



PARLIAMENTARY
MONITORING GROUP

MONITOR

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

NEW POLICIES	OUR LEAD STORY
<p>The Department of Justice & Constitutional Development has been concentrating on the plight of the lesbian, gay, bisexual, transgender and inter-sex (LGBTI) communities. Structures have been set up as “rapid response” teams, and public awareness campaigns and analysis of cases has been done. A policy framework will be formulated shortly on the approach. A conference on LGBTI is to be arranged by this Department during 16 days of Activism against Abuse of Women and Children.</p> <p>The Department of Energy has five energy efficiency strategies, which are intended to provide the lowest cost options to reduce the country's energy consumption, and improve energy security, competitiveness of the country internationally and job creation. Innovations have been introduced for municipal street-lighting, public buildings, solar water heaters and improvements in industrial efficiency.</p> <p>The South African National Energy Development Institute (SANEDI) manages most of the implementation around energy efficiency and data.</p>	<p>Strong words were exchanged between the Minister of Agriculture, Forestry and Fisheries and the Portfolio Committee on Agriculture recently. Over several months the Committee had voiced its disquiet at the absence of the Minister and Deputy Minister from Committee meetings. This was conveyed to her when she finally met with the Committee to discuss the closure of the Ncera Farms, a public entity that was supposed to provide training and support to small-scale farmers, but which has been beset with problems leading to a forensic enquiry. The Minister immediately took exception to the criticism and said that the Portfolio Committee was making her work extremely difficult by asking that she attend Parliament so often. She accused the Committee of incompetence, and blamed opposition MPs, in particular, for preventing 20 pieces of legislation that were urgently needed to rectify problems. The Committee countered that in fact it had constantly been questioning the Department as to when the legislation would be tabled, and the Minister then said there was no point in bringing legislation before “such a hostile environment”. The Minister claimed that the Committee’s core business was to provide a legal framework within which the Department could operate, not micro-manage, and criticised its “obsession” in calling for her dismissal. Furthermore, she failed to see why so much time was being spent on Ncera, since it accounted for only 0.05% of budget. The Committee pointed out that its core function was in fact to exercise oversight, to check how public funding was spent, and that problems at Ncera obviously affected the budget and operations of the whole Department.</p> <p>Later, it was disclosed that a disciplinary process into Ncera would run in November, that the farms would be de-registered, and the Eastern Cape Provincial department and Agricultural Research Council would be trying to continue operations under a new model, whilst title deeds of the farms would be handled by the Department of Rural Development and Land Reform. Some of the 36 employees would be retired, and others transferred, if they approved, to other departments or entities. Members wanted to know if the Minister had visited Ncera, and asked what employees had been doing for the last five years.</p> <p>The Minister went on to say that the Committee had failed to consider what the National Development Plan meant for the agricultural sector, and there was misunderstanding on the meaning of food security and the Department’s mandate. She claimed that the country was food secure, but individual households were not. She was disappointed that the Committee had not engaged with forestry, said that the aquaculture policy could not be presented because all the Committee did was interrogate officials, and said the Committee was completely out of touch on access to markets, asserting that in fact the Department had good relationships with overseas buyers and UN programmes. She outlined support under Agri-BEE to commercial farmers who were prepared to bring in smallholder farmers, but claimed that “the DA would never understand this”. She referred to remarks allegedly made by an ANC member at an Agri-SA conference, to which he took the strongest exception, and both he and a DA member refused to listen any further to her “lies and insults” and walked out of the meeting.</p>

ASSISTANCE FOR VULNERABLE SECTORS

World Mental Health Day (10 October 2013) was commemorated in Parliament, with the *Programme for Improving Mental Health Care (PRIME)* and other organizations speaking on mental health issues that need to be addressed. These bodies described their contribution, and made suggestions on mental health issues. It is estimated that one in six South Africans, every year, will suffer from a diagnosable mental health disorder. At present, only about 25% of people with mental disorders have access to formal mental health services. These services are also hindered by weak institutional capacity, old infrastructure, too few specialist practitioners, and difficulty in retaining them in the public sector, and challenges in accessing technology, equipment and medicines. Little has been done to build community-based or primary mental health care services. The Department of Health has made progress in drafting policies, but implementation is problematic. In addition, there is still much stigma and public ignorance about mental health problems.

