

Parliamentary NewsWatch

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BUSA
BUSINESS UNITY SOUTH AFRICA

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PARLIAMENT NOW



Higher Education Bills

The Portfolio Committee on Higher Education and Training is inviting stakeholders and interested parties to submit written submissions on the following bills: [Further Education Colleges and Training Amendment Bill \[B13-2011\]](#) and [Higher Education Amendment Bill \[B14-2011\]](#).

[Read the call for comment](#)

The Skills Development Amendment Bill has not yet been tabled in Parliament.

Tax Administration Bill

SARS/National Treasury briefed Parliament on the Bill on 2 August 2011 in Pretoria. Email bpo@busa.org.za for copies of the briefing documents.

The Finance Standing Committee is holding public hearings on the Bill from 16-17 August. More details on the Bill on page 3.

Superior Courts Bill

BUSA presented a submission on the Bill at public hearings held on 3 August. More details on the submission on page 3. The Justice Portfolio Committee is yet to schedule deliberations.

Protection of Personal Information Bill

The Justice Committee has yet to schedule further meetings on the Bill.

AUGUST 2011

Tax Administration Bill

Coming Together



SARS/National Treasury table a bill seeking to collate regulations on tax administration and introduce a Tax Ombud.

With the Tax Administration Bill (TAB), SARS is hoping to reduce the compliance burden on taxpayers and the administrative burden on itself.

TAB proposes a modern tax administration framework that will provide taxpayers with a single administrative Act, which sets out all duties and rights in a simplified form. For SARS, the Bill seeks to collate tax provisions currently scattered across a range of legislation, and to remove inefficient and ineffective provisions.

Tax Ombud

Amongst its objectives, TAB seeks to create a Tax Ombud that would address complaints lodged by taxpayers regarding service, procedural or administrative matters. The Tax Ombud would thus create an intermediate dispute resolution mechanism prior taxpayers' approaching the courts for relief.

As TAB is currently drafted, the Tax Ombud would not be wholly independent. Clause 14 proposes that the Tax Ombud be appointed by the Finance Minister for a period of 3 years under terms set by the Minister. The Tax Ombud would also be accountable to the Minister, and subject to removal by the Minister for misconduct, incapacity or incompetence.

Disclosure to Financial Regulators

Several regulatory and enforcement agencies are currently subject to secrecy provisions that limit their ability to share information. TAB proposes the disclosure of information to: the Financial Services Board, South African Reserve Bank, Financial Intelligence Centre and National Credit Regulator.

International Best Practice

The Bill's drafting was informed by international best practice and a comparative evaluation of tax administration in other countries, including Australia, Botswana and the USA, which had long term practical experience. SARS was assisted during drafting by international tax experts from the IMF, local constitutional experts, internal SARS stakeholders and National Treasury.

Status

The Bill was approved by Cabinet on 1 September 2010 and tabled in Parliament on 23 June 2011. Public hearings are taking place at Parliament from 16-17 August 2011.



The Future of Labour Courts

BUSA comments on labour dispute resolution at parliamentary hearings on the **Superior Courts Bill**.

BUSA appeared before the Justice Portfolio Committee on 3 August to present business' submission on the Superior Courts Bill [B7-2011] and Constitution 17th Amendment [B6-2011], both of which were recently tabled at Parliament.

The Bills seek to consolidate South Africa's high court system and to make the Chief Justice the head of the judiciary.

BUSA's submission was limited to provisions relating to the Labour Courts, on which business had previously engaged with government and social partners at NEDLAC (National Economic Development Labour Council).

Labour Courts

While BUSA generally supported the amendments contained in both Bills, it drew attention to schedule 2 of the Superior Courts Bill, which proposed a consequential amendment to a section of the Labour Relations Act (LRA) that was concurrently under discussion at NEDLAC as part of a review of SA's labour legislation.

Section 152(2) of the LRA sets out the powers and jurisdiction of the Labour Court. At NEDLAC, organised labour was calling for the labour courts to be the sole courts having jurisdiction over labour matters.

To date however, the High Court has had inherent jurisdiction over labour matters and has heard labour disputes, particularly those underpinned by common law of contract or administrative law, which falls outside the ambit of the LRA. Disputing parties have had, in some circumstances, the opportunity to choose whether to refer their dispute to either the Labour Court or High Court.

BUSA's Recommendation

BUSA recommended to Parliament that the proposed amendment of s152(2) remain at NEDLAC where social partners could put their effort into resolving the matter. It was suggested that it might be premature for the Committee to be seized with this matter in terms of the Superior Courts Bill, as the issue would come before Parliament again as part of the package of proposed labour law amendments.

Going Forward

The Department of Justice has indicated at NEDLAC that it intends conducting a study of the framework of all SA courts. Should the study make recommendations on the future of the labour courts, the Department undertook to bring the matter to NEDLAC for deliberation.

The Justice Portfolio Committee has yet to deliberate on BUSA's submission.

STATUS QUO

- The Labour Court has the same status as a High Court
- The Labour Court adjudicates labour disputes between employer and employee arising from the Labour Relations Act
- The Labour Appeal Court hears appeals of decisions from the Labour Court and is the highest court for labour disputes
- The High Court has concurrent jurisdiction on certain labour matters, particularly those underpinned by common law
- The Supreme Court of Appeals hears appeals arising from the High Court

The Private Sector's role in delivering Public Transport

"What role is the private sector expected to play in the delivery of an efficient, affordable and accessible integrated [nationwide] public transport network?" was the question posed to the Minister of Transport by a Member of Parliament recently.

Road Transport

In his written reply, the Minister responded that the private sector plays a major operational role in road-based public transport and would continue to do so in future under the regulation and control of municipalities. Government's vision is for municipalities to have integrated transport network plans in respect of which public and private sector operators would be approached to supply services.

Rail Transport

On rail, the Department of Transport (DoT) is undertaking a feasibility study to explore private sector involvement in the replacement of the existing Metrorail and Shosholoza Meyl fleet, possibly along the lines of the Gautrain project which is operated by the private sector under the regulatory supervision of the Gauteng Provincial Government.

Funding

The DoT is working with National Treasury, provinces and municipalities to motivate for additional funding for new plans and services. The DoT currently channels funding into road and rail public transport via a number of government grants as well as budget allocations to the Passenger Rail Agency of South Africa (PRASA).

new regulations on Energy Efficient Buildings

Regulations on energy efficient buildings are to be promulgated by the Department of Trade and Industry in August 2011, according to a written reply by the Minister of Energy to a parliamentary question.

The Department of Energy is consulting with the DTI on the regulations, which will amend the National Building Regulations to enforce compliance with energy efficiency.

The regulations will apply only to new buildings, both commercial as well as residential.

Amongst its requirements, the Regulations will stipulate that all new buildings must receive at least 50% of their hot water from technologies other than electrical resistance heating - implying that all new buildings must include either a solar water heater or some other renewable energy form of water heating.