**POLICY ASSESSMENT AND RECOMMENDATION REPORT OF THE SELECT COMMITTEE ON TRADE AND INDUSTRY, ECONOMIC DEVELOPMENT, SMALL BUSINESS DEVELOPMENT, TOURISM, EMPLOYMENT AND LABOUR ON BUDGET VOTE 31: EMPLOYMENT AND LABOUR, 23 MAY 2023.**

The Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour, having considered the budgets of the Department *Strategic Plans and the 2023/24 Annual Performance Plans* which were presented on 25 April 2023, reports as follows:

1. **Introduction**

Unemployment, inequality and poverty remain key risks that need to be addressed, as it is noted that young people and women, including people with disabilities, are the groups most at risk. The National Development Plan (NDP) recognises job creation as a key driver for accelerated growth and a higher standard of living. The NDP has certain targets, including a reduction in the unemployment rate to 14 per cent by 2020 and 6 per cent by 2030. There is a correlation between low economic growth rate experienced by the South African economy and high level of unemployment.

As noted by various government strategy policy documents including reports by global institutions such as IMF, OECD, as well as South Africa’s Central Bank, South Africa entered the Covid-19 phase with pre-existing economic and social risks, such as low economic growth, low investment, high budget deficit, and high debt-to-GDP ratio.

In 2022, the Financial Fiscal Commission highlighted that to realise some of the NDP’s goals, workforce capabilities need to improve, bargaining and labour relations should be stabilised, a move away from resource-intensive to more energy-efficient labour-absorptive industries should be promoted and industries with high potential for job creation should be supported. The 2023 Budget Review highlighted that the inadequate supply of electricity remains the most significant constraint to production, investment, and employment. In addition, disruptions to and underinvestment in freight and logistics networks are eroding competitiveness. Rising inflation has also put a strain on household spending and increased the cost of living. Furthermore, global growth is expected to slow down in 2023, and central banks are responding to high inflation through increased interest rates. To address unemployment and poverty, South Africa needs much higher economic growth, which requires a continued commitment to a macroeconomic framework that encourages investment, accelerated progress on reforms, and improved state capability.

In view of this global economic background, the Department has set a goal to eradicate poverty and decrease inequality in the medium term. To support and achieve this vision, the Department will prioritise efforts to improve safety and fairness in the workplace, provide assistance to job seekers, regulate workplaces, and participate in international collaborations like the BRICSgroup of countries to influence the future of work and safeguard workers’ rights. The Department has been allocated a budget of R12.1 billion for the upcoming period, which includes R96.9 million for cost-of-living adjustments. To support the additional mandate (employment component) of the Department, in the upcoming fiscal year of 2023/24, the Department will be granted R372.2 million to sustain the pathway management network, a presidential employment initiative. The network's primary objective is to generate employment prospects, promote easier entry to suitable education and training programs, help young individuals make informed decisions regarding learning and employment opportunities, and pinpoint the hindrances to accessing the job market.

1. **Governance and Spending**

The Department administers the following pieces of legislation:

* Labour Relations Act, 66 of 1995 (LRA, as amended;
* Basic Conditions of Employment Act, 75 of 1997 (BCEA), as amended;
* Employment Equity Act, 55 of 1998 (EEA), as amended;
* Unemployment Insurance Act, 30 of 2001, as amended (UIA);
* Occupational Health and Safety Act, 85 of 1993 (OHSA);
* Compensation for Occupational Injuries and Diseases, Act 130 of 1993 (COIDA;
* National Economic Development and Labour Council Act, 35 of 1994 (NEDLAC);
* Employment Services Act 4 of 2014 Skills Development Act 97 of 1998 Sections 24– 26;
* Unemployment Insurance Contributions Act, 4 of 2002; and
* National Minimum Wage Act, Act 9 of 2018.

The Department reported that over the medium term it will continue to focus of the following policy priorities:

* Priority 1: A capable, ethical and Developmental State;
* Priority 2: Economical transformation and job creation;
* Priority 3: Education, skills and health;
* Priority 4: Consolidating the social wage through reliable and basic services;
* Priority 6: Social cohesion and safer communities;
* Priority 7: A better Africa and a better world;

The Department delivers its legislative and policy mandate through core functional policy priorities constituted around crucial policy functional areas namely; *Programme 2: Inspection and Enforcement Services; Programme 3: Public Employment Services and Programme 4: Labour and Industrial Relations.* *Programme 1: Administration* providing overall core administrative support to enable the three functional policy areas to realise their legislative and policy functional requirements. The Department further play oversight role over the following entities: Commission for Conciliation, Mediation and Arbitration (CCMA); NEDLAC; Productivity of South Africa (PSA); UIF; CF; and Supported Employment Shelter (SEE).