The Federation for Mental Health indicated its concern that mental health gets a very small proportion of the health budget, although psychiatric disorders – particularly depression, anxiety and substance abuse – rank as the third highest health burden in South Africa. About 22 people commit suicide daily, and another 220 may attempt it. In addition, depression may make people more likely to engage in risky behaviour or not register for or take medication, and this in turn affects the success of HIV antiretroviral strategies, so joint efforts with HIV and mental health counsellors are needed. Currently, fragmentation of services and decrease of grants to NGOs dealing with mental issues is a problem. The South African Depression and Anxiety Group (SADAG) helps by speaking to children at schools, runs a 24/7 substance abuse helpline and produces information in 11 official languages and “speaking books” for those who cannot read.

The Programme for Improving Health Care (PRIME), funded by UKAID, is assisting the Department of Health in chronic diseases. The Department of Health intends to implement district-based mental health services, initially in the National Health Insurance pilot sites, by establishing one specialist mental health team in each district, and designating centres and clinics to provide mental health services under the chronic care system. Mental health review boards will be set up in each province. Mental health representatives will be included on the National Health Commission. Specialist training will be encouraged and boosted, including their language skills. Faith-based and traditional healers are included in the plans.

The CSIR has come up with design specifications for institutions to comply with the Mental Health Care Act, and a specialised psychiatric hospital will be set up in Mpumalanga province. Psychotropic medicines will be made available and clinics and health centres will get psychology infrastructure and equipment.

The World Health Organisation also has a Global Mental Health Action Plan running between 2013 and 2030, to scale up mental health services, and it will be working with South Africa to ensure that the right services are delivered.

The Department of Health has, in the meantime, been commended by the Portfolio Committee on Health on its significant strides also in reducing mother-to-child transmission of HIV, and preventable diseases like HIV and TB. Training partnerships with Cuba should assist in addressing the shortage of specialist doctors.

VULNERABLE SECTORS

The Minister of Women, Children and People with Disabilities will be discussing, with the Minister of Transport, the possibility of special transport subsidies for the disabled. Meantime, the Portfolio Committee on Transport has, independently, again urged the Department of Transport to find a system of subsidies that will directly benefit the public across all modes of transport. It has also been asked to consider how transport in general, and air transport in particular, can be made more affordable and accessible to the disabled and other vulnerable sectors.

The Department of Women, Children and People with Disabilities, in conjunction with the National Religious Leaders Committee against Gender-Based Violence, has launched the **Vikela Mzansi Campaign** against gender-based violence, and **Vikela Ogogo Mzansi Campaign**, specifically to protect elderly women under attack. It has urged that more money be spent empowering women so that they are no longer dependent on their abusers for shelter and support. Training programmes and construction opportunities have now been set up specifically for women, via the Departments of Trade & Industry, Economic Development, and Public Works. The Departments of Human Settlements and Agriculture have been asked to ensure that women qualify for, respectively, housing and agricultural subsidies.

OCCUPATIONAL INJURY ASSISTANCE

The **Compensation Fund** gives financial compensation for workplace injuries. It has faced major problems with alleged fraud and inefficiency, and has been investigated by the Public Protector. It received a disclaimer in 2012/13 as the Auditor-General was unable to verify the financial information provided. It has now been put under new management, has appointed 400 former contractors to the permanent team, and is trying to process the massive backlogs, although there are still problems with ICT. The managers are identifying what legislation has to be amended, plus simplifying and tightening up on dispute resolution processes, lodging and processing of claims, and access to medical treatment for claimants.

