



Legislative and Regulatory Highlights

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INTRODUCTION

- The October edition of the Legislative and Regulatory report provides an overview of the recent developments and ongoing processes within South Africa's legislative and regulatory framework.
- This period has been marked by significant activity, including the revival of key bills that lapsed during the 6th Parliament, the enactment of new laws, and the progression of draft legislation through various stages of the policy and legislative process.

REVIVED BILLS

Various Portfolio Committees began with the processing of bills that lapsed in the 6th Parliament. This is after Parliament's decision to revive bills from the stage they lapsed at the end of the last term in May.

Some of the significant bills revived in Parliament in September, include:

The Tobacco and Electronic Delivery Systems Control Bill

- In October, the Portfolio Committee on Health held a meeting with the Department of Health (DoH) to further discuss the bill.
- One of the latest developments in the debate surrounding the bill is the call for more robust consultation, particularly involving the National Economic Development and Labour Council (NEDLAC). Cosatu, Business Unity SA and various political parties including FF+ and the DA, suggested that the bill should be sent to NEDLAC for more comprehensive consultation, highlighting the lack of a socio-economic impact assessment.
- This underscores the importance of NEDLAC's role in ensuring that legislation is thoroughly vetted for its economic and social implications before it is enacted.

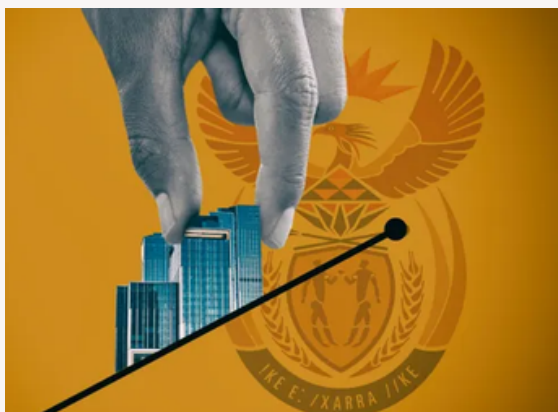


Older Persons Amendment Bill

- In October, the Portfolio Committee on Home Affairs received an update on the bill.
- The bill aims to enhance protections and services for older persons, focusing on quality care and community-based support.
- The committee will finalize a programme for public hearings.

Road Accident Benefit Scheme (RABS) Bill

- The bill seeks to replace the existing Road Accident Fund.
- However, there are debates about its implications for road accident victims and the financial burdens it may impose on citizens.



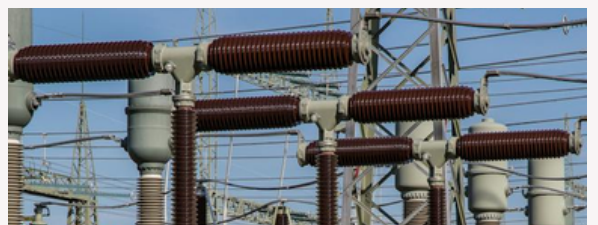
National State Enterprises Bill

- In October 2024, the Department of Planning, Monitoring and Evaluation (DPME) briefed the Portfolio Committee on Planning, Monitoring and Evaluation on the bill.
- This legislation aims to consolidate various SOEs under a single holding company, addressing governance and efficiency issues.
- Members of the Portfolio Committee raised concerns about moving away from the Public Finance Management Act, and that a centralised holding company dominated by dubious directors could be a recipe for state capture. It was suggested that the Bill should set out a clear, open, and transparent process for all competent South Africans to apply to be directors of SOEs.

BILLS AND POLICIES APPROVED BY CABINET OR IN PROGRESS

Draft South African National Petroleum Company (SANPC) Bill

- The bill is designed to establish a state-owned company, the South African National Petroleum Company (SANPC), which will result from the merger of PetroSA, the South African Gas Development Company (iGas), and the Strategic Fuel Fund Association.





The Draft Petroleum Products Bill of 2024

- The primary objective of the bill is to ensure the security of petroleum products and the orderly development of the petroleum products sector.
- It aims to introduce modern, cleaner products and incorporate renewable components to improve the energy mix.