**Table 1: Medium Term Spending**



***Source: 2023 National Treasury Estimates of National Expenditure***

In the *2023 Estimates of National Expenditure*, the Department provided an overview of expenditure outlining the following priorities:

***Increasing safety and fairness in the workplace***

Through its advocacy programmes, which include 12 seminars and 6 conferences over the medium term, the Department plans to increase its national footprint by ensuring compliance with employment law. This is expected to improve fairness in the workplace, especially for young people, people with disabilities and women, and transition workers from the informal to the formal economy. To ensure compliance with the law and occupational health and safety standards, the Department plans to conduct 894 312 employer inspections over the period ahead. The implementation of the case management system in 2022/23 is expected to ensure that the Department’s business processes are fully modernised, which will lead to, among other things, more focused inspections. Over the medium term, the Department plans to improve and strengthen its enforcement function. This entails ensuring that 65 per cent of employers who fail to comply with served notices are issued with fines and/or penalties and are referred for prosecution within 30 calendar days, and that 95 per cent of noncompliant employers are served with legal notices within 14 calendar days.

Spending for these activities is within the *Inspection and Enforcement Services* programme, which is allocated 16.4 per cent (R2 billion) of the Department’s budget over the medium term. Spending in the programme increases at an average annual rate of 4.9 per cent, from R614.9 million in 2022/23 to R709.2 million in 2025/26.

***Providing support to work seekers***

Facilitating access to decent employment is central to the Department’s work and is primarily funded through the *Public Employment Services* programme. Over the medium term, it plans to register 2.9 million work seekers, provide counselling to 780 000 work seekers and place 195 000 work seekers in registered employment opportunities.

In 2022/23, the Department drafted the South African national employment policy in partnership with the International Labour Organisation. The purpose of the policy is to determine a sustainable approach to employment growth. In line with the policy, the Department plans to establish an employment war room over the medium term. The purpose of this intervention is to bring together government Departments, business experts, and labour and community organisations. The Department will also focus on implementing an accessible framework for active labour market policies that supports work seekers by, among other things, digitising applications for vacancies and providing employment counselling through the Employment Services of South Africa system. This is expected to be done in collaboration with private employment agencies with the aim of facilitating viable pathways to employment.

The Employment Services of South Africa online application, has been developed and was to go live on 1 April 2023. Limited data and internet access are still hindrances to work seekers. In addition, all youth employment centres that were built in 2022/23 will have free Wi‐Fi. Internet connectivity will also enable work seekers to access other tools that assist youth to better understand their career aspirations and build capacity.

In 2022/23, the Department drafted the new national migration policy and proposed amendments to the Employment Services Act (2014). A strong focus over the MTEF period will be on the rapid implementation of these amendments, which is expected to provide more employment opportunities for young South Africans, particularly in the hospitality, tourism and agriculture sectors.

***Regulating the workplace***

The Department plans to conduct an annual review of the national minimum wage over the medium term. This will include the development of monitoring mechanisms to measure its impact on the economy, collective bargaining, the reduction of income differentials, and proposed adjustments. The Commission for Conciliation, Mediation and Arbitration spearheads the Department’s efforts in this regard and is set to receive an estimated 77.6 per cent (R3.3 billion) of the *Labour Policy and Industrial Relations* programme’s allocation over the medium term.

***Shaping the future of work and protecting workers’ rights***

Over the period ahead, South Africa’s key engagement in multinational platforms includes assuming the presidency of the BRICS group of countries for 2023. The Department hopes to use this platform, as well as the ministerial meeting on labour and employment in September 2023, to shape the future of work and protect the rights of workers in new forms of employment. The following priorities are expected to be deliberated on in the BRICS forum:

* building sustainable enterprises, including new forms of employment; increasing productivity;
* promoting labour rights and decreasing decent work deficits in the context of economic recovery after the COVID‐19 pandemic; and
* ensuring universal social protection and minimum basic income; and promoting decent work by closing skills gaps in the informal economy. For this purpose, the Department has budgeted R15 million in the *Labour Policy and Industrial Relations* programme.