PROVINCIAL AND MUNICIPAL MATTERS

Following a financial collapse in **Limpopo Province** last year, Cabinet intervened using the most extreme legal tool of section 100(1)(b) of the Constitution, to try to reverse the situation, create sustainable capacity and ensure compliance with the Public Finance Management Act. Managers were seconded to oversee departments. Five departments were investigated by the Anti-Corruption Task Team. Fraud and corruption were found in Health, Education Social Development, , Public Works and Cooperative Governance. Two heads of departments have been suspended and 45 officials have been criminally charged, whilst more than 300 face disciplinary charges. Several individuals and entities are banned from doing any future business with the State. Six out of ten Limpopo accounts were used to process credit and bank transfers without proper authorisation from the accounting system. 41 cases were discovered where officials had a conflict of interest. The main problems in departments were lack of leadership, systems and capacity, incompetent or lazy officials, and unreliable IT systems.

The accumulated unauthorised expenditure, prior to the intervention, had been R2.7 billion, now reduced down to R500 million, with special allocations set aside. More efficient systems were introduced into the Provincial Treasury, to prevent recurrence of instances where traditional leaders withdrew more than they had deposited as levies. Direct deliveries are now being made to the tertiary hospitals.

Education interventions focused on ensuring delivery of learner-teacher support materials, with the state giving a guarantee of R510 million to enable textbooks, workbooks and stationery to be supplied. 96.3% (1.6 million) of learners are in “no fee” schools and less than 4% of the learner population have the capacity to pay fees. In this province, almost half the learners do not reach Grade 12, yet it is interesting that those who do matriculate show the highest percentage, countrywide, of attaining bachelor’s passes, with all districts attaining at least 60% pass rates. Last year, the top performing candidate came from a Quintile 3 school, and 14 of the best-performing candidates in various subjects were also from Limpopo. This province paid more to its teachers, but there is an attempt to standardise and regularise the budgets. 2 489 of the 2 544 temporary educators have been absorbed into substantive posts, but many are nearing retirement age, and this must be addressed.

The administrators settled debts owed to Eskom and municipalities, to avoid suspension of services that would disrupt learners. The Department of Public Works should have reported on about 12 000 assets, but only had 900 in the asset register, and Independent Development Trust was appointed to augment its capacity. The Department of Roads and Transport has showed progress, achieving R11.6 million savings on non-core items, and R47.8 million savings on machinery, under the administrators.

The **Municipal Property Rates Amendment Bill** has been submitted to Parliament, the first piece of legislation in about three years that comes from the Department of Cooperative Governance and Traditional Affairs. More than 7 000 public submissions were received. The Bill aims for more transparency in property valuations, and tries to facilitate revenue streams and thus achieve greater economic viability for municipalities. It will allow for monitoring of provincial roles and will also allow the Minister to make regulations on exclusions, in the national interest.

Game farms will be regarded as agricultural property. The validity of valuation rolls will be extended from four to five years. Exclusions will be phased in, over three years, for public service infrastructure such as roads, rail and airport facilities, to encourage investment and economic development. The strengthening of accountability provisions was intended to allow for early detection of municipal failures.

MPs were very critical of the process that the Department had followed, including the fact that they were not advised earlier of the intention to introduce this legislation. They insisted that they were not willing to merely “rubber-stamp” the process, and demanded to be given full details on the extent of consultation, and what backlogs were currently before appeal boards, before considering the legislation further.

The **SA Local Government Association (SALGA)** told Parliament that all municipalities had submitted their financial statements in this year, and that, for the first time, SALGA had managed to conclude wage negotiations without any strikes. It was confident that greater stability would foster greater quality of service delivery. SALGA conceded that the local government environment is still highly politicised and bedevilled by various challenges, but it is trying to improve performance. Over the next five years, SALGA wants to review the whole legislative and policy framework for local government, and to improve capacity.

Local government still faces ongoing challenges around infrastructure, particularly sanitation and providing clean, piped water, although electricity provision has improved. Its provincial offices are providing support to 25 municipalities, and it is working with another 75, whom the Auditor-General has identified as in need of assistance, to ensure that they do not slip behind. SALGA is considering setting up a centre for leadership and governance to consolidate its training initiatives. MPs wondered how SALGA could claim to have achieved progress, given corruption levels, and asked it to monitor if municipalities are employing people who are capable of being trained to the right standards.

