally at a low level that prevents the students from achieving well at matric. There is also a lack of properly trained classroom support teachers, and hostel staff at the special boarding schools. DBE said that it is now providing training, delivering workbooks and developing Grade R Braille texts, and is trying to have a sign-language curriculum approved, as well as doing audits of the special schools. MPs commented on the need for greater involvement of parents, and also said that sports federations and organisations needed to be properly equipped to handle disability training.

The Department of Public Service and Administration (DPSA) acknowledged that only 0.38% (or 5 127) of employees in the public service are disabled, despite the fact that there is a public service target of 2% disabled employment. Only seven national departments – excluding DPSA itself – have reached or exceeded the 2% target. DPSA has developed a policy on Reasonable Accommodation and Assistive Devices (which also addresses issues of public transport, personal assistants and caregivers), and the Ministry for Women, Children and People with Disabilities is finalising a database of skills of people with disabilities. DPSA is encouraging departments to partner with organisations of people with disabilities, and will be doing a study to determine the reason why many disabled people do not continue in employment.

The Deputy Minister for Women, Children and People with Disabilities acknowledged that there has been some progress, but said it was not sufficient. She questioned how DBE would help those learners who were not provided with Braille texts to catch up, urged a return to a system where properly-trained teachers were placed in all schools, and stressed that inclusive education must be made a reality, with sufficient support staff and focused attention to all needs. She questioned why DBE was focusing on curriculum plans now, given that sign language was not yet recognised as an official language. She also suggested that deaf teachers and assistants should be considered for appointment to the special schools, said that acquisition of videograph equipment must be prioritised, and stressed that early detection programmes were vital. She asked DPSA to monitor every aspect of service delivery and standards, including career progression, and the shortage of assistive devices in government. She urged that the Department of Trade and Industry be asked to promote local manufacturing, alternatively to negotiate lower import tariffs, for assistive devices. Every department must itself take responsibility for disability itself, and mainstream.

MPs also urged that any budgeting should take account of disability issues. In relation to education, they said that consideration must also be given to children in need of large-print books. One MP suggested that government should consider funding cochlear implants where appropriate. MPs questioned the link between inadequate education and poor employment prospects later for the disabled, urged DPSA to focus on ensuring decent working conditions, and made it clear that more accountability was needed across government as a whole, including writing this into performance agreements, to achieve the targets.

NEW LEGISLATION

Banks Amendment Bill [B43-2012] complies with Basel II prescripts, to close gaps as assessed by the International Monetary Fund. The Registrar may give a directive to a bank on curatorship, without prior written approval of the bank's management. There will be easier access to information from foreign supervisors for foreign banks. New proposals are expansion of banks outside SA, a remuneration committee to oversee bankers' bonuses, and inspection of unregistered bodies to control scams and ponzi schemes.

Dangerous Weapons Bill [B37-2013] which is unlikely to be promulgated in this financial year, defines a dangerous weapon as "any object, other than a firearm, capable of causing death or inflicting serious bodily harm, if it were used for an unlawful purpose". Possession of a dangerous weapon may be criminalised if there is a reasonable suspicion that the person intended to use it for an unlawful purpose, with a penalty of a three-year prison term or fine. Exemptions are provided for those possessing dangerous weapons for their employment, or for participation in a religious, cultural, sporting, and recreational or entertainment activity. Legitimate collections, displays and exhibitions are exempt. The Regulation of Gatherings Act and Firearms Control Act have been brought in line, with similar exemptions.

Employment Services Bill [B38/2012] provides a legal framework for functioning of a repositioned public employment service, offering free employment help for citizens and foreign nationals. Private employment agencies must register, and certain actions are now prohibited. An advisory Board will be re-established. The Bill also contains provisions to strengthen Productivity SA and the Sheltered Employment Factories.

Employment Equity Amendment Bill [B31-2012] Its provisions include prohibition of discrimination, equal pay for work of equal value, psychometric testing, arbitration of unfair discrimination claims by the CCMA, employment equity plans and reporting by employers and enforcement mechanisms, such as calling for undertakings from designated employers. Employers who fail to implement employment equity plans can be reported directly to the Labour Court and fined. The Minister can regulate assessment of compliance, and arbitrators may make awards. The Minister can adjust the annual turnover threshold for designated employers. The fines have also been adjusted.

Fertilizer and Feeds Bill [B41-2012] has been tabled. Some agricultural organisations supported the Bill but asked for clarification on definitions. The Red Meat Industry Forum opposed the Bill, believing that home food mixers such as farmers should be exempt. The Department explained that the Bill specifically aimed to ensure food safety for consumers, by controlling mix of feeds by intensive farmers, but this will not apply to small scale and communal farmers.

Financial Services Laws General Amendment Bill [B29-2012] has been the subject of workshops held on 13 and 20 March (see www.pmg.org.za/minutes/8)

Geomatics Profession Bill, a redraft of the 2005 Surveying Profession Bill, aims to accelerate transformation of the Geomatics profession. Four categories of registered geomatics practitioners are specified. The Council will in future consist of four state representatives, five people not employed by the state, one member of the public and one representative from the Council on Higher Education.

Intellectual Property Laws Amendment Bill has been sent back to Parliament by the President as the Bill should have been referred to the National House of Traditional Leaders as required by the Traditional Leadership and Governance Framework Act. Also, the Bill affects Constitution traditional leadership and cultural matters which are Schedule 4 matters, and therefore the Bill should be dealt with in terms of section 76 of the Constitution. The relevant committee is gathering legal opinions on these two grounds.

The South African Maritime and Aeronautical and Rescue Amendment Bill [B28-2012] sets no new policy, but updates, broadens and improves the working of the SA Search and Rescue Organisation, a statutory body with representatives from government, agencies, business and voluntary organisations. This body will in future be able to perform search and rescue functions outside South Africa, in line with the international conventions. The scope of regulations for search and rescue operations are to be widened.

The NA adopted the Spatial Planning and Land Use Management Bill, the Tourism Bill, the Independent System Market Operator Bill (dealing with alternative electricity suppliers), the General Intelligence Laws Amendment Bill, and the Mental Health Care Amendment Act

The NCOP adopted the Superior Courts Bill and Prevention and Combating of Trafficking in Persons Bill

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