



PARLIAMENTARY
MONITORING GROUP

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

News snippets...	OUR LEAD STORY: HOUSING ISSUES
<p>The South African Social Security Agency (SASSA) regulations have recently been amended, and even caregivers who do not have a birth certificate for a child are now able to approach SASSA for a social grant. The Department of Social Development is currently reviewing its foster care policy, in recognition of changing demographics and economic circumstances.</p> <p>The Department of Cooperative Governance runs its Community Works Programme (CWP) as a defined intervention within Phase 2 of the Expanded Public Works Programme (EPWP). The CWP aims to provide two days work a week, all year round. Whilst this focuses on providing consistent work, it does not aim to provide skills training as that work can be in any area. By contrast, the EPWP is founded on training and skills development, and its main focus is to train workers so that, whilst they get a stipend, for the duration of a defined project, such as road-building, they can exit from that programme with a specific set of skills.</p>	<p>The Financial and Fiscal Commission (FFC) has recently commented that the goal of delivering 400 000 houses by 2014 has caused the Department of Human Settlements (DHS) to set far too ambitious annual targets, which it has consistently failed to reach. FFC also said that elimination of the housing backlogs was way beyond the fiscal capacity of the state, being calculated at about R300 billion, based on a cost of about R140 000 per unit. Even if government combined housing and infrastructure subsidies, and provided land for free, there would still be a budgetary shortfall. The DHS had also failed to reach its targets on the Integrated Housing and Human Settlements Development Grant, which accounted for more than 85% of the DHS budget, either because targets were again too high, or because funding was inadequate. Although allocations had increased, the number of units delivered had declined, from 162 000 units in 2009/10, to 122 000 units in 2010/11, despite the fact that DHS reported that it had re-allocated funding between provinces to try to reach its targets, and despite reports of 98.8% spending in the 2010/11 financial year.</p> <p>The FFC had recommended to government that it should specifically pursue development of a more spatially compact urban form for cities, and adopt appropriate policies and financing instruments for this. Government had agreed, and the recent launch of 512 newly-built flats for the residents of Jabulani Hostel in Soweto reflected the government strategy to provide human settlements closer to places of work. These settlements should not merely comprise rows of houses, but provide proper social amenities in the community.</p> <p>The FFC held a comprehensive and extensive public hearings process in 2011, to allow for the sharing of ideas. Some of the topics explored had included the extent of demand for housing, as indicated by the backlogs, informal settlements and backyard dwellings, as well as debates on affordability of housing. Several commentators spoke of serious challenges around poor data collection and understanding of housing demand. They stressed that housing delivery was not just about houses, but also the infrastructure and amenities of housing projects. They noted that increased budget allocations did not translate to increased delivery or clearing of backlogs. FFC said the problem of housing backlogs could not be solved by relying on the markets alone, although they did play an important role, and further investigations on affordable housing in the private sector were being undertaken by the FFC's technical team.</p> <p>It was suggested DHS must pay more attention to resolving the current delivery problems, and service performance contracts between the President + Minister must cascade down to DHS staff, with better monitoring all round. DHS should pay more attention to sanitation, which remained of concern. A comprehensive policy network was needed. DHS had already indicated it was evaluating its funding and policy, with a view to reviewing housing subsidies, since no policy revision had accompanied the shift in responsibility from provision of housing to delivery of human settlements. FFC thought that DHS had to analyse its capacity, and government had to look at other housing delivery options and their cost implications, including different rental systems. FFC was looking at practical options, to inform a second set of public hearings in August 2012.</p>

Reports from Departments and Entities

The Inter-Departmental Task Team on Ex-Mineworkers was created to investigate, identify, and pay out compensation to ex-mineworkers in Eastern Cape, (later expanded to Free State and Western Cape). So far, 18 000 claims had been made, and 12 000 paid out. The process involved analysis of the names by the Department of Labour, with assistance from a long-established mining recruitment company, who would help in compiling employment histories, and getting details of last remuneration from the mine employer, with supporting payslips or affidavits. The Chamber of Mines was also assisting with investigating pension or provident fund claims. Valid ID numbers were required, as well as verification of banking details, and claims that were properly submitted and confirmed would be referred for payment to the Unemployment Insurance Fund. Although beneficiaries often failed to attend meetings, assistance was being sought from traditional chiefs and councillors. Anyone who believed he had a valid claim could approach the Compensation Commission for Occupational Diseases directly.

