

# PARLIAMENTARY NEWS WATCH

Keeping Business Informed.

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Updates on the Consumer Protection Act and Protection from Harassment Bill



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### Eskom Accounts

Parliament analyses Eskom's performance for the 2010 financial year



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BUSINESS UNITY SOUTH AFRICA

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# LEGISLATIVE UPDATES

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## ► Committee Meetings

### Consumer Protection Act

A briefing by the Department of Trade and Industry on the Consumer Protection Act scheduled for Wednesday, 15 September, was postponed indefinitely earlier this week.

The briefing had been expected to provide insight on the implementation date for the Act. The original 24 October deadline for implementation now appears increasingly unlikely as, amongst other issues, the Regulations on which the Act depends have yet to be published for comment by the DTI.

In light of the number of outstanding issues surrounding the Act and Regulations, Business Unity South Africa CEO Jerry Vilakazi wrote to Minister Davies in late July requesting that the implementation date of the Act be postponed for a 6 month period until April 2011.

The DTI have yet to publicly clarify this issue. For now, unless the Minister publishes a notice of postponement in the *Government Gazette*, the 24 October implementation date remains in place.

BUSA is in constant communication with the Minister and the DTI to resolve this issue.

[Click here to be added to a mailing list to receive updates on parliamentary briefings on the Consumer Protection Act.](#)

## ► Call for Submissions

### Protection from Harassment Bill

The Portfolio Committee on Justice and Constitutional Development is inviting comments on the Protection from Harassment Bill [B1-2010].

The Bill has no implications for Business. It provides primarily for the granting of a protection order from harassment. Overall, the Bill will contribute to the fight against violence against women and children.

Interested parties have until 30 September 2010 to submit comments. Public hearings will be held at Parliament on 19 October.

[Click here for details on submitting comments.](#)

[Click here to download the Bill.](#)



The Enterprise Organisation, a division of the Department of Trade and Industry, appeared before the Portfolio Committee on Tourism last Tuesday, 7 September, to outline government support for the tourism sector. The Enterprise Organisation is tasked with overseeing the DTI's incentive schemes to boost investments in tourism and manufacturing.

### Overview

The key aim of Government's tourism support programme is to stimulate job creation, and BB-BEE participation, outside the traditional tourism destination clusters. The programme will target investment outside of the three metros of Durban, Cape Town and Johannesburg. It has been effective since July 2008 and will be available until 2014.

### The Offering

Government is offering an investment grant of up to 30% of qualifying investment costs in furniture, equipment, vehicles, land and buildings. Grants are capped at a maximum of R30 million, calculated in relation to the qualifying investment costs.

Investment projects of R5 million or less may qualify for a grant equal to 30% of qualifying investment costs, payable within 3 years.

Projects between R5 million and R30 million may receive a grant between 15% and 30%, calculated on a regressive scale, payable over 2 years.

Investment projects above R30 million may qualify for a 15% grant payable over 2 years.

### Qualifying projects:

- Must relate to the establishment of new or the expansion of existing tourism facilities
- Must involve a total capital investment of R200 million or less
- May have local or foreign ownership, but the applicant must be in the form of an entity registered in South Africa (companies, CCs, Co-ops, Community Trusts) and achieve a level 4 BB-BEE contributor status
- Must create a minimum number of new jobs ranging from 8 new jobs for projects below R5m (3 for black owned enterprises) to 85 new jobs for projects between R150m and R200m

Nonqualifying activities include: fast food establishments, nightclubs, bars, gaming venues, franchised restaurants, restaurants not attached to a tourism facility, retail operations, arts and crafts facilities, conference facilities not attached to accommodation facilities and projects owned wholly or in part by the government.

### Programme Performance

From July 2008 to July 2010 the Programme has approved grants totalling R490 million for 220 projects. Approved projects amount to a projected investment of R3.8 billion and 5421 projected jobs. As of March 2010, 115 approved projects had begun operation.

[Click here for a copy of the Enterprise Organisation's full presentation.](#)

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## A Media Tribunal for South Africa?

