



2024 Legislative and Regulatory Outlook

Introduction

- South Africa braces itself for an eventful end to the 6th Parliament, as we enter elections season. 2023 witnessed a significant amount of legislative activities with a number of bills approved by Cabinet and sent to Parliament later on in the year. The first quarter of 2024 will see Parliament under immense pressure to process and finalise most of the bills. However, the period before elections is very short and a number of these bills will lapse.
- Various portfolio committees have to process over 50 bills, 43 of which were introduced in 2023. Majority of the bills (35) currently sit with the National Assembly (NA) and the rest with the National Council of Provinces (NCOP). With campaigning for the elections set to intensify in the coming months, the speed with which portfolio committees will process the bills may slow down.
- This preview will look at legislations that will become key campaign tools for political parties, particularly the governing African National Congress (ANC).

National Health Insurance Bill

- South Africa continues to progressively work towards implementing universal health coverage to strengthen health systems and be better prepared to effectively respond to outbreaks. The National Department of Health has begun to enhance its internal technical capabilities by bolstering the operational capacity of the NHI implementation unit.
- On 06 December 2023 the NCOP voted in favour of the NHI bill. It is expected that President Cyril Ramaphosa will sign the bill into law this year, despite threats of legal action.
- As South Africa enters its election season, the NHI becomes an important campaign tool, for the ANC in particular.
- Concerns remain over the NHI's funding model and administration to ensure equitable access to quality healthcare for all South Africans, which raises concerns about the sustainability and effectiveness of the proposed healthcare reform. The lack of clarity on funding for NHI poses for government and will provide grounds for legal challenges from the private sector.



Integrated Resource Plan

- South Africa's energy security continues to be in a precarious situation, which has forced the country to explore different initiatives towards generating power, such as private investment into alternative energy sources. The different electricity generation projects that are currently being implemented such as the Battery Energy Storage Independent Power Procurement Programme (BESIPPP) and Risk Mitigation Independent Power Producer Procurement Programme (RMIPPPP) are hoped to contribute to improving the Energy Availability Factor for Eskom.
- According to the draft Integrated Resource Plan (IRP) of 2023, the government envisages an energy mix that includes coal. The Department of Mineral Resources and Energy (DMRE) aims to delay shutting down coal fired power plants to retain dispatchable capacity. With South Africa still having an abundance of coal resources, government will be expected to pursue investments towards more efficient and cleaner coal technologies, but also to align with its emissions targets as part climate change commitments.
- The IRP 2023 has also prioritised the following energy sources:
 - o Nuclear – Eskom's Koeberg Power Station remains critical towards avoiding the end of the nuclear power in the energy mix. The lifespan of the power station has been extended to ensure Koeberg can continue to operate beyond its original life.
 - o Gas - Significant gas discoveries and resources in the region provide the country with an opportunity for a flexibility towards complementing renewable energy. In the IRP2023, 7.2GW of gas-fired power is being proposed to be rolled out until 2030.
 - o Renewables – Following recent developments by the private sector and the expected growth of renewable energy is likely to grow significantly as it compliments the country's decarbonisation efforts. Wind and solar generation of 4.5GW and 3.6GW will both be added into the energy mix until 2030.
- The implementation of the IRP is likely to generate more investments from oil and gas producers for the country's energy mix, given the latest developments that include construction of gas terminals in Coega and Richards Bay. Private companies will also continue to accelerate the progress made with bringing online more renewable resources to the energy mix.

Gas Amendment Bill

- As the country continues to identify ways to mitigate against the loadshedding crisis, Minister Gwede Mantashe has published the Gas Amendment Bill for public comment. The bill will make changes to the Gas Act of 2001, with key changes being proposed such as:
 - o Promoting sustainable development of the gas industry in the country
 - o Facilitate gas infrastructure development and investment
 - o Strengthen enforcement and improve compliance with the regulations;
- The key changes in the bill are mainly focused on establishing regulations to support the construction of the gas industry. Latest developments by the DMRE are in line with creating integrated energy projects in the country that fulfil its energy mix aspirations.
- The finalisation and passing of the bill still remains uncertain given the limited time left for the current term of Parliament.

Climate Change Bill

- South Africa continues to face severe pressure from the international community due to its high carbon emission levels. The recent decision to prolong the country's eight coal-fired power plants longer than planned risks the country's ambition to meet the Paris Climate Accords.



- The Climate Change Bill was passed by the NA in 2023 and is now with the NCOP for concurrence. The bill will assist the Department of Forestry, Fisheries and Environment to create a comprehensive legal and institutional framework to guide South Africa's response to climate crisis. It will also be interesting to see how the bill will work to compliment the Just Energy Transition Implementation Plan, as it guides the country to a low carbon economy through the scaling up of renewable energy sources.
- The bill will also pose a significant challenge for businesses to meet specific carbon targets that can limit their carbon emissions. This year we are likely to see more pressure from NGOs for government to implement the bill, as they try to hold more firms accountable for their excessive carbon emissions. The international community will also be placing a close eye on the country's ability to achieve the 2030 carbon emission targets.