The Department of Trade and Industry (dti) has re-examined the support programmes that government presently provides to small entities, as well as its policies for providing services. The original strategies to promote entrepreneurs and small enterprises are now outdated, and new departments have taken over some former dti functions. The Review Report (which will be formally presented after Ministerial approval) makes recommendations on improvement of coordination, rationalisation, the need to increase financial and non-financial support, creation of increased demand for small enterprise products and services and the reducing of regulatory constraints. It is intended to amend the Small Businesses Act.

The Department of Social Development (DSD) reported that it was identifying households in need of food, during community profiling exercises, by using a Brazilian model of an "active search technique". It used databases of Statistics SA and Department of Health, as well as working with the Departments of Rural Development and Land Reform and Health. DSD was moving beyond merely providing food parcels to more sustainable methods, including the establishment of food gardens and cooperatives.

South African Cities Network is a knowledge management organisation that aims to address aspects of vulnerability in its member cities. These include the alarming growth rates, the need to transform the built environment function, the need to improve the image of local government, and to develop credible and long-term National City development strategies, that align to rural development strategies. Increased urbanisation was linked to growing populations, but different and focused strategies are needed for different areas.

The Department of Performance Monitoring and Evaluation (DPME), together with the Auditor-General, Public Service Commission, National Treasury and Departments of Cooperative Governance and Public Service and Administration, now forms part of a new system and function that would be assessing performance of state departments and state-owned entities. The system also provided for the assessment of Cabinet. This Department was working with provinces and broadening its influence beyond the six metropolitan areas. It monitors delivery on the five government priorities of education, health, crime reduction, economic development and rural development, making unannounced visits in order to compare realities on the ground against what had been reported. It will draw on the best practices of other countries running similar systems. It aims, through its monitoring, to produce change in government, and improvements in frontline service delivery. It hopes to develop plans and instruments to also incorporate citizen-based monitoring from March 2013. The Presidential Hotline also could serve as an important source of information for government-wide performance monitoring and issues of important to citizens.

The Department of Transport reports that it is intending to offer district-based programmes at schools, in conjunction with the Department of Basic Education, giving school learners the opportunity to study for and pass their learner driver's licence before they leave school. Other plans for 2012 include the introduction of periodic checking on the roadworthiness of vehicles, delivery of provincial road maintenance through the S'hamba Sonke road programme, and setting up 70 additional Live Capture Units at Driving Licence Test Centres. It hopes to enforce a zero alcohol limit for drivers, to reduce road accidents.

The Department of Home Affairs (DHA), in answer to MPs' questions, said it would not be repeating the documentation project and moratorium on deportation that it had previously given to 275 000 Zimbabwean citizens. Neither new Zimbabwean migrants nor other foreign nationals would have this opportunity. The current law would be applied strictly to undocumented and illegal foreigners, who could face deportation. DHA also explained that Cabinet was working on a process to explain the obligations of state departments in cases similar to the highly-publicised incident where 125 Nigerian nationals were turned away as their vaccination certificates had not met public health requirements. DHA was also trying to arrange for use of community halls in rural areas, to promote outreach and awareness of requirements such as registering births and deaths, and it had found more suitable vehicles as mobile offices.

More Reports from Departments and Entities

The South African Post Office (SAPO) and Department of Communications (DoC) were questioned closely by the Portfolio Committee on Communications on their strategic plans. SAPO would not receive a government subsidy after 2013, so it was considering using public/private partnerships, after its request for more funding was declined by National Treasury, and it planned to diversify, optimise the mail business, provide a retail channel network, and provide secure, efficient and integrated IT services. MPs insisted that SAPO must focus on ICT sector growth, criticised malfunctioning public information terminals at many post offices, highlighted the “dismal state” of post offices in rural areas, and recent reports of fraud and down-time at Postbank.

