



MONITOR

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

DID YOU KNOW...	OUR LEAD STORY
<p>The Financial Services Board (www.fsb.gov.za) publishes a list of people who have been debarred from selling financial products, searchable by ID number and name.</p> <p>The Standing Committee on Appropriations, recommended that National Treasury should consider incorporating a clause into future Appropriation Bills, to enforce planning, as a requirement for infrastructure programmes. The Minister of Public Works was requested to ensure that job creation targets set for the Expanded Public Works Programme were attained. The Minister of Communications was asked to ensure proper finalisation of the national broadband strategy and infrastructure.</p> <p>The Portfolio Committee on Health encourages all South Africans to reject the stigma that still attaches to mental illnesses, including depression, and has urged the Department of Health to urgently refurbish mental health institutions. Many are sadly neglected, and in some provinces, such as Northern Cape, have not been completed (see page 2), with the shocking result that some people who should be getting treatment in these hospitals are instead incarcerated in correctional centres, which themselves are plagued with shortages of psychiatric staff.</p> <p>The Department of Basic Education has suggested that, in addition to the NEDLAC Accord that encourages “adoption of schools” by business, it would be useful for Parliamentarians also to “adopt” districts to assist them to monitor their schools.</p>	<p>Parliament has been questioning for some time whether the National Department of Transport (NDoT) gives sufficient support to its entities. A full debate was recently held on various transport issues. MPs had noted the generally shocking state of rural roads. They had been told that North West was receiving S'hamba Sonke funds, but not using them on road repair, and had hired 110 consultants who also were not doing the work. Eastern Cape was simply ignoring recommendations by the Portfolio Committee, and using incorrect materials to fix roads. Lack of integrated planning led to problems such as graveyards that were not accessible to hearses, and hospitals situated at the top of a hill, with only pedestrian access. There was little clarity on responsibilities of national or provincial entities, contradictory plans, and political interference. Although the Rural Roads Plan was approved by Cabinet in 2008, it was never funded, so NDoT was being blamed for failures that were not of its own making.</p> <p>In 1994, a policy decision was taken to apply the “user-pays” principle and to create specialised agencies to deliver different transport services. The National Roads Agency SANRAL owns 18 000km of road, of which only 3 500km is tolled. In 2011/12, South Africa spent R89 billion on transport, excluding public transport. R55 billion was raised from users, through toll gates, airport and port charges, and fuel levies, with R35 billion coming from the fiscus. The regulatory entities had never managed to become self-sustainable. The Road Accident Fund spent R40 billion on compensation for fatal accidents, yet the Road Traffic Management Corporation, which promotes road safety to prevent these accidents, is not properly funded, a highly illogical situation.</p> <p>Airports are very important for development, but have not been profitable. MPs expressed their support for cross-subsidisation and the need to reduce costs of air flights and airport taxes. The Portfolio Committee on Transport had no oversight over SAA, which fell under the Public Enterprises. Train travel in South Africa has been criticised as amongst the most dangerous in the world, and is plagued by delays and long journey times.</p> <p>MPs agreed that new funding models must be explored, as government could not keep relying on the user to pay. Shifts in thinking were needed to achieve a proper balance between government and user responsibilities. They urged that South Africa must also tap into its own natural resources to build its own transport infrastructure, such as railways. NDoT would welcome a public debate on transport funding and the challenges for the future, taking into account these problems.</p>

REPORTS TO COMMITTEES AND COMMITTEE QUERIES

The Department of Agriculture, Forestry and Fisheries, and Red Meat Industry Forum have now eventually met and resolved some of the previous complaints, agreeing that all future negotiations must be in writing. They have mutually set dates for inspections, discussions on grazing, border fence planning, preparation of manuals and abattoir registrations. The Department has promised to meet shortly with the National Wool Growers Association.

The Competition Commission reported that it was compulsory for all companies intending to merge to notify the Competition Commission and seek approval. During last year, 234 mergers had been approved without conditions, 33 with conditions, and eight were prohibited. Most conditions were about number of jobs to be lost in the merger, but also conditions restricting directors serving on the boards of both companies, as this might lead to collusion.