**Recent reports of Government's intention to establish a media tribunal in South Africa have fuelled heated public debate. Proponents argue that the media requires better regulation to curb reckless reporting by journalists. Opponents counter that state regulation of the media would undermine a cornerstone of democracy - a free press.**

Appearing before the National Assembly last Wednesday, 8 September, President Zuma was asked by Parliament whether, in light of statements made by him in the press, it was Government's intention to establish a media tribunal.

The President replied that Government had not discussed the proposed investigation into the establishment of a Media Appeals Tribunal.

### **Polokwane Proposal**

The proposal stems from a resolution taken at the ANC's 2007 conference in Polokwane.

The President stressed that the resolution was intended to promote media freedom within the context of South Africa's Constitution and human rights culture. It also promoted the view that the right to freedom of expression should not trump other equally important constitutional rights, particularly the right to human dignity.

### **The Tribunal Explained**

According to the President, the intention behind the resolution is that the Tribunal would strengthen, complement and support current self-regulatory institutions such as the Press Ombudsman's Office.

The Tribunal could be a statutory institution, established through an open, transparent and participatory process. Once established it would, like other regulatory bodies, be accountable to Parliament. In addition, Parliament would be mandated to oversee the establishment of the Tribunal (and the appointments of key positions) to ensure its independence, objectivity, transparency, accountability and fairness.

The investigation into the establishment of the Tribunal would consider, amongst other things, the Tribunal's role in dealing with matters or complaints reported by the public against the print media. It is envisaged that this would occur in a manner similar to the handling of complaints by the Complaints and Compliance Committee of the Independent Communications Authority. The media, other stakeholders and civil society would be consulted in establishing the Tribunal.

### **Constitutional Guidance**

In his reply, the President noted that the recent vibrant public debate had resulted in a decision by the Press Council to review the Constitution with a view to strengthening its own self-regulatory mechanisms.

He concluded his reply with a reiteration of Government's commitment to media freedom as enshrined by the Constitution and assured Parliament that the Executive would never undertake any action that would conflict with the Constitution or South African values of freedom and respect for basic human rights.



**Spring is annual report season at Parliament. As part of the Legislature's oversight role, the annual reports of all government departments and their entities, state-owned enterprises, and other institutions of democracy (from the Auditor General to the Public Protector) must be tabled at Parliament. Each institution is then individually interrogated on their performance by the committees of the National Assembly.**

On Tuesday, 7 September, Eskom presented its annual report to the Portfolio Committee on Public Enterprises. In preparation for the meeting, the committee commissioned its own analysis of Eskom's annual report for the 2010 financial year.

The analysis revealed the following:

- Eskom's financial performance increased dramatically in the last year - a R3.6 billion profit was posted for 2010, compared to the R9.6 billion loss it suffered in 2009
- R2.2 billion of Eskom's profit was due to new contracts with energy-intensive groups industries (smelters), ranging from 1 to 18 years duration
- Eskom's total revenue increased to R71.2 billion (from R54.1 billion in 2009) due mainly to tariff increases
- The utility has a combined generation capacity of 40 870 MegaWatts
- Coal-fired energy accounts for the lion's share of energy produced (34 658 MW)
- Wind energy accounted for the lowest share of energy production - only 3 MW per year have been produced in each of the last three years
- Gas turbine (2409 MW), nuclear energy (1800 MW), pumped storage (1400 MW) and hydro-electricity (600 MW) account for the remainder of energy produced
- Given that the average age of an active power plant on the grid is 32 years and the oldest substations and lines are 53 years old, a high level of maintenance and refurbishment is required by Eskom in order to ensure an uninterrupted power supply
- Eskom's biggest challenge with electricity transmission has been land and the acquisition of related servitudes. Due to a deadlock in negotiations with landowners, Eskom has initiated the process of expropriating three servitudes (Mercury-Zeus, Spitskop-Dinaledi and Mercury-Ferrum lines).
- Critical to ensuring the security of electricity supply is the reliable transportation of coal - it is imperative that the deterioration of SA's road and rail infrastructure be reversed - and the pursuance of co-generation projects with private sector power producers
- As a result of the renegotiation of special pricing agreements with some energy-intensive users, Eskom's financial performance in the forthcoming financial year is expected to improve on its 2010 results
- Eskom's nett worth at the end of the 2010 financial year was R246.1 billion