MPs asked the DoC if it would meet the timeframes for digital terrestrial television. They suggested that specially earmarked funding be given to SABC for this, and were worried about the risks around reliability of, and unauthorised access to systems. They did not believe that DoC’s delivery was up to expectations and insisted that more be done to reduce the licence fees to be paid by community radio stations.

New opportunities for graduates and interns mentioned by a number of departments.

The Department of Trade and Industry (dti) noted that there are about 80 000 vacancies in South Africa and about 60 000 unemployed graduates. The dti programme “Workplace Challenge” will assist the private sector to take on unemployed graduates, as dti offers to pay stipends for graduates taken on by businesses.

The Department of Economic Development and Department of Performance Monitoring and Evaluation recently noted, in their report on the impact of the state on employment, that direct employment in the government remained stable. Government departments were intending to increase the numbers of interns from 5 000 to 6 000. There would be increased attempts to encourage departments also to source goods and services locally.

The Department of Cooperative Governance has earmarked 66 municipalities for interventions. It is intending to deploy students or professionals to these municipalities to help in clearing backlogs. It also runs an incubation programme to place engineering students as interns under professional engineers, in an intensive programme. The final exam of the programme is quite academic, and those who had not received sufficient schooling to cope with this would be redirected into artisan levels. It was, however, also noted that there was a shortage of artisan trainers, as programmes run in the past by entities such as the former South African Railways had been discontinued.

The Portfolio Committee on Correctional Services discussed parole issues with the National Council for Correctional Services (NCCS) and Minister, with a particular emphasis on inmates sentenced to life imprisonment (lifers) and the role of the restorative justice process. NCCS gives advice to the Minister on policy for correctional centres, on draft legislation and other correctional system issues, although it no longer plays a part in parole decisions. NCCS shared the Committee’s concerns about inconsistencies in parole decisions and minimum sentencing, and is in discussion with the Department of Justice. It suggested that legal practitioners should be included in parole boards.

NCCS and the Minister assured the Committee that although restorative justice policies were applied when parole applications were considered, they did not carry overriding weight, and it was unlikely that a decision to grant parole would be set aside at the insistence of victims. The parole boards, when considering whether parole was appropriate, took into account not only the crime, the sentence, and the circumstances of the offender, but also the readiness of the community to receive the parolee, and the probability of re-offending. The Minister clarified the incorrect allegations by inmates that the press had published their names on parole lists, saying they had misinterpreted media statements on the possible effects of the *van Vuuren* judgment on parole. The Minister asked the Department, and Parliament, to educate the public about parole and the role of restorative justice, and encourage crime victims to participate in restorative justice processes.

The Public Protector, a Constitutional Chapter 9 institution, works primarily in the field of Executive ethics, anti-corruption, the protection of whistle blowers, and access to information. It promotes democracy, enforces administrative justice, good governance and accountability, by facilitating dialogue between complainant and institution. The matters reported to it in the last year had included complaints about maladministration, misuse of public funds, failure to incorporate competitive supplier practices, and over-pricing. 33 areas of possible systemic problems were isolated, and 9 investigations were conducted that revealed poor planning and monitoring, poor service delivery and lack of accountability. There were increased reports of non-compliance with the Executive Members Act, Protected Disclosures Act and Prevention & Combating of Corrupt Activities Act, as well as delays in social housing decisions. The Public Protector tried to ensure that government institutions set up and followed internal complaints mechanisms, and tried to ensure prompt justice and remedial action for citizens. It currently has 20 offices, 616 outreach clinics and 155 mobile clinics, and aims to expand into Limpopo and reach out to remoter communities via NGOs and the Post Office.