The Portfolio Committee on Economic Development questioned the Competition Commission on its view that the government bailouts to SAA were not anti-competitive, pointing out it was alleged that other low-cost airlines collapsed because they did not receive similar bailouts. The Commission maintained that although there were suggestions that 1Time Airline had collapsed because Mango, its main competitor, was subsidised by SAA, no proof was given of predatory pricing, where a stronger operator reduces prices in the short term, to force its competitors to operate at a loss. However, claims by Comair were being investigated. Ownership of airlines was a political issue on which the Competition Commission could not engage.

The Financial Services Board (FSB) is trying to eradicate Ponzi Schemes, which are fraudulent 'investment' operations that pay returns to their 'investors' from their own money, or from money paid by subsequent 'investors', rather than from genuine profits. They are essentially pyramid schemes that offer higher and quicker rewards than genuine investments. They entice clients to bring in more investors, who are most likely to be family and community members, particularly pensioners. Some churches are running in-house funeral schemes, which are unregistered, unregulated and offer no protection to clients against failure of the scheme. Other schemes have been registered as trusts, to take them outside the financial services legislation. The Reserve Bank is now investigating all schemes, and FSB is running consumer awareness campaigns and financial literacy programmes. All financial service providers will, in future, have to be proved "fit and proper" to offer services, stiffer penalties will be imposed, hedge funds will be regulated, and reports will be published on investigations. MPs asked why FSB was only now taking stringent action, urged it to keep abreast of all developments, and to prosecute offenders also under the Consumer Protection Act.

The National Department of Home Affairs intends to phase out the Late Registration of Birth concessions by 2013/14. The new Smart ID Cards should be available by year end. The Trusted Traveller Programme, which uses fingerprinting instead of passport stamping at border posts, has been piloted, and biometric finger and face recognition will be introduced at Oliver Tambo International Airport. It is pushing for adoption of the regulations to allow full implementation of the Refugees Act, so it can establish Status Determination Committees at all Refugee Reception Offices. It is working on immigration policies with other departments, and is trying to clear backlogs in Permanent Residence applications.

Several Provincial Departments of Home Affairs (DHAs) reported on some of the common challenges that they face. All foreigners and foreign owned businesses need to be profiled, especially in the border areas. When illegal immigrants are deported, they frequently return in a matter of days. Some Swazi and Lesotho nationals hold South African identity documents, which they use to access pensions and other services, and many cross the border on a daily basis. DHA is trying to acquire more offices and mobile offices, but only about one third of mobile trucks are fully operative, with fully functioning satellite communication networks working. Although more staff are needed, many posts are unfunded, and the appointment process needs to be decentralised. Corruption, in the form of double ID numbers, duplicate ID numbers, fake marriage-, birth- and death certificates remain an ongoing problem. Office accommodation is also a continuing problem, despite attempts to engage with Department of Public Works.

The Portfolio Committee on Health was told, by two professional associations for traditional healers, that 72% of black Africans in South Africa use traditional medicine. Trade of traditional medicine, in 2006, contributed R2.9 billion to the economy, and created 133 000 income earning opportunities. Although the Traditional Health Practitioners Act was passed in 2007, it has not yet been implemented, so traditional medicine and cultivation of medicinal plants remain sidelined. These associations urged that traditional medicines be tested in clinical trials, to protect consumers, suggested a separate Council to regulate and register the medicines, were disappointed that complementary and alternative practitioners were not covered by Medical Aid schemes, and urged that they should be included in the National Health Insurance System.

The caretaker of the Pan South African Language Board reported back to Parliament on the efforts to turn around PanSALB. Independent arbiters had been hired. An anonymous caller had suggested that a forensic audit was needed. A full review had shown that the previous management failed to focus on the mandate, and failed to comply with the Public Finance Management Act. The structure was to be changed, a Tribunal established, and governance and reporting would be improved. MPs called for a further report in three months, criticising the Department of Arts and Culture for insufficient monitoring of the entities.

