



civilian secretariat for police service

Department:
Civilian Secretariat for Police Service
REPUBLIC OF SOUTH AFRICA

LEGISLATIVE PROGRAMME FOR THE SIXTH ADMINISTRATION

The drafting process of the following Bills commenced during the fifth Administration and they are now at an advanced stage:

Draft South African Police Service Amendment Bill

- The Bill seeks to amend the South African Police Service Act 68 of 1995 in order to update the Act in respect of the latest policing policies of Government towards the professionalisation of the service, as well as to address the Constitutional Court judgment in the Helen Suzman Foundation matter and align the Act with provisions of the Constitution of the Republic of South Africa 1996.
- The draft Bill is at an advanced stage.
- Socio-Economic Impact Assessment System (SEIAS) Report and Cabinet Memorandum still need to be prepared.
- The intention is to submit the Bill to Cabinet for approval to publish in *Gazette* for public comments in the 3rd Quarter.
- Introduction to Parliament is envisaged in the 1st Quarter of 2020/21.

Draft Firearms Control Amendment Bill

- The Bill seeks to among other issues, provide a framework for a holistic approach to the control and use of firearms and ammunition.
- The drafting of the Bill is at an advanced stage.
- Extensive internal consultation with relevant departments and stakeholders, which includes the Office of Chief State Law Advisor (OCSLA) has taken place.
- The SEIAS Report has been concluded and Cabinet approval for publication in the *Gazette* is planned for the 4th Quarter.

Draft Second Hand Goods Amendment Bill

- The objects of the Bill are to amend a number of sections of the Second Hand Goods Act, 2009, that have been identified as giving rise to challenges in the implementation and the interpretation of the Act.
- The Bill strives to improve the practical implementation of the Act which will enhance the regulation of the business of dealers in second hand goods and the effort to combat the trade in stolen goods.
- The drafting of the Bill is at an advanced stage.
- Consultations have been held with the CSLA and they raised some concerns which have been addressed.
- Certification will be sought from the OCSLA and cabinet approval for publication in is planned for the 1st Quarter of 2020/21.

Draft Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill (POCDATARA)

- The Amendment Bill provides for the updating of the status of international instruments referred to in the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004) (“Act”), and for incorporation into the Act of the international instruments which were adopted since the implementation of the Act, and of those which the Republic has not yet ratified or acceded to but desires to become a Party thereto.
- It also seeks to effect certain technical amendments to the Act in order to strengthen the legislative framework for combating terrorism.
- The draft Bill is at an advanced stage.
- Internal consultations have been concluded.
- The Cabinet Memorandum is being finalised for approval to publish in the *Gazette*.
- The submission of the Bill to Cabinet to approve for publication in *Gazette* for public comments is envisaged in the 4th Quarter and Introduction to Parliament in 2020/21.

Draft Controlled Animals and Animal Products Bill

- The Bill seeks to regulate the possession and ownership of controlled animals and to control the movement of controlled animals and animal products within and through the borders of the Republic of South Africa in order to combat crimes related to the possession, ownership or movement of controlled animals and animal products; and to provide for matters connected therewith.
- The Bill will repeal the Stock Theft Act.
- Internal consultations with relevant stakeholders are concluded e.g. Provincial Stock Theft Units, National Association of Farmers Union and Traditional Leaders.

- The Draft Bill has been submitted to the CSLA for consultation and preliminary certification.
- Discussions are taking place with the Department of Planning, Monitoring and Evaluation regarding the SEIAS Report.
- Cabinet approval for publication is envisaged in the 1st Quarter of 2020/21 Financial Year.

Draft Independent Police Investigative Directorate Amendment Bill

- The draft Independent Police Investigative Directorate Amendment Bill was processed as a Committee Bill.
- The Constitutional Court declared the following provisions invalid to the extent that they authorised the Minister of Police to suspend, take disciplinary steps, or remove from office the IPID Executive Director:
 - section 6(3)(a) and 6(6) of the Independent Police Investigative Directorate Act, 2011;
 - sections 16A(1), 16B, 17(1) and 17(2) of the Public Service Act, Proclamation 103 of 1994;
 - Regulation 13 of the IPID Regulations.
- The Independent Police Investigative Directorate Amendment Bill was finalised by the Portfolio Committee in 2018.
- In view of there being a Constitutional Court deadline (5 September 2018), the Portfolio Committee processed the amendments to the Bill before the Constitutional Court deadline.
- The Bill was passed by National Assembly and transmitted for concurrence to the National Council of Provinces (NCOP) on 4 September 2018.
- Parliament's Legal Services Division has applied for an extension of the deadline in order for the NCOP to deal with the amendments.
- IPID have indicated that they are not satisfied with the amendments. IPID is of the opinion that in order for it to discharge its mandate fully and precisely, the Act has to be amended in its entirety.

Draft Criminal Law (Forensic Procedures) Bill

- The Criminal Law (Forensic Procedures) Amendment Act, 2013 (the Act) came into operation in January 2015 and provides for, among other things, the taking of buccal samples (a sample of a person's saliva taken from the person's mouth) from all convicted Schedule 8 offenders for the purposes of forensic DNA analysis, within a period of two years from the date of commencement of the Act.
- The Act commenced on 31 January 2013 and the period of transition within which the buccal samples ought to have been taken from convicted Schedule 8 offenders expired on 31 January 2017 before SAPS and Correctional Services completed with the process of taking buccal samples from these offenders. As a result buccal samples still needs to be taken from convicted schedule 8 offenders whose buccal samples were not taken prior to the date of commencement of the Act.
- Challenges were encountered with regard to full and effective implementation of the requirement for taking of buccal samples in the Act, as some Schedule 8 convicted offenders simply refused to submit to the taking of buccal samples. The State was also not in a position to complete the taking of buccal samples from all convicted of Schedule 8 offences.
- Objective of the Bill are to
 - provide for a further transitional provisions in respect of the full implementation of the Act.
 - provide for the enforcement of the obligation to submit to the taking of buccal samples.
- The Bill was scheduled to be presented to the JCPS Cabinet Committee in May 2018
- Minister deferred the presentation as he sought information regarding figures of outstanding sampling of schedule 8 offenders
- Furthermore, the JCPS Cabinet Committee advised the Minister to consider a legislation that will compel all citizens of the country to be subjected to buccal sampling.

- Since the above is not within the competence of the Minister of Police, a correspondence has been forwarded to the Minister of Home Affairs requesting him to initiate a legislation for buccal sampling to all the citizens of the country.
- Further processing of this legislation will depend on the response from the Minister of Home Affairs.

Civilian Secretariat for Police Service Amendment Bill

- The White Paper on Policing and the White Paper on Safety and Security makes policy shifts that calls for the amendment of certain clauses in the Civilian Secretariat for Police Service Act.
- The process to amend the CSPA Act will commence once we complete the amendment of the SAPS Act.