Recent public hearings and reports

The Ministerial Defence Review Committee was set up by the Minister of Defence and Military Veterans to debate and consult with key stakeholders, the public and civil society, on the ideal future design and structure for a defence force in South Africa. Its recommendations on policy would form the blueprint for the future defence force and defence resource frameworks. It was also asked to investigate the nature and scope of the South African defence industry and its products, its strategic domestic and international partners, the manufacture, marketing, sale and export of armaments and related goods and services. It has compiled a preliminary document, which defines the defence mission under five strategic goals, and 15 high level defence tasks. It has adopted a paradigm shift, from a threat-based approach, to an approach based on desired defence effects, and has also identified the future spectrum of conflict and a range of contingencies. It recommended that the Chief of the Defence Force should develop the requirements for the Blueprint Force Design and Force Structure, but that there should be an emphasis on civil control. Denel should fall under the control of the Defence Force, and other initiatives have been suggested, such as Defence Information Systems, Defence Service Commission, a Defence Ombud, the Reserve Component and the Health of the Force. Country-wide public hearings will be held in May and June to gain input into the final document.

Public hearings have been held on the South African Police Service Amendment Bill. This Bill seeks to answer the requirements of the Constitutional Court decision in the *Glenister* case (see full reports at www.pmg.org.za/minutes/23). Many of the submissions stated that the Directorate for Priority Crime Investigation (the Hawks) should not be located under the South African Police Service (SAPS) as that did not constitute “sufficient independence”. The Head of the DPCI countered that the Hawks dealt with serious organised and commercial crimes, as well as corruption, and these were often difficult to separate out. Additionally, he felt that the nature and volume of these crimes was too onerous for one elite unit, and it was preferable to have cooperation between the Hawks and the general detective branch, rather than rivalry and uncertainty over mandates.

Some submissions suggested that the requirement of “independence” meant not only independence from direct political interference, but also that the Hawks should not be under the financial control of, nor derive their budget from SAPS or the National Commissioner in any way. It was suggested that the DPCI Head should have more power to determine policy and should be able to report directly to Parliament. The Civilian Secretariat of Police noted that there was no international standard or definition of independence by the United Nations, although some indicators could include political commitment, operational and structural independence, necessary budgeting and resources. The current Bill did make provision for Parliament to approve policies, to address the Constitutional Court’s concerns about the previously unfettered role of the Ministerial Committee. Other submissions suggested the creation of a Chapter 9 institution.

Several points were made about the appointments and dismissals process, and security of tenure, with one suggestion for a fixed, non-renewable term of office. The drafters conceded that the provisions around appointments and tenure needed further work, although the processes for removal of the Head and Deputy Head were designed to be expeditious. The possible contradiction of the Head of the Directorate being a Deputy National Commissioner, yet not responsible to the National Commissioner, was raised. It was agreed that more discussion was needed on security clearances. Several comments were made about the poor public perceptions around the process, and it was suggested that the role of the judge as an oversight channel must be publicised. Deliberations on the Bill are ongoing

NCOP public hearings on the Protection of State Information Bill were held in the provinces, and for four days in Parliament. Many of the submissions repeated criticisms that had been aired during the National Assembly process. These included concerns (and in some cases suggested re-wording) on the lack of a public interest defence, the public domain arguments, the wording of the offences clauses and seemingly harsh penalties, the apparent conflict with the Promotion of Access to Information Act, the role of the Classification Review Panel, over-broad or unclear definitions, concerns on delegations and powers of classification, the possible reversal of onus of proof, and the appeals process. Other submissions outlined the possible unintended consequences, including the effect on academic researchers, the Public Protector and other Chapter 9 institutions. One submission urged Parliament to consider asking the President to exercise his powers in terms of section 79(4) of the Constitution, and refer the Bill to the Constitutional Court for a ruling, prior to signing it into law. The NCOP Committee is still deliberating on the submissions, and is hoping to finalise the Bill by 17 May.

