

**LEGACY REPORT OF THE PORTFOLIO COMMITTEE ON EMPLOYMENT AND LABOUR SIXTH PARLIAMENT 2019/20 – 2023/24**

**Report of the Portfolio Committee on Employment and Labour on its activities undertaken during the 6th Parliament (July 2019 – March 2024)**

**Key highlights**

**1. Appointment of the Chairperson of the Committee**

The first meeting of the Portfolio Committee on Employment and Labour was held on 2 July 2019 where Ms. ML Dunjwa was duly elected as the Chairperson of the Committee.

**1.1 Establishment and Composition of Committee**

Membership included 11 Members (6 ANC; 2 DA; 1 EFF; 1 IFP; and 1 FF Plus). Alternate Parties, in case the smaller parties with 1 member are not available were to come from Al Jamah; UDM; and COPE.

Support Staff included the Committee Secretary; Committee Assistant; Content Advisor; Researcher; and an Executive Secretary in the Office of the Chairperson. A Media Officer from the Parliamentary Communications Unit was also made available, when needed.

The Executive was represented by the Minister and Deputy Minister of Employment and Labour and the Director-General led the Department as the Accounting Officer, administratively.

The Chief Directors of Provincial Offices were later invited to join the Portfolio Committee meetings since the Department has no concomitant functions in provinces.

The mode of operation between the Portfolio Committee and the Department was always that of mutual respect.

**2. Committee's focus areas during the 6<sup>th</sup> Parliament**

The Committee's oversight and legislative work focused on the following areas during the 6<sup>th</sup> parliament:

- On 5 – 7 December 2023, some Members of the Committee attended the CCMA indaba in Durban.
- In March 2020 the oversight work of the Committee focused on the operations at the Compensation Fund Head-Office, Pretoria.
- In 2020 the Committee visited an accident disaster site at Arcelomittal plant in Vereeniging.

- In 2021 the legislative function of the Committee focused on processing the Compensation for Occupational Injuries and Diseases Amendment Bill, as well as the Employment Equity Amendment Bill.
- In 2021 the oversight of the Committee focused on the operations at Labour Centres and Supported Employment Enterprises in the Eastern Cape (Gqeberha; eQonce and East London).
- From 15 – 20 May 2022 Members attended the 5<sup>th</sup> Global Conference on the elimination of Child Labour in Durban.
- In 2022 the Committee undertook, jointly with PC on Agriculture, Land Reform and Rural Development, oversight visits to farming industries in all provinces to monitor living and working conditions in the Farming Sector.
- In April 2023 the Committee undertook a study tour to Kenya with an aim of benchmarking immigration policies and control of migrants' movements.
- On 8 September 2023 Members attended the 28<sup>th</sup> Annual Nedlac Summit in Gauteng.

### **3. Key challenges emerging**

The following challenges were identified by the Committee while performing its legislative and oversight functions during the 6<sup>th</sup> Parliament:

- Unemployment levels continued to be unacceptably high, especially among young people.
- The Committee noted that Labour Centres and Supported Employment Enterprises need to be capacitated to serve the communities.
- Some of the foreign nationals working on farms did not have the necessary documents required of immigrant workers.
- The Committee identified challenges of compliance to Health and Safety Act as well as employment equity targets in the farming industry country-wide.
- In most farms visited, the Committee found that most farm workers were not aware of their workers' rights and are therefore susceptible to exploitation. This problem is compounded by the seasonal nature of work in the farms.
- Failure of the CF and UIF to timeously submit their Annual Financial Statements of 2020/21, 2021/22 and 2022/23 financial years and Annual Reports (2022/23 Annual Reports for both Funds still outstanding).

### **4. Key areas for future work**

The 7<sup>th</sup> Parliament should focus on the following:

- Addressing challenges identified in paragraph 2 above.
- Conducting oversight in Labour Centres not covered in the 6<sup>th</sup> Parliament.
- The restructuring of the CF and UIF to achieve efficiency.

### **5. Recommendations**

In view of the above, the Committee recommends as follows:

- That the 7<sup>th</sup> Parliament monitors the implementation of the amended legislation.
- The Committee should ensure that the Department roll out its advocacy campaign to make vulnerable workers aware of their labour rights.
- The 7<sup>th</sup> Parliament should advocate for additional funding of the CCMA to enable it to fulfil its mandate in terms of the amended labour laws.

- The 7<sup>th</sup> Parliament should ensure that the Inspections and Enforcement Services programme of the Department is adequately resourced, including additional budget, to monitor compliance to labour legislation.
- The 7<sup>th</sup> Parliament should ensure that the reconfiguration of DEL to meaningfully incorporate the employment mandate is taken seriously.