The Portfolio Committee on Human Settlements and Standing Committee on Appropriations have questioned serious under-spending by the Department of Human Settlements (DHS) on the Rural Housing Infrastructure Grant. The DHS said this was due to staff shortages, contractor difficulties and budget cuts in municipalities. DHS had requested, but not received, permission to roll over funding, and said it could have used this to build 20 000 toilets. MPs questioned re-appointment of contractors who had failed to perform in the past. On rollovers, National Treasury reported that the DHS had not answered three requests for meetings by the time the rollovers had to be considered, and failed to provide proof that the funds were committed. DHS must now provide full plans for spending to Parliament.

Legal Aid South Africa has clarified some misperceptions about its services, to the Portfolio Committee on Correctional Services. Legal Aid offers legal representation to those who qualify against its means test, with a focus on criminal matters, and children in conflict with the law. It is confident of its ability to provide adequate legal representation, reports fully to the Portfolio Committee on Justice, and has been very open about the challenges it faces. It does take up concerns about affordability of bail with magistrates, and may take matters on appeal. There is a perception that its practitioners only consult with clients in court for the first time, and this is not always true, although Legal Aid often battles to get access to Correctional Centres. The assertion that it “always” advises clients to plead guilty is also incorrect. The work of its lawyers is checked rigorously by internal procedures, as well as courts. It noted a problem with exorbitant interpretation fees charged by outside interpreters to foreign clients.

The Private Security Regulatory Industry (PSIRA) was exhaustively interrogated, over three days, on its Annual Report for 2011/12. The Auditor-General had reported that Council and management appeared unaware of legislative and financial requirements. MPs were hugely critical of numerous inconsistencies in information provided by PSIRA, and its failure to deal with questions. They insisted that PSIRA must produce full reports and schedules on staff and salaries, spending, regional offices, its leases, the outsourced Hotline, and Council decisions. The Minister of Police, in response to a DA Member’s question in the House, has already requested a full investigation into the salaries of the full-time Councillor and Director, but the Portfolio Committee on Police has also asked the Auditor-General to conduct other investigations.

The Standing Committee on Appropriations has followed up on concerns about the use of the Hospital Revitalisation Grant in Northern Cape. It found that no due diligence was done on contractors, prior to contracts being awarded for construction of the Kimberley Mental Hospital, that the lowest bid was not accepted, and the final award was directly contrary to recommendations by the provincial Department of Roads and Public Works. The contractor appointed failed dismally, but this contract was terminated only in December 2009, long after the problems were apparent, and after more than the tender amounts were paid. Penalties of R11 million were never collected, at the request of an official who had since died. The initial tender was R290 million, but by the revised completion date of March 2014, the hospital would cost over R1 billion. Nothing had been budgeted for this year, but a new company had now been brought on site, with money to be shifted from the De Aar Facility, despite the fact that it too was behind schedule. MPs opposed that decision, and have asked the Auditor-General to carry out an extensive forensic investigation.

The South African Maritime Safety Authority reported that South Africa’s 3 000 km long coast is a major traffic route, with about 12 000 foreign trading ships visiting every year. About 80% of South Africa’s imports and exports were carried by foreign ships, since South Africa currently has none of its own ships, which means that substantial fees (R36 billion in 2007) are paid out to foreign owners and operators. The maritime industry is in dire need of skills in shipping and logistics, marine tourism, offshore, naval security and fishing. There is a shortage of 250 000 mariners in shipping alone. It suggested that all possible opportunities for employment must be targeted, that government must develop a provincial integrated maritime industry development programme, covering vessel construction and repairs, marine tourism, and aquaculture.

The Department of Transport said that since 2007 it had been prioritising the Bus Rapid Transport (BRT) systems as part of its Integrated Transport Strategy, which proposed that 85% of all South Africans must be within one-kilometre access of an integrated network. However, only R5 billion of the R18 billion needed has been approved for this project. MPs questioned the principles behind the subsidy system, suggested that commuters, rather than bus companies, should be recipients of subsidies, to enable them to make a choice as to mode of transport, and have urged that single ticket systems be designed.