White Paper on South Africa's Electric Vehicles

- As the world continues to progress towards more greener technologies, South Africa is developing policies focused on meeting its climate targets and ensuring it exports goods that meet global standards. In December 2023, the Minister of Trade, Industry and Competition (DTIC), Ebrahim Patel finally released a White Paper on electric vehicles (EVs) and the green hydrogen strategy document that are a framework towards eradicating internal combustion engine vehicles in favour of EVs.
- Through the White Paper, South Africa is positioning itself to transition to EVs as part of decarbonisation in line with the country's nationally determined contributions towards net zero and for economic purposes. The policy draft aims to ensure South Africa becomes part of the global shift from internal combustion engine vehicles (ICEVs) to new-technology vehicles (which includes battery electric vehicles and hybrids).
- The electrification of transport is one of the key pillars underpinning South Africa's Just Energy Transition (JET) plan for a low-carbon and climate-resilient economy. The JET plan estimates that an investment of 128.1 billion rand (\$6.84 billion) would be needed from 2023–2027 for the transport sector to contribute meaningfully to South Africa's decarbonisation commitments.
- The DTIC is expected to work through the comments received from stakeholders and look towards developing a bill to be sent to parliament this year still.

National State Enterprises Bill

- South Africa boasts over 700 state-owned entities across national, provincial, and local levels – that are all aimed at being important determinants of the productivity and the competitiveness of the economy. The bill aims to create a strategy for national state enterprises and create a state asset management entity.
- The significance of this bill is still unclear given the poor management of several SOEs. The bill's proposal of another state asset management entity has already elicited criticism in light of the massive corruption and poor governance that have been seen with the current entities South Africa has. But government is adamant this bill seeks to address these challenges.
- The bill was only sent to Parliament in December 2023 and it is unlikely that the portfolio committee will have enough time to process the bill before this parliament's term ends.



Tobacco Products and Electronic Delivery Systems Control Bill



- Parliament is continuing with public hearings on the bill which, among others, seeks to give the Minister of Health with power to prohibit smoking in any prescribed outdoor public place or other place where the Minister considers it appropriate to prohibit smoking in order to reduce or prevent the public's exposure to smoking. The DA amongst many opponents of the bill believes that giving the Minister power to regulate component and design features on products is an overreach.
- With opposition to the bill having been strong in Gauteng, the Free State, Mpumalanga and Limpopo, it is expected that the sentiments will be similar in provinces. The Portfolio Committee on Health is working around the clock to complete its processes, however, there may not be time for the NCOP to process the bill before this Parliament's term comes to an end.

The General Intelligence Laws Amendment Bill

- The Minister in the Presidency has published the General Intelligence Laws Amendment Bill which looks to amend the National Strategic Intelligence Act, 1994, the Intelligence Services Act, 2002, and the Intelligence Services Oversight Act, 1994. Some of the most contentious aspects of the amendment bill include the extension of the definition of threats to national security to include anything that may threaten “equality and equitable access to opportunities” as well as “measures and activities that seek to advance and promote peace and harmony and freedom from fear and want”
- If the bill were to be passed, it will vastly expand the categories of people subject to security clearance, and will grant additional discretionary powers to the Minister, which may open space for abuse for political ends.
- The amendments will also expand the scope of activities that might constitute “threats to national security”, proposing that any “action or omission” which may “potentially cause damage, harm or loss to the national security” would constitute such a threat to national security.
- A number of groups have criticised the proposed bill, which is being seen as unconstitutional.
- The Ad Hoc Committee on the General Intelligence Laws Amendment Bill is currently conducting public hearings and at the same time processing written submissions, as it works towards finalising the process before it reports back to the NA in March this year.

White Paper on Citizenship, Immigration and Refugee Protection

- In an attempt to manage to country’s immigration crisis, the Department of Home Affairs has published the White Paper on Citizenship, Immigration and Refugee Protection. The White Paper follows the department’s challenges to implement three pieces of legislation, namely the South African Citizenship Act 88 of 1995, the Immigration Act 13 of 2002 and the Refugees Act 130 of 1998.
- The White Paper proposes for The Citizenship Act and Births and Deaths Registration Act to be repealed and be included in the single legislation dealing with citizenship, immigration, and refugee protection. This will remove contradictions and loopholes in the paths towards citizenship as is now the case with the three pieces of legislation. The department is hoping to finalise the policy as it attempts to address the issues of migration and illegal immigrants in the country.
- The draft will continue to be a big topic in the country, especially during an election year, as several stakeholders including political parties and businesses have raised concerns about the rationality of temporarily withdrawing from two international treaties on refugee protection [the UN Refugee Convention and the UN Protocol relating to the status of Refugees]. It will be a long way before any law is enacted, as the law-making process takes a while and the white paper is but a first step.

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