The purpose of *Programme 1: Administration* programme is to provide strategic leadership, management and support to the Department. The key outputs in the Annual Performance Plan (APP) for this programme for the 2023/24 financial year include the following:

* Percentage of vacant funded posts maintained (7 percent or less per quarter)
* Improve the Information Security status of the Department per annum (100 percent implementation of Roadmap Phase 1)
* Ensure functionality of ethics structures and adequate capacity per annum (Rollout of Ethics Management Plan for the year)
* Percentage of corruption/ fraud cases finalised by Department through investigations within six months of receipt (75 percent)
* Percentage of consequence management cases related to corruption cases finalised by Employment Relations (ER) through investigation within 90 days (80 percent)

Programme 1: Administration will provide support services to the different Branches of the Department in order to achieve the outputs. The Department reported that although the capacity is limited, there should be other innovative ways of ensuring that sufficient support is provided. The experience and lessons learnt from the Covid-19 pandemic has exposed ICT to the urgent need to be more agile in dealing with ICT needs by the clients and the need to have electronic media as the cornerstone of delivering services as well as communication within the Department. The Covid-19 pandemic has accelerated the need for digitisation of the departmental processes and ICT should be provided with resources to enable it to take the Department to greater heights. The Administration programme allocation over MTEF has increased with baseline growth at annual average of 4.5 percent over the MTEF period. In order for the programme to continue providing management support services towards the core functions of the Department, reprioritisation on major line items has been effected. Over the MTEF period, the budget allocation increased from R1.075 billion in first year, R1.132 billion in second year and R1.195 billion in the outer year. Programme 1: Administration’s overall budgets declined by 6,85 percent real decrease in 2023/24 financial period, thus less than R 25,2 million in nominal terms will be spent on this function when compared with the previous financial period.

The purpose of Programme 2: *Inspection and Enforcement Services* is to realise decent work by regulating non-employment and employment conditions through inspection and enforcement to achieve compliance with all labour market policies. According to the 2023 APP, key deliverables under this programme include the following:

* Conducting 298 332 compliance inspections
* Serving 95 percent of noncompliant employers inspected with a notice in terms of relevant employment law within 14 calendar days of inspection
* Referring for prosecution 65% of employers who fail to comply with a served notice within 30 working days
* Increasing awareness of employment law through formal advocacy sessions at 4 seminars and 2 conferences.

The allocated budget for the Branch to implement its Programmes, is R650.552m, R679.241m and R709.157m respectively, over the medium-term. Overall, there is an R 5,2 million increase in real terms or 0.85-percentage change in real terms in the budget allocation for the Inspection and Enforcement Services (IES) programme for the financial period 2023/24 compared with the 2022/23 period. Just five of the six sub-programmes in the IES branch saw a decrease in real terms. The increase in Sub-programme 4: Compliance, Monitoring and Enforcement Services in budget allocation will impact the effectiveness of the Department’s objectives to protect vulnerable workers through the inspection and enforcement of labour legislation. Spending for these activities is within the Inspection and Enforcement Services programme, which is allocated 16.4 per cent (R2 billion) of the Department’s budget over the medium term. Spending in the programme increases at an average annual rate of 4.9 per cent, from R614.9 million in 2022/23 to R709.2 million in 2025/26.

The purpose of Programme 3: Public Employment Services is assist companies and workers to adjust to the changing labour market conditions. According to the 2023 APP, key objectives within this programme for the year include:

* Registering 900 000 work seekers on the Employment Services South Africa (ESSA) website by 31 March 2024;
* Registering 110 000 work opportunities on the Employment Services of South Africa database system by 31 March 2024;
* Filling 60 000 registered employment opportunities by 31 March 2024;
* Conclude 24 partnership agreements with various stakeholders by 31 March 2024

The Department receives R372.2 million in 2023/24 to continue the Pathway Management Network, which is a presidential employment initiative. The Department has a collaborative agreement with the Presidency (through the Project Management Office – PMO), National Youth Development Agency (NYDA) and the Government Technical Advisory Centre (GTAC). This is on the establishment and operationalisation of the Pathway Management Network as a central component of the Presidential Youth Employment Intervention through the Presidential Youth Employment Fund, to facilitate and expedite youth employment creation. The network is expected to create opportunities for employment, support increased access to relevant education and training interventions, assist young people in making choices about learning and/or earning, and identify barriers to entry in the labour market. More than 1 million young people are expected to be actively involved in the network over the next 2 years, with the aim of creating 255 000 job opportunities by 2024/25.

