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PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

THURSDAY, 2 MAY 2024

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ANNOUNCEMENTS

National Council of Provinces

The Chairperson

1. Referral to Committees of papers tabled

Please note: The following entry replaces entry No 1(a) on page 2 in the name of The Chairperson, published in ATC (Announcements, Tablings and Committee Reports), dated 30 April 2024.

- (1) The following paper is referred to the **Select Committee on Security and Justice** for consideration and report:
 - (a) Correspondence from Adv. G Breytenbach, Member of Parliament, regarding submission of notice in terms of section 74(5)(c) of the Constitution, read with Rule 102 of the NCOP of the Constitution Twenty First Amendment Bill, those particulars submitted to the Council for public debate.
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TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Social Development

- (a) Memorandum of Understanding between the Government of the Republic of South Africa and the Government of the Kingdom of Saudi Arabia on Co-operation in the Field of Social Development, tabled in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996.
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COMMITTEE REPORTS

National Assembly

1. Report of the Portfolio Committee on Social Development on the Ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, dated 02 May 2024:

The Portfolio Committee on Social Development (henceforth, the Committee), having considered the ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, reports as follows:

Background

The process of developing the Protocol started in 2012. The protocol is based on the three priorities of the Madrid International Plan of Action on Ageing, as well as the African Union Policy Framework on Ageing. The three pillars of the Madrid International Plan of Action on Ageing are (i) older persons and development, (ii) advancing health and well-being into old age and (iii) ensuring enabling and supportive environment. The Government of the Republic of South Africa is one of the African Union (AU) Member States that adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa on 31 January 2016 in Addis Ababa, Ethiopia. This took place at the Twenty Sixth (XXVI) Ordinary Session of the AU Assembly of Heads of States and Government in Addis Ababa, Ethiopia.

Currently, fourteen (14) out of fifteen (15) countries have signed, ratified and domesticated the AU Protocol. There is a need for only one country to sign in the Protocol so that it could be binding for all AU member states. South Africa is one of the countries that have not yet signed, ratified and domesticated.

Purpose

The Protocol is a transformative legal instrument providing norms and standards in ensuring respect and protection of the rights of older persons in Africa. The purpose of the Protocol is to promote and protect the rights of older persons and to guarantee that they are enabled to contribute and participate in the life of their societies. The Protocol

will set standards necessary for the elimination of age discrimination to ensure access to justice and equal protection before the law.

The Protocol provides for obligations of States Parties, duties of older persons, rights for older persons and provisions relating to the implementation and popularisation of the Protocol. In particular, the Protocol aims to eradicate all forms of discrimination against older persons; prohibit and criminalise harmful traditional practices targeted at older persons; and to guarantee protection of older women against abuses related to property and land rights.

Value proposition for South Africa

Signing and ratifying of this Protocol will strengthen the protection of the rights of older persons in South Africa in line with the Older Persons Act, 2006 including the Constitution of the Republic.

The adoption of the Protocol will also ensure that older persons are treated with dignity and respect, and as equal members of society. It will also serve as a tool for the development of age-friendly policies and legislation that recognise the potential and talents of older persons. This will ensure the full enjoyment of the human rights and freedoms in increasingly ageing societies. The Protocol will set standards necessary for the elimination of age discrimination to ensure access to justice and equal protection before the law.

It will also strengthen the intersectoral collaboration by defining roles and responsibilities of stakeholders. Furthermore, it will facilitate the mainstreaming of ageing issues across government departments, private sector, NPOs etc. In addition, it will facilitate the development of policies that promote active ageing, decision making, contribution to policy and programme development, review, monitoring and evaluation etc. Lastly, it will promote integrated efforts in policy and programme development, implementation, monitoring and evaluation etc.

Signing and ratifying this Protocol will also strengthen the multilateral and international measures created in Africa for the safeguarding of the interests of older persons. In addition, it will demonstrate South Africa's commitment to human rights in this area

while also providing further impetus to the consolidation of the protection of the rights of older persons domestically.

Parliamentary Process

The ratification for the Protocol was tabled in Parliament on the 27 October 2023, and referred to the Committee on 30 October 2023. The Committee received a briefing on the Protocol from the Department of Social Development on the 02 May 2024. It thereafter, considered and adopted a report on the protocol.

Recommendation

The Committee recommends that the House, in terms of Section 231(2) of the Constitution of the Republic of South Africa 1996, approves the Protocol.

Report to be considered.

