

Parliamentary overview

Legislation in the pipeline

Plenty of note for business has happened legislatively during the parliamentary recess but perhaps none so important as the re-structuring of Cabinet.

Consequently, in some cases, there will be a change in the number of portfolio committees and therefore a shift in portfolio responsibility for various Bills held over from the previous Parliament. In the areas of energy, trade and industry and communications this will be particularly interesting.

Parliament will choose its portfolio committee chairpersons for the National Assembly and select committee chairpersons for the National Council of Provinces on 27th June, two days after the State of Nation Address ANC party chairpersons. These appointments reflect how a government governs on policy and legislation. Through the chairpersons.

SCOPA

Opposition leader, Mmusi Maimane, has requested of the President to return to the old tradition whereby the governing party allowed the main opposition to choose an MP to head-up SCOPA (the Standing Committee on Public Accounts). This is, in fact, a courtesy not a parliamentary rule.



However, in the last two Parliaments former President Zuma broke with this practice but however compromised by agreeing to the appointment of Themba Godi (APC) to this critical post in terms of oversight.

Godi, as an pan-African activist, maintained a relatively dispassionate, independent view and became quite a thorn in the side of the ANC on a number of issues. Ramaphosa may return, at the DA's request, to old practices it is hoped, as a gesture of co-operation.

Also, of interest will be the appointment of a chairperson for Finance Standing Committee, a post which has been successfully held by Yunus Carrim for a number of years. Fingers are crossed that the chair will not be given to any member of the of the Magashule gathering, referred to in the media as being "starved of financial knowledge".



Programming

Committee meetings will start on 2nd July, after two weeks of orientation/training for new MPs, and initial meetings will focus on the Budget debate left over from the last session of the Fifth Parliament but, more importantly, with comments on the SONA followed by President Ramaphosa's response to those comments. These debates will give much direction to where the country is going.

There are currently 62 Bills in process, the majority of which should be finalised by 29 July when Parliament rises for its winter recess. A list of all Bills is at the end of the report.

In the Presidency

Bills which were approved by the National Assembly and also by the President with signature into law include the important **Financial Matters Amendment Bill**, subject to last-minute intervention by the Reserve Bank in the closing session, calling for urgent attention in order to meet international obligations under the Insolvency Act.



This late move helped passage of amendments through to alter the Banks Act to allow for the establishment of a state bank by a state-owned entity, specifically with the Post Office in mind.

More finance

Also signed is the **Carbon Tax Bill** under the glare of much publicity. Our many articles refer over the months and the final document represents a phased-in approach to the tax. The tandem **Customs and Excise Amendment Bill**, a money Bill actually implementing the carbon tax by the Finance Minister, also became law.



The **Public Investment Corporation Amendment Bill** stays with the President, which is probably a wise move, until more emerges from the PIC Inquiry. This Bill, put forward by the Standing Committee on Finance, is aimed a more transparency.

Cleaning up

The PIC Bill includes having the Finance Minister appoint 10 non-executive board members to the PIC board, one to be a National Treasury representative; two representatives from the largest depositor; and one from any depositor whose assets under management by the PIC is less than 10%.



Cosatu is a strong supporter of the Bill, naturally, since member funds are entrusted to the PIC, but although the DA originally pioneered the Bill, David Maynier, the then DA shadow finance minister, subsequently voted against it as the DA felt that their original proposals had been watered down and politicized.

Real estate

Also signed is the all-the important **Property Practitioners Bill** which is much need by that industry. This provides for the regulation of the industry and the replacement of the Estate Agency Affairs Board by the Property Practitioners Regulatory Authority. It also establishes a relevant Ombud office and re-names the fidelity fund as the Property Practitioners Fidelity Fund.

The bill aims as a broad concept to address the historic imbalance in the property market, where less than 6% of estate agencies are black owned, it is claimed.

Getting paid for it

Also, important insofar as government oversight is concerned is the signing into law of the **Public Audit Excess Fee Bill** aimed at ensuring the sustainability of the office of the Auditor General by charging audit fees for certain government entities, to be charged directly against the National Revenue Fund.



This is part of the overall process to allow the AGs office to bring about consequence management in the light of past failures of government entities and for SOEs to meet the basic requirements of the Public Management Finance Act and to explain satisfactorily “wasteful and fruitless” and “irregular” expenditure.

Last chance maybe

What is not signed, which fact could change at any time, is the **Copyright Amendment Bill**. Commitment to international intellectual copyright treaties such as the Berne Convention is needed on the part of SA. But in getting there, the Bill passed by the NA has been the subject of much criticism, as was expected. This has been escalated by the publishing industry, with music industry also expressing dissatisfaction.