LAND MATTERS

The **Restitution of Land Rights Amendment Bill** aims to re-open the restrictive timeframes for another five years, and allow for submission of new claims by the various categories of persons and communities excluded from the current programme. Land restitution, land redistribution, land tenure reform and development are the four pillars of land reform. It has been anticipated that around 400 000 valid claims may be lodged, which are likely to cost up to R179 billion, if they were settled within fifteen years. The Land Claims Commission anticipates that there may be overlapping claims on the same land, and possible invasion of land already previously settled.

The new date for lodging claims will be 31 December 2018, and details must be published in national and provincial media. Comprehensive communication strategies will try to ensure that all affected parties are made aware of the extended dates for lodging. Citizens' manuals on land claims will be distributed, translated into all official languages and those spoken in the Khoi and San communities, as well as in braille.

The Commission has had to employ over 300 new staff, and is using trained youth from the National Rural Youth Service Corps to assist in the lodgment of land claims. The Departments will establish 52 lodgment offices across South Africa, as well as having a number of mobile units that can process claims.

The **Ad Hoc Committee dealing with the legacy of the Native Land Act of 1913**, created earlier in the year, has now finished its work and its report is due to be published shortly.

MPs felt strongly that the Land Claims Commission, when opening up the new claims, must learn lessons from the past difficulties and failures of land redistribution. They stressed that all future land beneficiaries should be taught about the implications of forming a trust, and that assistance must be given where land resettled is to be farmed. MPs also recognised that although the Department of Rural Development and Land Reform is the main driver of the land restitution process, other departments also have a significant role to play. For instance, the Department of Public Works will have to assist on expropriation matters. The Department of Arts and Culture should be involved where heritage sites and graves may be affected. The Department of Agriculture, Forestry and Fisheries also needs to give assistance on irrigation. The Department of Human Settlements will need to assist with housing, and the Land Claims Commission and Department of Rural Development and Land Reform have been asked, within set time frames, to address concerns of communities on the former settlement processes.

The **Land Claims Commission** has reported on the progress of land restitution claims to date, including those in protected areas. Restitution can occur either through restoration of the right in land, provision of alternative land or monetary compensation, or a combination of both. Processing involves separate stages of lodgment of claims, research into validity of claims, negotiations, settlement, by way of written agreements, court orders, and then implementation of those orders. To date, 77 334 land claims have been settled and 59 758 have been completely finalised. 3 million hectares of land, at a cost of R10.8 billion, has been awarded to qualifying claimants. So far, 1.444 million hectares has been transferred.

150 land claims were lodged in protected areas, and 46 had been settled, 44 were being researched, and 13 were accepted and gazetted. 27 claims were at negotiation stage, 4 were at verification stage, 9 were at settlement stage, and 4 were placed before the courts for adjudication. Protected areas claims face similar challenges to other areas, with overlapping and competing claims, conflict between claimants and traditional leadership institutions, land not having been surveyed and inability to implement co-management agreements. Cabinet had approved the principle, in 2009, that claims on land in the Kruger National Park may only be settled by equitable redress, and not restoration of land, and that a beneficiation scheme (such as a portion of gate takings) had to be included. However, some communities are still attempting to insist upon restoration of ownership rights. Further discussion on those claims is needed. The Land Claims Commission has been asked to advise the National Department of Tourism of claims involving land with tourism potential, such as Sun City and Fish River, but because this was not captured on claims previously settled, a further audit will be needed.

The Department of Rural Development and Land Reform's state land audit shows that over 17 million hectares are held by the State, in comparison to private, company, trust and private organisation ownership of about 107 million hectares. Of the state owned land, over 40% is held at national level, about 23% by the state owned enterprises, whilst provincial departments control around 20% and municipalities around 13%. The usage of land statistics show over 4 million hectares under agriculture and fisheries, 1,2 million is under commercial use, and 1.5 million for forestry. 1.8 million hectares are community services, 1.9 million are under conservation, and 2.7 million are used for recreation and leisure. Industrial land accounts for 1.5 million hectares, mining for 54 000, and transport for 568 000, and utilities, water, and infrastructure together account for about 670 000 hectares. Over 3 million hectares are used for State residential land, and 2.23 million hectares is classified as unmatched, undeveloped and vacant.