## **1. Introduction**

The sixth democratic Parliament of the Republic of South Africa was elected in the sixth non-racial election of 8 May 2019. In terms of the law, within 14 days of the Independent Electoral Commission (IEC) declaring the results of the election, the Houses of Parliament must be established. This happens at the first sittings of the two houses - the National Assembly (NA) and the National Council of Provinces (NCOP). The first sitting of the NA and the NCOP was on the 22<sup>nd</sup> and 23<sup>rd</sup> of May 2019 respectively. The NA was constituted as follows: ANC - 230 seats; DA – 84 seats; EFF – 44 seats; IFP – 14 seats; VF Plus – 10 seats; ACDP – 4 seats; NFP, UDM, GOOD, COPE, ATM, AIC – 2 seats each; and PAC and ALJAMA – 1 seat each. Parliament committees and other parliamentary structures were set up on the 1<sup>st</sup> of June 2019. The vision of the sixth Parliament as per its strategic focus is to be an activist and responsive people’s Parliament that improves the quality of life of South Africans and ensures equality in our society.

The Portfolio Committee on Employment and Labour was constituted as outlined under key highlights above and the Committee derives its constitutional mandate from section 23 of the Constitution, which guarantees labour relations rights. This Report outlines the work done by the Portfolio Committee on Employment and Labour during the 6<sup>th</sup> Parliament, challenges encountered and identify issues that need to be followed up. It seeks to assist the Members of the 7<sup>th</sup> Parliament to perform their duties in accordance with the Constitution.

## **2. Overview**

The work of the sixth democratic Parliament was negatively impacted by the emergence of the Covid-19 in March 2020 and the burning down of Parliament in January 2022. Parliament’s response to Covid-19 was, amongst others, to reduce the number of staff members on the Parliamentary precinct, in line with the President’s announcement. The positive outcome of this unfortunate situation was the uptake of the fourth industrial revolution in the form hybrid work. This became an advantage when Parliament was burned down because Parliament staff and Members of Parliament were already familiar with hybrid work.

The economy of the country was already in decline when Covid-19 emerged in 2020. According to Statistics South Africa, the economy of the country slipped into recession in the fourth quarter of 2019 by 1.4% following a contraction of 0.8% in the third quarter. The GDP decreased by 2.0% in the first quarter of 2020. This was the third consecutive quarter of economic decline before the emergence of Covid-19.

South Africa’s first positive case of Corona Virus-Covid-19 was diagnosed on 5 March 2020 and the state of national disaster was declared on 15 March 2020. The first national lockdown was declared on 26 March 2020 until 16 April 2020 but on 9 April it was extended until the end of April 2020. Further extensions and adjustment of lockdown levels followed.

In view of the socio-economic impact of Covid-19 lockdown, President Ramaphosa announced the R500 billion stimulus package to deal with the devastating impact. Of this amount, R100 billion was set aside for protection and creation of jobs; and R40 billion for income support for workers whose employers were unable to pay their salaries. The measures introduced to alleviate the impact included:

- R20 billion to assist efforts that address the pandemic.

- R20 billion for municipalities for the provision of emergency water supply, increased sanitation of public transport and facilities, and providing food and shelter for the homeless.
- A six-month temporary Covid grant of R50 billion.
- A special Covid-19 Social Relief of Distress (SRD) grant of R350 per month for the next six months that would be paid to individuals who were unemployed and do not receive any other form of social grant or UIF payment. This was followed by extensions of the period for this SRD grant.
- R100 billion for protection of jobs and to create jobs.
- R40 billion for income support payments for workers whose employers were not able to pay their wages.
- R200 billion-loan guarantee scheme to be introduced to help businesses pay salaries, rents and suppliers. Companies with a turnover of less than R300 million a year could participate.

The Unemployment Insurance Fund (UIF), which is an entity of the Department of Employment and Labour, played a crucial role in these measures to alleviate the socio-economic impact of Covid-19. However, some unscrupulous employers made claims to the UIF but did not pay monies over to their employees. These employers worked in collaboration with employees of the UIF in most cases.

The country has recovered its pre-pandemic Gross Domestic Product (GDP) but has struggled to recover its employment level. South Africa's GDP expanded by 0.6% in the second quarter (April – June) of 2023. This followed a 0.4% rise in the first quarter. Six industries on the supply side of the economy grew in the second quarter, with manufacturing and finance driving much of the upward momentum. At the end of the second quarter of 2023, there were still about 74 000 fewer jobs than at the end of 2019. However, the unemployment rate decreased to 32.6% in the second quarter of 2023 from 32.9% in the first quarter of 2023.

The unemployment rate fell to 31.9% in the third quarter of 2023, from 32.6% in the prior period. The number of unemployed persons decreased by 72 000 to 7.8 million, the employed rose by 399 000 to 16.7 million and the labour force went up by 326 000 to 24.6 million. The number of people who were not economically active for reasons other than discouragement fell by 160 000 to 13.1 million, while the discouraged work-seekers dropped by 26 000 to 3.2 million. The expanded definition of unemployment, which includes those discouraged from seeking work, was 41.2%, down from 42.1% in the second quarter. By sectors, job gains were seen in finance (+237 000) and community and social services (+119 000), while manufacturing (-50 000), mining (-35 000) and transport (-20 000) recorded the biggest losses. The youth unemployment rate, measuring job-seekers between 15 and 24 years old, dropped to 58%.