National Council of Provinces

1. Report of the Select Committee on Education and Technology, Sports, Arts, and Culture on the Basic Education Laws Amendment Bill [B2B – 2022], dated 02 May 2024.

The Select Committee on Education and Technology, Sports, Arts, and Culture (the Committee), having considered the subject of the Basic Education Laws Amendment Bill [B 2B -2022] (National Assembly – Sec 76); referred to it as a section 76 Bill, reports as follows:

1. Introduction

The draft Bill proposes to amend the South African Schools Act, 1996 (Act No. 84 of 1996), and the Employment of Educators Act, 1998 (Act No. 76 of 1898) (the SASA and the EEA, respectively), so as to align them with developments in the education landscape. This is to ensure that systems of learning and excellence in education are put in place in a manner which respects, protects, promotes and fulfils the right to basic education enshrined in section 29(1) of the Constitution of the Republic of South Africa, 1996. Certain technical and substantive adjustments are also made to the SASA and the EEA. This is to clarify certain existing provisions and to insert certain provisions to cover matters which are not provided for in the existing legislation.

2. The Select Committees process followed in processing the Bill.

On the 26th of October 2023, the National Assembly Passed the BELA Bill, which was subsequently referred to the National Council of Provinces. On the 08th of November 2023 the Department of Basic Education (DBE) presented the BELA Bill [B2B-2022] to the Select Committee on Education and Technology, Sports, Arts, and Culture. The parliamentary legal services provided a legal framework on the processing of the Bill. On the 13th of November the Bill was referred to the nine provinces in the country to allow for them to conduct their public participation process on the Bill until the 15th of February. The Select Committee conducted its own public participation process by calling for submissions by all interested parties on the Bill from the 20th of November 2023 until the 19th of January 2024. On the 15th of January

various stakeholders and NGOs sent written requests for an extension in making submissions. An extension was granted. The deadline for written submissions was extended to the 31st of January 2024. On Friday the 2nd of February 2024, the committee secretary delivered an update on the progress of provinces in terms of public participation. Occurring after the Western Cape provincial legislature requested for an extension until the end of April 2024 to conduct their public hearings on the BELA Bill. The Select Committee however, issued an extension to all provinces to conclude their public participation process by the 29th of February 2024. In the Select Committees call for written submissions, a total of 38 170 submissions were received and analysed. Upon analysing the written submissions to the Select Committee, about 32 organisations requested to make additional oral submissions to the committee, of which the request was granted. From the 06 to 08 March 2024, the Select Committee held oral hearings with all 32 organisations on a virtual platform. The organisations that made oral submissions were as follow:

- AfriForum
- Independent Schools Association of Southern Africa (ISASA)
- SA Onderwysersunie (SAOU)
- Concerned Young People of South Africa (CYPSA)
- Western Cape Forum for Intellectual Disability (WCFID)
- Federation of Governing Bodies of South African Schools (FEDSAS)
- South African Education Development Trust (SAAOT)
- ActionSA
- FW de Klerk Foundation
- Solidarity
- Equal Education and Equal Education Law Centre
- Centre for Child Law
- South African Institute of Race Relations NPC (IRR)
- Fathers 4 Justice South Africa
- Association for Homeschooling
- Gauteng Association for Homeschooling
- Skole Ondersteuning Sentrum (SOS)
- Hoer Landsbou Skool Jacobsdal
- Pestalozzi Trust

- Christian View Network
- Cape Home Educators
- Selborne Primary School SGB
- Laerskool Laeveld SGB
- Northcliff High School SGB
- Independent Micro Schools / Education First Research Group
- Section27
- Learning Kat Remedial Teaching
- Learn Free
- Home School Association South Africa (HSSA)
- Let's do it 2gether 4 EDUCATION
- The Cape Forum
- Ms Tanya Furniss (Private)

On the 13th of March 2024, the Select Committee held a meeting where the committee report from the written and oral submissions was considered and adopted by the committee. On the 20th of March the committee received a response from the DBE on the issues raised during the submissions in the committee's report.

3. The Negotiating Mandates

On the 27th of March 2024, the committee convened a meeting to receive the provincial negotiating mandates of the BELA Bill, whereby eight of the nine provinces voted in favour of the Bill.