The DA abstained on the Bill and opposition leader Mmusi Maimane is apparently appealing to the Presidency not to sign. Joining the fray is the US International Intellectual Property Law Association who are always involved with fights worldwide with their archenemies Google and Facebook over issues on copyright application, royalties and fines.

Fair use vs fair dealing

Major decisions were made in the drafting of the Bill, changing past South African practices on implementation principles of copyright ownership, a hybrid version of “fair use” being adopted after two years of debate on the Bill which in the end was drafted by Parliament. DTI only contributed.

The publishing industry interests in the matter include the educational use of authors works and appear to have pulled in powerful US lobby groups to make threatening suggestions on SA material exported the US. The ANC Executive re-acted violently against the practice of US/SA trade lobby tactics in the medical industry two years ago.

The problem is not going to go away that easily with the DA calling for the return of the Bill to Parliament.

Creditworthy or not



Similarly, and possibly held up in the Presidency but passed by the National Assembly is **the National Credit Amendment Bill**, the brainchild of past trade and industry minister, Rob Davies and his then DTI.

This Bill as it stands is known to be not favoured by the banking industry primarily because of the proposed fund to bail out cases of debt under proscribed circumstances. The DA would not vote in favour of the Bill.



BASA has been circumspect on the proposals for some time, as was Ismail Momoniat of National Treasury. Most are agreed on the need for a Credit Regulator, however.

The poorest of the poor

Whilst it is recognised that stricter controls on credit granted to the poor, registration and better regulation of loan and credit facilities should be enforced, bankers and financiers are concerned that a culture of non-payment of debt may follow government moves to write off outstandings. The whole matter could well be re-submitted to President’s new economic team; however, when this team is structured.

Ms Joan Fubbs, the past chair of the Portfolio Committee on Trade and Industry and major promoter of this Bill and the Copyright Amendment Bill, together with past minister Rob Davies, are not returning as MPs for the Sixth Parliament. Ms Fubbs wanted the Bill for the purposes of reining in loan sharks and intensely believed they robbed the poor. The proposed Regulator should be able to sort this out. Nevertheless, the recent inclusion of Economic Affairs into the debate as a result of Cabinet changes may make a difference to the Bill’s passage.



More being signed

We are sure that the **Communal Property Associations Amendment Bill**, the **Electronic Deeds Registration Systems Bill** and the **Critical Infrastructure Protection Bill** will all make the cut and indeed may have done so already.

A new Bill introduced as a private member's Bill from Natasha Mazzone of the DA, is the **Independent System and Market Operator (ISMO) Bill** opposition leader Mmusi Maimane stating that the Bill aims to end power utility Eskom's monopoly over the grid and to ensure "more economic power is in the hands of South Africans."



Who is doing what?

Aside from the rhetoric, the ISMO Bill in its preamble states that its aim is to establish an independent body owned by the state and which is tasked with buying electricity from electricity generators including IPPs. The operator, it says, will then be responsible for selling electricity to distributors and customers at a wholesale tariff. *(Refer article in this ParlyReport)*

Mining back with Energy

Now for the confusion, all of which no doubt results from the split between Public Enterprises who stable Eskom, and energy including electricity, gas, wind and solar run by DOE. The severance of Mining from Energy and the placing of Eskom under Public Enterprises, all orders from former president Jacob Zuma, were as seen inexplicable at the time.

Now we know that Zuma had signed intention to buy nuclear from the Russians, the penny then dropped as to why he was insistent on Eskom, where all his henchman were ensconced with the Guptas, being put into Public Enterprises with past Minister Lynne Brown. It was the only way to get into the public purse.

Crash site

It will take President Ramaphosa and Minister Gordhan some time to untangle the Energy/Mining/Eskom/Public Enterprises ball of wool from a staffing point of view, this coming at a time when Eskom is to be re-structured. Critics were wrong when they commented that Minister Gwede Mantashe did not need two deputy ministers. It will take more than that to recover from state capture and the "wasted years".

Energy stakeholders, including IPPs, have for years waiting for an "ISMO Bill" also promised for the gas industry and in the same way, there might be a split in the defunct **Mineral Resources and Petroleum Development Bill** between **Mining** and **Petroleum Products**, the MPRDA Bill still sitting inexplicably with Parliament and not withdrawn.



Good idea

Years ago, a private members Bill was a rarity but now we seem to have five or six year, another being hidden away as the **Health Amendment Bill** introduced by crusader MP Deidre Carter of COPE, a Bill explicitly allow for **living wills** to be recognised and allow for terminally ill patients to refuse medical treatment that could prolong their lives. *(Refer article in this ParlyReport)*

This was one of the recommendations of the SA Law Commission put before parliament for consideration back in 1999, when the commission looked into issues pertaining to end-of-life decisions and dying with dignity. Carter has worked by Dignity SA to produce the Bill.