The Draft Mine Health and Safety Amendment Bill

- The bill aims to amend the Mine Health and Safety Act of 1996 by enhancing enforcement provisions, streamlining administrative processes, and improving health and safety standards in the mining sector.
- The amendments include increased direct involvement of executives in ensuring health and safety compliance. This involves greater accountability and potential liability for executives if health and safety standards are not met.



Visa Reforms

- The Minister of Home Affairs, Leon Schreiber, introduced significant changes to the visa system, including a new Remote Work Visitor Visa and a Points-Based System for Work Visas, aimed at simplifying the application process and attracting skilled workers and investors to the country.

Communal Property Associations Act

- The most recent amendments to the Communal Property Associations Act were approved by the Cabinet on 9 October 2024 for submission to Parliament.
- The amendments are intended to provide improved protection of the rights of communities in respect of movable and immovable property, establish a Communal Property Associations Office, and clarify various administrative and governance aspects.
- The amendments have been published and updated through several gazettes and legislative documents.



BILLS REFERRED TO THE CONSTITUTIONAL COURT



Copyright Amendment Bill

- The bill aims to update intellectual property rights, covering various creative works such as books, music, movies, photographs, sculptures, and their digital equivalents.

Performers Protection Amendment Bill

- The bill seeks to amend the Performers' Protection Act, 1967, to provide for performers' economic rights, extend moral rights to performers in audiovisual fixations, and protect the rights of producers of sound recordings.



COMMENTARY

- The Tobacco Products and Electronic Delivery Systems Bill has undergone public hearings and is currently being processed by the National Assembly Health Committee.
- Health advocacy groups, such as the National Council Against Smoking (NCAS) and the South African Medical Research Council (SAMRC), support the bill, arguing it will reduce tobacco use, exposure to second-hand smoke, and the initiation of tobacco use among young people.
- However, the industry and some stakeholders have raised concerns about job losses, increased illicit trade, reduced tax revenue, and the impact on small and informal traders as well as tobacco farmers.
- Despite widespread in-principal support for the health-related objectives, practical concerns and the need for further consultation remain key issues to be addressed.
- The revival of the Road Accident Act Amendment Bill signals a bold intent by the Fund to tilt the scales in favour of road accident victims, rather than law firms that have hitherto unjustly benefitted from the claims.
- Undoubtedly these law firms will likely challenge the bill to a tee, given the potential financial losses for them.
- However, the jury is out on whether claimants will be able to navigate the application process on their own without much reliance on unscrupulous lawyers.
- So much has been made of the need for an SOE holding company in South Africa. However, it is not yet clear how the governance and other challenges experienced by individual SOEs will be successfully addressed by the holding company.
- The implementation of the Older Persons Amendment Bill is expected to significantly improve the quality of life for older individuals, aligning with international standards of elderly care.
- While the immigration amendments are likely to be welcomed, there remains a pressing need to address the timeline and speed with which visa applications are processed.
- This consolidation, along with the Draft Petroleum Products Bill of 2024, aims to ensure the security of petroleum products, introduce cleaner and renewable components, and align the sector with modern standards. These changes are expected to enhance energy security, reduce environmental impact, and make the sector more competitive.
- Business and other various stakeholders will be closely expecting the launch of the second round of the Trusted Employer Scheme (TES) that is expected to speed up work visa applications.
- As these reforms continue to unfold, they are expected to have a positive impact on various sectors of the economy, make it easier for companies and multinationals to bring in skilled workers from abroad and, in the process, contribute to job creation and economic growth. Parliament will be expected to foster effective continuous public participation to ensure that the needs and concerns of all stakeholders are addressed. This helps in building trust and ensuring that the reforms are well-received.
- Regular monitoring and evaluation of these reforms will be necessary to assess their impact and make necessary adjustments. This will help in identifying areas that require improvement and ensuring that the intended outcomes are achieved.
- The Bills referred to the Constitutional Court by President Ramaphosa for a ruling on their constitutionality in terms of Sections 79(4)(b) and 84(2)(c) of the Constitution is a significant development with far-reaching implications not only for South Africa's intellectual property landscape, creative industries, and the country's international obligations, but also the manner in which parliament processes bills. Already, the ConCourt delivered a damning judgement on parliament in 2023 regarding the Traditional and Khoi-San Leadership Act 3 of 2019, which is due to be sent back to parliament for re-processing and conducting of a meaningful public participation process.

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