RECENT PUBLIC HEARINGS

The **Energy Portfolio Committee** held public hearings on nuclear energy as a reliable source of supply. Nuclear energy is one of the components of the Integrated Resource Plan 2010 (IRP), a 20-year national electricity generation plan, due for interim review this year, which seeks to direct the expansion of the current fleet of power stations. The IRP recognises that demand for electricity is linked directly to economic growth and infrastructure development. It emphasises security and readiness of supply at the right time.

Academics in the energy sector suggested that manufacturing was capable of supporting an extended nuclear programme, and believed that more than two reactors were needed, with the added benefit of increased job creation, but stressed that proper scheduling was vital, as well as correct communication of information. The Nuclear Energy Corporation noted the change in world energy perspectives after Fukushima, with heightened risk mitigation leading to increased costs, and longer timelines. Better global governance of safe and environmentally-friendly energy sources is needed. Interestingly, the oil-rich countries are opting for nuclear power in their plans. Fossil fuels are likely to account for about 80% of energy use until around 2040, with more emphasis on natural and shale gas, but there will also be increased coal consumption until after 2030.

South Africa is currently the only major player in Africa on nuclear generation, although other countries are showing greater political commitment and appetite for development.

Those opposed to the nuclear industry expressed their concern that insufficient time was allotted to informing Parliament of the dangers and pitfalls of nuclear power, including concerns on evacuation plans, disposal of waste and review of the IRP.

Exhaustive public hearings were held on the **Marine Living Resources Amendment Bill** (MLRA). Over several months, the Department of Agriculture, Forestry and Fisheries (DAFF) has been discussing the needs of small-scale fishers with communities, and the wording of this Bill essentially reflects the compromises reached. There was quite widespread support at the hearings from fishers, although they raised some concerns, but there has been opposition from recreational fishers, whose total allowable catch, particularly for abalone, has been reduced by cutting down the number of days they are permitted to fish, with the difference being distributed to small scale fishers (SSFs). DAFF said that this was a “hard choice”.

The Bill anticipates that SSFs will form cooperatives, to apply for permits, although some MPs wondered if this was not imposing systems on individuals. DAFF said that this was agreed upon as the best vehicle, although MPs warned that cooperatives have not shown great success in the past. There was debate also on what the “basket of species” meant, and it was explained that this would allow flexibility. There were concerns that perhaps the Bill was creating expectations that would not be able to be met, and DAFF was asked to explain what support mechanisms it would be offering, including training. DAFF was hoping that by including SSFs in the system, they would actively work with DAFF, hopefully on a volunteer basis, to curb poaching, as it would affect their own livelihoods.

MPs preferred that SSFs should not simply be able to transfer their fishing rights within a specific time frame, and DAFF responded that the new policy on transfer of fishing rights would track loss or sale of rights, to protect communities and curb extortionist practices. It was possible to follow the existing section 21 regulation route, but other processes in the Bill catered for the SSF sector only. Eventually a review board would deal with this, in addition to the regulations. DAFF explained how the process of allocations, which were done for a season, would work, using a “trolley” system for commercial fishers and a “basket” system for SSFs. Fishers would apply for rights in one or other category, but not both. DAFF is presently trying to verify the 7 776 fishers on the DAFF records at the moment, and identify if there are more who must be included.

The position of women fishers was also extensively discussed. DAFF is encouraging more women to be involved and to get quotas, although the historic problem had been that boats used simply did not allow any privacy or special toilets for women. DAFF is aware that many SSFs do not have access to boats, and tend to use their rights as bargaining power, but is hoping to address this over time. Specific requests for landing jetties, and concerns over poor quality of boats would be addressed. MPs asked if perhaps other alternatives to the Department of Trade and Industry’s assistance in accessing boats might be explored.