The following reflects the vote of the provincial legislatures in respect of the Basic Education Laws Amendment Bill [B2B-2022]

Province	In Support/ Not in Support
Gauteng	In Support
North West	In Support
Eastern Cape	In Support
Western Cape	Not in Support
Free State	In Support

Northern Cape	In Support
Mpumalanga	In Support
Kwa-Zulu Natal	In Support
Limpopo	In Support

The Eastern Cape Legislature supported the Bill but proposed amendments to several clauses to strengthen the provisions. Some of the proposed amendments dealt with monitoring learner attendance, effective search and seizure at schools, training provided to School Governing Bodies, and empowering the Minister to make regulations on learner disciplining methods that are alternatives to the abolished corporal punishment.

4. Deliberations on the Clause-by-Clause

From the 17th of April 2024, the Parliamentary Legal Advisor presented a detailed analysis of the constitutional provisions related to education rights. Focusing on the state's obligations to ensure access to basic education and the right to establish Independent Educational Institutions. The need for compliance with international laws and treaties was emphasized. Including the implications of the proposed Amendment Bill on existing legislation and education policies. A detailed explanation of the constitutional obligations and rights related to public engagement, emphasizing the role of legislatures in facilitating public involvement and considering public views in the legislative process was provided. The legal advisor further distinguished between facilitated public engagement and referendums, highlighting the different purposes and processes involved in each. The legal advisor also referred to specific legal definitions and acts to support her points. Though concession may have come from the responses by the Department on their responses, and the fact that they, as the Parliamentary Legal Unit, were also making suggestions of possible amendments, it was still their considered view that the current version of the Bill was perfectly fine, and if it were to be taken for litigation, it may pass constitutional muster, but that is the place for the courts.

The legal advisor further made a presentation on procedural matters raised during the Committee meetings on the processing of the Bill. The presentation was prepared considering the questions and requests made during the progression of activities of the Committee in its past meetings. It sought to show the required principles of reasonableness, s36 limitation

exercise and striking the balance demanded by the stipulations of s28, 29 and 36 of the Constitution. The legal advisor concluded by cautioning the members not to prioritize technical matters over form and substance on that which will help every child.

The Committee deliberated on the BELA Bill clause-by-clause from the 17th to the 18th of April 2024, considering the submissions from public, and the responses given by the DBE. For each of the clauses the Committee followed the following format:

- The Legal Advisor to read the clause in totality.
- An input by the DBE
- Members deliberations and engagements
- Responses from DBE, the State Law Advisor and Parliamentary Legal Services
- Committee final decision on the Clause (support/not support/object/amend/remove).

The committee called for amendments of various clauses as listed in the C-List of the BELA Bill [B2C-2022].

5. Consideration of the C-List of the BELA Bill

On the 24th of April, the Parliamentary Legal Advisor took the Committee through the list of amendments that were agreed to during the clause-by-clause deliberations stage on the BELA Bill. A total of eight out of nine provinces supported the C-List amendments.

The members voted for the amendments on the C-List as follows:

Province	In Support/ Not in Support of amendments
Gauteng	In Support of amendments
North West	In Support of amendments
Eastern Cape	In Support of amendments
Western Cape	Not in Support of amendments
Free State	In Support of amendments
Northern Cape	In Support of amendments
Mpumalanga	In Support of amendments
Kwa-Zulu Natal	In Support of amendments
Limpopo	In Support of amendments

6. Consideration of Final Mandates

On the 2nd of May 2024 the members deliberated on the D-version of the BELA Bill [B 2D-2022]. The Final Mandates submitted by the nine provinces were considered on the 2nd of May 2024, which were submitted as follows:

Province	In Support/ Not in Support
Gauteng	In Support
North West	In Support
Eastern Cape	In Support
Western Cape	Not in Support
Free State	In Support
Northern Cape	In Support
Mpumalanga	In Support
Kwa-Zulu Natal	In Support
Limpopo	In Support

7. Outcome of Committee's consideration of the Bill

The Select Committee on Education and Technology, Sports, Arts, and Culture having deliberated on and considered the subject of the Basic Education Laws Amendment Bill [B 2B-2022], referred to it as a section 76 Bill, reports that it has agreed to it with amendments [B 2D-2022].

8. Consideration of the Committee's Report

The Committee considered the Report and eight provinces voted in support and one province voted not in support as follows:

Province	In Support/ Not in Support
Gauteng	In support
North West	In support
Eastern Cape	In support
Western Cape	Not in support
Free State	In support
Northern Cape	In support
Mpumalanga	In support
Kwa-Zulu Natal	In support
Limpopo	In support

Report to be considered.