



**THE STANDING COMMITTEE ON
CONSTITUTIONAL AFFAIRS,
PETITIONS & PUBLIC
PARTICIPATION**

Private Bag X5066
Kimberley 8300
Nobengula Extension
Galeshewe
Kimberley 8300

Fax: Admin (053) 839 8094
Tel: (053) 839 8149

Hon TMH Mofokeng
Chairperson: Select Committee on Security & Constitutional Development

NEGOTIATING MANDATE

Name of the Bill: Legal Practice Bill

Number of the Bill: B20B-2012

Date of deliberation: 14 Friday 2014

Vote of the Legislature: The Northern Cape Provincial Legislature votes in favour of the Bill.

AJ Beukes
Hon AJ Beukes
Chairperson

2014-02-19
Date



Private Bag X5066
Nobengula Extension
Galeshewe
Kimberley 8300

Fax: Admin (053) 839 8094
Tel: (053) 839 8206

Reference: 16.7.1.1

Enquiries: J Masinga

NEGOTIATING MANDATE FOR THE LEGAL PRACTICE AMENDMENT BILL [B20B-2012]

(Section 76 Bill)

1. INTRODUCTION

The Chairperson of the Standing Committee on Constitutional Affairs, Petitions & Public Participation, Hon AJ Beukes, tables the negotiating mandate on the *Legal Practice Amendment Bill* [B20B-2012] as adopted by the Committee on **Friday, 14 February 2014**.

2. PROCESS FOLLOWED

2.1 The Speaker of the Northern Cape Provincial Legislature, on receipt, referred the *Legal Practice Amendment Bill* [B20B-2012] to the Standing Committee on Constitutional Affairs, Petitions & Public Participation on **Tuesday, 12 November 2013**.

2.2 On **Friday, 31 January 2014**, the Standing Committee on Constitutional Affairs, Petitions & Public Participation received a briefing on the Bill from the National Department of Justice & Constitutional Development and the NCOP Permanent delegate Hon J Gunda.

2.3 The Standing Committee resolved at the meeting of **Friday, 31 January 2014** to hold public hearings on the referred Bill, in the Siyanda Region (Kakamas), to solicit the views of communities and stakeholders with regard to the *Legal Practice Amendment Bill* [B20B-2012]

The public hearing was held on **11 February 2014** as per Committee resolution and both written and oral submissions were called for. The public engaged with the Members of the Provincial Legislature in respect of the Bill.

On **Friday, 14 February 2014**, the Standing Committee on Constitutional Affairs, Petitions & Public Participation deliberated and considered the *Legal Practice Amendment Bill* [B20B-2014]

3. STAKEHOLDERS' INPUTS ON THE BILL

3.1 Subject to subsection (3), the Minister must designate two fit and proper persons who have knowledge of the legal profession.

3.2 Expedited the establishment of the National Forum on Legal Professions to Speed-up the drafting on regulations and Rules.

3.3 Find attached written submissions by:

- The General Council of the Bar of South Africa,
- The Law Society of South Africa and;
- The South African Attorneys Association

4. STAKEHOLDERS' POSITION ON THE BILL

The stakeholders voted in favour of the Bill.

5. COMMITTEE INPUTS ON THE BILL

5.1 **Clause 7(1) (b)** – that the Bill include that the teachers of law have the appropriate qualifications.

5.2 **Clause 7** --- the committee suggests that this clause include a sub-clause that states that female legal practitioners be proportionally represented in the Council to effect transformation in the profession, the bar and the bench.

5.3 **Clause 26(1) (c)** – that the Minister in consultation with the Council prescribes the practical vocational training requirements for a candidate legal practitioner.

5.4 **Clause 29(1)** – that the Minister in consultation with the Council prescribe the requirements for community service

5.5 **Clauses 37 – 40 Establishment of disciplinary bodies.** The Standing Committee proposes that sections 37 to 40 be deleted and substituted with the following section:-

5.5.1 **37 (1) The Council must, in consultation with the South African Law Reform Commission develop a uniform disciplinary code to deal with all complaints of misconduct against legal practitioners, candidate legal practitioners or juristic entities.**

5.5.2 **The Minister must publish the uniform disciplinary code in the Gazette.**

5.6 **Clause 47(1)** – that the President appoints the Legal Services Ombud in consultation with the Chief Justice.

5.7 **Clause 50(1) and (2)** – that the President must in consultation with the Chief Justice make the appointment of the acting Ombud.

5.8 **Clause 96(1)(c)** be substituted with the following section

5.9 Subject to subsection (3) two **fit and proper** persons **with relevant** [who in the opinion of the Minister, are fit and proper persons who have] knowledge of the legal profession, designated by the Minister.


6. PORTFOLIO COMMITTEE POSITION ON THE BILL

After due deliberation, the Standing Committee on Constitutional Affairs, Petitions & Public Participation, **supports** the Bill.

7. COMMITTEE ADOPTION OF THE BILL

The Committee adopted this negotiating mandate duly signed by the Chairperson of the Committee.

The Committee recommends to the House to mandate the Permanent Delegates to participate in deliberations at the negotiating stage and to **support** the Bill taking note of the comments and recommendations raised by the Committee.



Hon AJ BEUKES
CHAIRPERSON

Date: 19 FEB 2014