Different components of the network will be scaled up over the medium term, such as the Innovation Fund, with the introduction of new partners. It was reported that spending for these activities is within the Public Employment Services programme, which is allocated 21.3 per cent (R2.4 billion) of the department’s budget over the medium term. Spending in the programme is set to decrease at an average annual rate of 10.4 per cent, from R1 020.826 million in 2023/24 to R725.628 million in 2025/26, as a result of allocations for the presidential employment initiative not continuing over the MTEF period.

The *Public Employment Services* programme is allocated R2.4 billion over the MTEF period including transfers to Public Entities, in order to implement Employment Services Programmes towards achieving set targets and support the departmental commitment to create decent working conditions. The spending focus over medium term expenditure framework period for Public Employment Services is contributing to employment creation mainly, youth employment. The expenditure on Public Employment Services programme has increased by an annual average of 0,6 percent from 2019/20 financial year to 2021/22 financial year. The annual average increase on Compensation of Employees is 3,5 percent during the mention period. Although the overall average increase on the expenditure is 0,6, the goods and services spending has declined by annual average of 4,6 percent. The spending on transfer and subsidies has also declined by annual average of 3,6 percent.

The purpose of *Programme 4; Labour and Industrial Relations* is to facilitate the establishment of an equitable and sound labour relations environment. According to the 2023 APP, key objectives within Programme 4 include the following:

* Improve employment equity implementation and compliance monitoring mechanisms in the labour market by:
* Publishing the 2022/2023 employment equity annual report and public register by 30 June 2023; and
* Developing the 2023/2024 employment equity annual report and public register by 31 March 2024.
* Extend protection to vulnerable workers by publishing national minimum wages for all sectors
* Promote sound labour relations and centralised collective bargaining through the extension of collective agreements and registration of qualifying labour organisations by 31 March 2024
* Monitor and evaluate the impact of labour legislation to promote an evidence-based labour policy framework through the production of research and labour market trend reports by 31 March 2024.

Under Programme 4, the Department intends to carry out a yearly assessment of the national minimum wage in the foreseeable future. This evaluation will involve establishing surveillance tools to gauge its effect on the economy, negotiations among groups, minimising income inequalities, and suggested modifications. The Commission for Conciliation, Mediation and Arbitration (CCMA) is leading the department's endeavour’s in resolving employer-employee disputes and is expected to obtain about 77.6 percent (R3.3 billion) of the allocation for the Labour Policy and Industrial Relations program during the medium term. A total of R1.3 billion was allocated to the Labour Policy and Industrial Relations programme during the 2023/24 financial year, which is a decrease of 6,89 percent in real terms when compared to the previous financial year. The Commission for Conciliation, Mediation and Arbitration (CCMA) received the largest share of the programme budget at R1 billion. However, only *Sub-programme 5: Employment Standards and Sub-programme 10: National Economic Development and Labour Council* (NEDLAC) budget allocation increased in real terms when comparing 2023/24 a with the previous financial year.

The work of the Department should embed the Economic Reconstruction and Recovery Plan including the Re-Imagined Industrial Strategy. The World Banks Report, *Africa Pulse* emphasised that the social insurance and labour market programmes if implemented effectively also contribute to economic resilience by also protecting informal workers. This is the area that the Department need to pay attention to. Further, it is advanced that social protection programmes should continue building the resilience of poor and vulnerable households by supporting them in investing in productive assets and human capital. Choosing the right mix of social protection instruments (from cash transfers to public works to productive economic inclusion measures) will be paramount.

1. **Issues from the Engagements**
2. The Department indicated that the Labour Migration Policy has gone through a public participation process and it is anticipated to go to NEDLAC in May/June of 2023 and is expected to go back to Cabinet in August of 2023.
3. In responding to concerns regarding the extent of performance evaluation of the Inspection Services Directorate, the Department advanced that in terms of its 2023 APP, the Directorate has a target number of inspections for the year. The work is furthermore quality assured through a case management system where the work of an inspector is overseen by a designated supervisor who provides oversight from planning to execution to ensure that relevant notices as prescribed by statutory requirements are issued within the assigned timeframes. There is furthermore a portfolio of evidence for every case with an inspection report for every inspection.
4. The Department reported that in terms of consequence management there were currently 10 officials on suspension related to Unemployment Insurance Fund (UIF) fraud cases in Gauteng. It was reported that out of the 486 corruption cases across the Department 26 had been referred to the South African Police Services (SAPS) and others had been recommended for disciplinary action. In terms of corruption cases, the Department reported that in Quarter 3 of the 2022/23 financial year, the breakdown was as follows:

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| --- | --- | --- | --- |
| Western Cape – 15 cases | Northern Cape – 31 cases | Limpopo- 44 cases | Mpumalanga- 33 cases |
| Free State- 5 cases | KwaZulu Natal – 146 cases | Eastern Cape – 8 cases | North West- 18 cases |
| Gauteng- 184 cases | Head Office- 2 cases | | |

1. The Department noted that Programme 1: Administration was the most effected by budget reductions for the 2023/24 financial year. However, it was reported that there will be additional capacity built into investigations cases within risk management to ensure timely completion of the cases either by being referred to the external law enforcement agencies or simple completion within the Department. Budget reductions in other Programmes has resulted in the Department working in partnership with other government departments and entities to consolidate resources to conduct a number of coordinated inspections. The Department further advanced that it has entered into a number of Memorandum of Understandings (MOU’s) both internal- at wide employment and labour portfolio level; and externally to alleviate limited resources and it does not anticipate that the budget reduction will have an impact on service.
2. The Department noted concerns raised regarding the long queues at Labour Centres and advanced that this was the unintended consequence of load shedding which resulted in the interruption of service. It was reported that the UIF has approved an increase of staff allocation to 4 000 to assist clients with services as well as deploying resources to improve the queue management system to boost capacity. The UIF further intend to invest in Wi-Fi routers so that clients may utilise the self-help option in an effort to reduce queue numbers.
3. It was highlighted that delays in processing of claims need to be enhanced. The Department indicated it was working with Department of Home Affairs to improve the process.
4. Regarding the oversight over entities that report to the Department, it was reported that each entity has a board that are responsible for providing oversight over the respective entities. When transfers are made, entities sign a Service Level Agreement (SLA) as a basis for transfer. The Committee emphasised that the Department needs to play an active oversight role of the Compensation Fund, including scaling up support to the *Supported Employment Enterprises*.
5. The Department confirmed that it has conducted a number of inspections on farms and that more collaborative work with the Department of Agriculture and Rural Development, will enhance the inspection services.
6. The Committee recognised efforts and outcomes associated with government’s attempts to stimulate employment through numerous public employment interventions. However, the impact of the interventions has not yet changed the macro-level picture of unemployment. Public-private sector collaboration efforts should be scaled up to change the current unemployment situation. Further, structural reforms identified in previous government economic strategy documents should be rapidly implemented.
7. Committee emphasised the need to reignite growth and job creation. It was underscored that there is a need to advance reforms that address Eskom and other SOEs’ difficulties, strengthen competition and governance, and increase employment initiatives (emphasise on innovation). Further, it should boost and enhance the growth and expansion of the SMMEs in the economy.
8. **Recommendations**
9. The performance environment of the *Supported Employment Enterprises* (SEEs) remains a challenge. Over the medium term both *the Minister of Finance* (through *National Treasury)* and the Minister, through the Department, should explore alternative funding and financing resources to support the growth and expansion of the SEEs. For the past financial years, the Committee has raised the significant transformative role that SEE play to create work opportunities for the physical disabled community. The Committee reiterates that the Minister, working closely with the Ministers of *Finance, and of Trade, Industry and Competition, and of Higher Education, Training, Science and Innovation* including the Minister of Small Business Development; should formulate policy, funding and financing action plans to ensure that business operations of the *Supported Employment Enterprises* (SEEs) are sustainable. The action plans should be submitted to the Committee by the end of 2023 financial year.
10. Over the 2023 medium term budget process, the Minister should engage the *Minister of Finance* to consider additional resource allocation to scale-up spending in labour market intervention programmes to address unemployment, poverty and inequality.
11. It should be recognised that labour market intervention programmes cannot be solely placed in the public sector. Government should work together with the private sector, and post-secondary institutions to identify how to leverage labour and product markets. The Committee underscored the need for the Department to scale up the coordination of the employment programme. It would require the Department to co-ordinate the implementation of the employment programme created through the development programmes such as the Jobs Fund. Over the 2023 medium term, the Minister through the Department should consider establishing a policy, monitoring, evaluation and reporting unit to coordinate and provide strategic management of employment creation programmes across government and the private sector.

***Report to be considered.***