MILITARY VETERAN MATTERS	DISABILITY MATTERS
<p>Special Pensions were first introduced in 1996, to compensate those who had sacrificed their ability to work and obtain pensions, by participating in the liberation struggle. The original conditions were amended to increase age limits, allow late applications, and provide increased benefits, such as a spouse's or orphan's pension and funeral benefits. Those claiming the pension must be able to verify membership of liberation movements. 72 000 applications were made, of which 22 000 were approved and 1 961 are still being processed. Presently, 7 754 beneficiaries are supported, since many of those approved opted instead to receive once-off payments. Some people were prosecuted for fraudulent claims, but most of the rejections were based on failure to produce the necessary documents. The database is now linked to Department of Home Affairs. National Treasury has a full audit process and appeal procedure. MPs suggested that perhaps more innovative benefits are needed.</p> <p>The Department of Military Veterans provides financial assistance to Military Veterans and their dependents, for education, and access to health care at all military health facilities. It engages with foreign governments on repatriation of remains, or grave restoration, and also investigates employment opportunities for veterans. 87 veterans were employed through the Department of Social Development last year. It is trying to revive the Centre for Advanced Training, to provide technical skills to veterans, and wants to assist them in setting up cooperatives.</p> <p>REFUGEE MATTERS</p> <p>The Consortium for Refugees and Migrants (CoRMSA) reminded Parliament that three Refugee Reception Offices in Cape Town, Port Elizabeth and Johannesburg had been closed down, leaving asylum seekers there with no means to seek asylum or have their documents extended, thus forcing them to travel far to reach other offices, at risk of being detained and deported along the way for having no documents. The Department of Home Affairs (DHA), contrary to the ruling of the High Court in Cape Town, had not opened alternative offices. Its assertion that no new applications were made was dismissed outright by the Court. CoRMSA urged DHA to comply with the Court order and re-open the offices. It has asked that South Africa should sign and ratify the Free Movement of Persons Protocol, and encourage other SADC countries also to join, to spread the burden of asylum seekers across several countries, as South Africa was not the only safe option. Given our history of migrant labour, restriction of movement was not a viable solution.</p>	<p>The Department of Public Works launched an "Accessibility Project" in 2008, to ensure that all state-owned buildings complied, in terms of signage, parking, external and internal access, doorways and handles, ramps, lifts, warning signs and others. R28 million was allocated, but only R1.34 million spent. It is currently busy with 132 buildings, having completed 29 last year.</p> <p>The Department of Arts and Culture deals with disability access at theatres, museums and administration buildings. The Pan South African Language Board has been allocated R69 million for the promotion of Sign Language, but there remains a continuing problem that there are very few qualified sign-language teachers and accredited interpreters.</p> <p>Recent research has shown that no persons with disabilities are employed in government departments in the Northern Cape, that there are no known accredited Sign Language interpreters in the North West, and there is significant discrimination against and unemployment of deaf people in Western Cape.</p> <p>The Department of Basic Education (DBE) White Paper 6 proposed an inclusive education (IE) policy, but DBE has recently conceded that progress on this has fallen short, largely because of funding challenges. In some provinces, Special Schools (for specific learning disabilities) are funded separately, and not as part of IE. Last year, only R463 million of the R5.5 billion budget for IE went to actually promoting IE, and five provinces did not address it at all.</p> <p>Special Schools, which fall under Provincial Education Departments, are supposed to admit children with severe and profound learning disabilities, and act as Resource Centres. Most of them have long waiting lists, and have limited facilities for autistic and physically disabled learners. One school in Eastern Cape took up half the budget, and because it was classed as a "Reform School" for children in conflict with the law, it would be handed over to Department of Social Development on completion.</p> <p>There are problems with inclusion of learners with physical and learning disabilities in the ordinary schools. Proper screening and assessment are needed. There is a need to change mindsets of other pupils and staff, and DBE has recognised that learner diversity policies must be drawn. In addition, far more assistive devices, properly qualified and specialist teachers, and health professionals are required, adequately backed up with functioning District Based Support Teams. DBE has also accepted that it must do better budgeting, and draw guidelines for funding. It also has to attend to curriculum development, must adapt workbooks for blind and sign-language users, and draw new qualification frameworks and post- school strategies, for disabled learners</p>