MPs were a little worried that the legislation is being amended piecemeal, but accepted the urgency, and urged DAFF to consider the costing and if it had a plan for what it would do if it did not get the budget allocation it expected. They also wanted the safeguard that the Minister may make regulations “in consultation with Parliament”.

The Bill was later adopted, although opposition parties objected to the term “past prejudice against women and other marginalised groups”. The Bill will still need to be passed by the provinces, and may not be in operation by January, as originally hoped.

NEW AND PENDING LEGISLATION

Important bills introduced in the last three weeks: **Property Valuation Bill**; **Women Empowerment and Gender Equality Bill**; **Infrastructure Development Bill**; **Public Administration Management Bill** (since temporarily withdrawn), **National Credit Amendment Bill**, **Employment Tax Incentive Bill** and **State Attorney Amendment Bill**. See: www.pmg.org.za/important-bills

The **Criminal Law (Forensic Procedures) Amendment Bill** was recently amended in the NCOP, who supported the SA Human Rights Commission plea to be excluded from the Oversight and Ethics Board.

The **Employment Equity Amendment Bill** was approved by the National Assembly (NA), although it will be hotly contested in the NCOP. The DA objected that equal work for equal pay was not properly defined, and believed that the Bill could create onerous problems for small employers.

The **Employment Services Bill** has been passed by the NA. Employment of persons with disabilities will be promoted through the Protected Employment Enterprises. It makes provision for free public employment services, registration of private employment agencies & establishes an advisory Employment Services Board. Employment of foreign nationals will be restricted and skills transfer plans may be required. However, even if those foreign nationals do not have visas, they will still be protected by SA labour legislation.

The NCOP approved the **Basic Conditions of Employment Amendment Bill & Labour Relations Amendment Bill**, but removed clause 9(a), (c) and (d) so non-union supporters can join union members on the picket line. This proposed change would have to be approved by the National Assembly.

The Judicial Matters First, Second and Third Amendment Bills, amending a number of pieces of legislation to do with the courts, child and sexual offences, and the justice sector, were passed in the NA.

The Legal Metrology Bill was adopted by the NA Committee. A market surveillance officer will be employed by the National Regulator to ensure that regulations were equally enforced in the market, and to inspect measuring instruments. The National Regulator has already employed 11 new qualified candidate inspectors. Clause 10 was amended to refer to a person employed by a designated repair body, to allow the regulator to control repairers. The instruments used to measure land by geomatics professionals will be verified under a very strict process to guarantee accuracy of land measurements.

The Legal Practice Bill has been adopted, despite the DA and ACDP voting against it, as they objected in principle to a number of elements around the structure of the new Legal Practitioners Council, ministerial powers to dissolve the Council and provincial functions. The Bill will compel practitioners to engage in community service, and to advise their clients, in advance, of the likely cost of the legal services.

The Lotteries Amendment Bill has been adopted by the Portfolio Committee, with the objections of the DA noted to the clause allowing an organ of state to run the lottery for eight years.

The National Environmental Management Act: Integrated Coastal Management and Protected Areas Amendment Bills were approved by the NA Committee, with some changes.

The Protection of State Information Bill was referred back to Parliament by the President "for reconsideration insofar as sections of the Bill, in particular Sections 42 and 45, lack meaning and coherence". The majority of the ad hoc Committee decided that only those two clauses could be substantively amended through this process, although they did agree to make technical changes, to spelling, grammar or numbering, in other provisions identified by the Office of the Chief State Law Adviser. The DA, IFP and COPE registered their objection to the process followed. The Bill was approved by the National Assembly.

The Traditional Courts Bill has been referred back to the Provinces, despite the feeling of some MPs that the matter must simply be addressed by the Select Committee on Security and Constitutional Development, in light of the indication by the majority of provincial legislatures that they wished to reject the Bill altogether.

The South African Human Rights Commission Bill, repealing the current SAHRC Act, was adopted by the NA. It provides for eight commissioners, tightens the procedures for appointment, on the recommendation of the NA, and retains provisions on search and seizure. New provisions were included that organisations must consider the recommendations, and advise whether they intend to act on them, within 60 days.

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

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