Parliamentary and Civil Society Concerns on budgeting for 2012

More Portfolio Committee are now seeking input from civil society on the budgets and strategic plans of departments. (Detailed figures and submissions are available at www.pmg.org.za/recent reports)

The South African Police Services (SAPS) has consistently been criticised by the unions on its top-heavy structure, and they have again called for more services at station level, as well as safe and decent accommodation for SAPS members serving at remote stations. All commentators said that training of SAPS members remained problematic, and suggested the need for driver instruction at the colleges, psychometric evaluations, upgrading of the trainers, a better focus on better specialist detective services, and training on the Sexual Offences Act. It was also stressed that the training had to be more structured, and continuous, and that the real impact of training must be evaluated. Police officials who were exposed to trauma in their work were seldom counselled, and insufficient support to victims, particularly in rape and domestic violence cases, contributed to many cases still not being reported. Despite the apparent drop in crime statistics, and the lack of reporting, rape and murder of women had increased, and SAPS was asked to detail how it was addressing abuse of women. The public also called for better management of Community Service Centre volunteers and improved cooperation with Department of Social Development on places of safety.

The Department of Basic Education was criticised for paying insufficient attention to the special needs, including scholar transport, for children with disabilities, as well as lack of focus on special schools and inclusive educational policies. Particular weaknesses were highlighted in the Curriculum Policy Support and Monitoring Programme and the Teachers Education and Human Resource Programme. Currently, principals were assessed using school's pass results, so there was no incentive for them to address the specific needs of individuals, despite the high number of learners with reported disabilities.

The Department of Social Development (DSD) budget had been drastically cut, and whilst this was recognised, commentators felt that the strategic plans did not deal adequately with several issues. A Ministerial Report of 2011 on Child Equity and Child Rights noted that child programmes were not working well, especially in rural areas, and South Africa was not meeting its international obligations. The poor economic climate threatened the closure of vital NPO services, departments failed to coordinate, and DSD needed to promote, advocate and monitor child rights and policies more effectively. More government support was needed for children with disabilities and children orphaned through HIV.

The disability sector commented that the low budget allocations for disability matters reflected ongoing marginalisation, and DSD was failing to monitor other departments' mainstreaming of disability in government programmes. Only one or two departments had met the 2% disability employment target, and the Employment Equity Report even noted the target as 0.9%. At the very least, guidelines were needed on transport and universal access for the disabled. There had been no moves to enforce the White Paper on Special Needs Education, nor to enforce housing policies for disabled people, and health issues at local level. This sector highlighted the need for a Disability Act, as well as improved consultation with the sector.

Women's organisations commended the DSD on targeting 50% of the Job Fund for women. However, they were concerned that although the strategic plan mentioned maternal health, there was no indication of any programmes to achieve this. There was still no clarity on the overlapping roles of the DSD and Commission on Gender Equality. DSD was requested to make specific input on the Traditional Courts Bill, sexual violence in schools, the new HIV/AIDS national strategic plan, women's sanitation rights, and gender-based violence.

The Department of Human Settlements was asked to pay more attention to Special Needs Housing (SNH) for vulnerable groups. SNH covered a wide variety of housing options: emergency shelters, transitional housing for battered women, specialised health and frail care for elderly persons, community group homes for persons with disabilities, and access to affordable rental housing. Although delivery of SNH should be done mostly at provincial level, with assistance from NPOs and welfare organisations, the National Housing Code did not provide specifically for SNH, with the result provinces were unwilling to develop policies, or gave inadequate support to SNH. DHS was therefore requested to issue a policy directive authorising and supporting provinces to develop and implement SNH policies. The Portfolio Committee was asked to monitor development of a national SNH policy directive, and to ask for reports on SNH.

The Portfolio Committee on Labour adopted its Report on Labour Inspectors, after hearing from a number of entities. This report highlights pertinent issues around productivity, integrity, autonomy, and respect for labour inspectors. The Committee support the need for legislation to empower inspectors to issue on-the-spot fines, as well as improve their credibility. However, it also noted the need for training, up-skilling and re-tooling the inspectorate. It accepted there were capacity constraints in the Department of Labour, and supported an additional budget allocation of R315 million to implement an enforcement programme.

PROPOSED and NEW LEGISLATION

Private Members' Legislative Proposals are presented to the Portfolio Committee on Private Members' Legislative Proposals and Special Petitions, which decides whether or not there is sufficient merit for these proposals then to be passed on to relevant Portfolio Committee for further processing.