<p>The Department of Water Affairs (DWA) presented a preliminary report on its 20-year National Water Resource Strategy 2, which it hopes to adopt by July 2013. MPs suggested that DWA should hold special discussion sessions with specific groupings, and says more debate is needed with Parliament. The principles guiding DWA, and its implementation plans, must be clearly set out. MPs wanted more emphasis on seeking equitable solutions and pro-poor strategies, and, in view of the linkage between water and land issues, urged DWA to adopt a firm approach to licensing, based on equitable principles. MPs insisted on full reports on every mine that operates without water licences, by mid-January 2013.</p> <p>They felt that pilot projects should be run to assess viability of plans. New infrastructure plans should have operations and maintenance planning and funding. Sanitation needed multi-dimensional and cross-departmental solutions. More discussion will be needed on subsidisation and incentives. DWA was asked to commit to improving its information systems, to achieve a single, integrated and verifiable national database, covering all water sector matters.</p> <p>Although DWA has described water allocation priorities and community and civil society involvement in the strategy, MPs said the regulations and functions of the catchment forums must be better defined. MPs wanted policies on storm water, more on Acid Mine Drainage, more coverage of the classification system, a description of the Water Tribunal's role and challenges, and specific reference to the White Paper on Climate Change. More specific policy direction will also be needed on fracking and ground water, plus a National Water Resource Development Framework was needed. They urged more attention be given to centralised planning on infrastructure and the funding model. Finally, how could this Strategy be made binding?</p>	<p>Eskom's Multi-Year Price Determination has been presented to Parliament. For the year 2012/13, Eskom had voluntarily decreased its initial request for a 25% increase, down to 16%. It suggested a five-year price determination from 1 April 2013 to 31 March 2018, as this would ensure a more gradual and predictable price path for users. The requested increase of 16% comprised average annual electricity price increases of 13%, to cover Eskom's own needs, plus 3% to support the introduction of Independent Power Producers (IPPs). This increase would allow also for upgrades and efficiency improvements, which are needed to support economic growth. The new tariffs would allow Eskom to recover its costs in full, and cover rising coal prices, which are 50% of its costs. Eskom, in order to borrow for future needs, has to show itself to be sustainable.</p> <p>However, poor households will be protected by transparent cross-subsidisation. Further discussions are ongoing.</p> <p>The SA Local Government Association (SALGA) and the Metropolitan Municipalities, reported that, in addition to Eskom costs, municipalities can apply to the National Energy Regulator (NERSA) for permission to charge municipal tariffs, to help them raise their own funding. The five major Metros, who handle more than 80% of municipal electricity distribution, comply with NERSA tariffs, though some smaller municipalities may charge more. They are required to justify costs of bulk purchase, repairs and supply. MPs felt that some increases will be burdensome to both commercial and residential users, and must be decreased to encourage investment in municipalities. Meantime, the Portfolio Committee on Trade and Industry heard similar concerns about affordability, from several companies, across a variety of manufacturing sectors, and says that a proper balance must be found.</p>	<p>Problems of vulnerable groups were raised with the Portfolio Committee on Home Affairs. Gender Dynamix, who focuses on transgender people (about 1.7% of South Africans) said that when applicants request a change in gender status, officials from Department of Home Affairs often misinterpret the Alteration of Sex Description & Sex Status Act of 2003, leading to extensive delays, and causing applicants to be denied many of their basic rights and access to facilities. Rejection of applications has often been based on incorrect assumptions, or no reasons are given, and the right to appeal not explained to the applicant. It called for regulations to ensure compliance with the Act, urged sensitisation of officials, fast-tracking of applications, and removal of ID gender-encoding.</p> <p>Lawyers for Human Rights (LHR) described the problems of stateless individuals, defined as people who are not considered a national of any country. This may be due to state succession, gaps or conflicts in the law, dual nationality, denationalisation, lack of documentation, ID fraud (about 600 000 cases), unaccompanied minors, and children raised by single parents. LHR has helped about 2 000 people, many from Zimbabwe, and estimates that about 3.7 million orphans may be affected. Rights to nationality are already spelt out in international instruments. However, the SA Citizenship Act does not do enough, in practice, to protect children. LHR urged South Africa to sign and ratify the UN Conventions on Statelessness. It also proposed that section 31(2)(b) of the Immigration Act should be amended, to remove the discretion of the Minister to exclude some foreigners from getting permanent residence. Those whose applications were refused should be advised of alternatives. Another possibility is to provide automatic nationality to children born in a territory to undocumented parents, or to allow other forms of proof to those who would otherwise be stateless.</p>
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NEW LEGISLATION

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

The South African Citizenship Amendment Act, 2010 was assented to in 2010. Draft regulations were published for public comment in May 2012. The Regulations were finally approved by the President in October 2012. Commencement date for the Act and the Regulations is now set for 1 January 2013.

The Births and Deaths Registration Amendment Act, whose regulations are still in the process of being approved, should also be implemented with effect from 1 January 2013.

The **Labour Relations Amendment Bill** and the **Basic Conditions of Employment Bill** will be finalised by the Labour Portfolio Committee in the first session of 2013. The Committee has yet to be briefed on the **Employment Equity Amendment Bill** and the **Employment Services Bill** but it has asked for comment on these two bills. Email comment to zsakasa@parliament.gov.za by 14 December 2012.

The Transport Laws and Related Matters Amendment (e-Toll) Bill has been adopted by the National Assembly. The Portfolio Committee on Transport noted that the media had carried incorrect reports about consultation on the Bill which provides for e-tolling. Contrary to reports in *The Star*, the Committee had paid for advertisements calling for public comment in seven newspapers, and had followed proper processes. Only three requests were received to make oral submissions to the Committee, and all 19 written submissions were considered. SALGA asked for a provision to be included that would compel full consultation prior to declaration of urban tolls roads, as inevitably traffic would be diverted to alternative municipal roads, forcing local government to spend more on maintenance of those roads. The Committee incorporated this into the Bill. COSATU opposed the entire Bill, since it believed urban tolling added to the burden of the poor, was a form of privatisation, objected to the regulations, presumptions, exemption of the tolling system from the National Credit Act, expansion of e-tolling to other provinces and the financial implications. However, since it made no suggestions as to how any of the clauses could be amended to answer its concerns, the Committee could not address any specifics. The Portfolio Committee would propose that the NCOP took into account various options for processes, and should ensure that parties could participate in public hearings. It also insisted that the project managers must display both e-tag and standard prices clearly.

The National Health Amendment Bill has just been approved by the NCOP Select Committee on Health. It will empower the Minister to establish an independent entity, called the Office of Health Standards Compliance (OHSC). This Office must protect and promote health and safety of users of health services, firstly by monitoring and enforcing compliance by health establishments with prescribed norms and standards, and secondly by ensuring consideration, investigation and disposal of complaints relating to breaches of norms and standards. It must advise the Minister on the norms and standards to be prescribed for the health system. It will inspect and certify health establishments; inform the public, investigate complaints relating to breaches, monitor indicators of risk as an early warning system and make recommendations on interventions by national, provincial or local government Departments of Health.

The Superior Courts Bill and the **Constitution 17th Amendment Bill** have been adopted in the National Assembly. Both deal with the transformation of the judiciary, and the setting up of and powers and responsibilities of the Office of the Chief Justice (although another Bill is planned, for next year, to clear up some inconsistencies in the current set-up of the Office of the Chief Justice). These Bills affirm the Constitutional Court as the apex court, but have also specifically confirmed its ability to deal with appeals that are a matter of "general public interest". The position of the Supreme Court of Appeal, in relation to labour and competition appeals, has also been clarified.

The Spatial Planning Land Use Management Bill has been substantially re-worked by drafters from the Department of Rural Development and Land Reform and the Office of the Chief State Law Advisor, to try to accommodate concerns of the Portfolio Committee and of an independent Senior Counsel, who suggested that the Bill might not pass constitutional muster. The Portfolio Committee will consider the revisions again on 29 January 2013. The Committee has urged that other departments and spheres of government who could be affected by the Bill should be alerted to it again, and urged to carefully consider its implications.

The Prevention and Combating of Torture in Persons Bill has been adopted by the Portfolio Committee on Justice and Constitutional Development. The Bill essentially now follows the wording of the United Nations Convention against Torture, rather than the broader wording that was at one stage proposed.

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