Mr A Trollip proposed amendments to the Executive Members' Ethics Act, No 92 of 1998, to fill the loophole that the State President's financial interests are not subject to adjudication in the same way as other Cabinet ministers. He suggested that the declaration of interests should be more widely available, that the Public Protector should adjudicate on any gifts or conflicts of interest, and that State deals involving any member of a President's family should be scrutinised by the Auditor-General. This was not intended as a slur, but was rather intended to protect and place the office of the current and future Presidents above suspicion, rumour or reproach. Although it was suggested that this proposal was not in conflict with any Constitutional provisions, and was in accordance with the Rules, the majority voted against it.

Mr I Davidson presented a proposal to prohibit contracting between an organ of state and public or private companies in situations where director(s) were serving as political party public representatives or political party office bearers, or where they held more than 2% of company shares, or where a political party held any shares. The Committee thought this legislation could be unduly restrictive, as the survival of smaller parties with very few members might depend on their operation of small businesses, and voted against the proposal.

The Traditional Courts Bill has been reintroduced into the National Council of Provinces. Its aim is to correct the distortion of traditional justice systems that happened under the Black Administration Act of 1929, and to align the traditional courts with constitutional values. This legislation will repeal the few sections of the Black Administration Act that remain in force. The Law Reform Commission's proposals to establish customary courts as a parallel court system with court infrastructure, personnel, transcriptions and records, did not find favour with the Ministry. Instead, the Bill proposes the establishment of Traditional Courts as special types of courts to supplement the conventional court system, with emphasis on Alternative Dispute Resolution mechanisms. Traditional leaders will have a quasi-judicial function – not on par with judges.

When this exact same Bill was first introduced in 2008, it attracted substantial criticism on the powers of traditional leaders, the inadequate protection for women's rights, failure to recognise the different layers of the traditional system, the potential for abuse of community service sanctions, failure to allow for legal representation, jurisdictional restrictions and the lack of opt-out mechanisms. Communities complained of insufficient consultation. The Minister withdrew the Bill from the National Assembly, and now it has been re-introduced in the NCOP, for "greater input at local level". The NCOP Committee asked that the Bill be made available in all official African languages, and raised preliminary questions about training, costing, and provincial mandates. Other Parliamentary Committees, including the Women's Caucus, will be tracking women's concerns closely. Some journalists have raised a red flag, with one stating, "The Bill perpetuates the second-class, "subject" status of rural people, especially women. It denies rural people not only the basic rights to appeal (against a sentence of forced labour, for example) and to legal representation but also refuses them the right to opt out of these courts and have their cases heard in the civil courts. The bill's permitting of representation by relatives means in practice the shutting out of women. Widows are frequently barred from speaking in the "sacred" space of the traditional court. The male relatives who "represent" them can be the very same people eyeing property that the widow is entitled to."

The National Health Amendment Bill aims to establish an independent Office of Health Standards Compliance to do independent oversight of healthcare. During public hearings, concerns were raised over the need to ensure proper independence and representivity, the need for public participation, and public access, the need to clearly define quality assurance and management, and avoid duplication. The submissions are still being considered by the Portfolio Committee.

Regulations for Appointment of Municipal Managers, under the 2011 Municipal Systems Amendment Act, have been gazetted for public comment. This Act and the Regulations aim to address the challenges faced by smaller municipalities, in particular, and to build a committed and professional local government administration. Disciplinary measures for Municipal Managers were promulgated on 21 April, after extensive consultation. The municipal remuneration models can now be designed to attract competent staff with the necessary intellectual capacity, competencies and experience to improve service delivery. The general move is to standardisation in the civil service, with possible sharing of services across municipalities. Municipal managers will, in future, have to sign performance agreements with indicators for monitoring, and those who have acted incorrectly or incompetently will be blacklisted from moving directly to another municipality.

For Bills, go to: www.pmg.org.za/bill or email info@pmg.org.za

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