The Employment and Labour portfolio recorded both positive and negative performance results during the period under review. The Department (DEL); Commission for Conciliation, Mediations and Arbitration (CCMA); and National Economic Development and Labour Council (Nedlac) achieved positive overall performance. The CCMA managed to register positive performance results despite increased demand for its services and resource constraints. It resolved disputes that might have resulted in job losses thus contributing to job preservation.

Nedlac engaged in a crucial exercise of reviewing legislation to identify constraints to employment creation. The Compensation Fund (CF) and Unemployment Insurance Fund (UIF) did not timeously submit the financial statements and annual performance reports for three consecutive years (2020/21, 2021/22 and 2022/23). The Annual Reports for 2022/23 financial year are still outstanding for both Funds.

In the period under review, the Compensation Fund Commissioner left his employ. Currently, Compensation Fund has an Acting Commissioner. Productivity South Africa Board Chairperson was relieved of his duties during the period under review. There is an Acting Board Chairperson in the Productivity South Africa. Director General of the Department resigned from his post. The Department has an Acting Director General. There is also a matter of a Project that would have cost R5 billion that was stopped by the Minister and the former Chairperson subsequently took the matter to a court of law.

Finally, the Department had to adjust its annual performance plan targets following the budget reductions during the Medium-Term Budget Policy Statement towards the end of 2023. The budget reduction amounted to R79.4 million, which was disaggregated as follows: Administration - R24.4 million, Inspections and Enforcement Services – R15.0 million, Public Employment Services – R23.0 million and Labour Policy and Industrial Relations – R17.0 million. In terms of Economic Classification, the budget reduction was broken down as follows: Current Payments -R19.4 million, Transfers and Subsidies – R40 million and Capital Payments – R20 million. Much of the reduction in Capital Assets was on Goods and Services, which amounted to R19.4 million. The affected services were Advertising – R3.0 million, Audit costs – R1.4 million, Computer services – R10.0 million, Agency support/Outsourced services – R3.0 million and Operating Leases – R2.0 million. The transfers to the CCMA and Nedlac were reduced by R10.0 million and R7.0 million respectively.

These budget reductions are expected to have a negative impact on the performance of the Department and its entities.

### 3. Department and Entities falling within the labour committee’s portfolio.

The core mandate of the Department is to regulate the labour market through policies and programmes developed in consultation with social partners, which are aimed at:

- Improving economic efficiency and productivity.
- Creation of decent employment.
- Promoting labour standards and fundamental rights at work.
- Providing adequate social security nets to protect vulnerable workers.
- Promoting sound labour relations.
- Eliminating inequality and discrimination in the workplace.
- Enhancing occupational health and safety awareness and compliance in the workplace.
- Giving value to social dialogue in the formulation of sound and responsive legislation and policies to attain labour market growth.

The work of the Department is organised into four programmes, namely Administration; Inspection and Enforcement Services; Public Employment Services; and Labour Policy and Industrial Relations.

The table below lists the entities that report to the Minister of Employment and Labour.

**Table 1: Entities of the Department and their roles**

Name of Entity	Role of Entity
Supported Employment Enterprises (SEE)	To provide employment for people with mental and physical disabilities that prevented them from entering the open labour market, due to the

<b>Name of Entity</b>	<b>Role of Entity</b>
	nature of their afflictions.
<b>Compensation Fund (CF)</b>	Collection of contributions and payment of medical, compensation and pension benefits.
<b>Unemployment Insurance Fund (UIF)</b>	Collection of unemployment insurance contributions and payment of benefits to qualifying contributors.
<b>Commission for Conciliation, Mediation and Arbitration (CCMA)</b>	Promotion of social justice and economic development in the world of work through dispute management and dispute resolution.
<b>National Economic Development and Labour Council (Nedlac)</b>	To serve as a forum where social partners meet to discuss and develop public finance and monetary policy; labour market policy; trade and industrial policy; and development policy.
<b>Productivity South Africa (PSA)</b>	To improve the productive capacity of the economy and thus contribute to South Africa's socio-economic development and competitiveness.

#### **4. Functions of the Portfolio Committee on Employment and Labour**

Parliamentary committees are mandated to:

- Monitor the financial and non-financial performance of government departments and their entities to ensure that national objectives are met.
- Process and pass legislation.
- Facilitate public participation in Parliament relating to issues of oversight and legislation.

#### **5. General Powers of Committees**

For the purpose of performing its functions, a committee may, subject to the Constitution, legislation, the other provisions of these rules and resolutions of the Assembly:

- Summon any person to appear before it to give evidence on oath or affirmation, or to produce documents.
- Receive petitions, representations, or submissions from interested persons or institutions.
- Permit oral evidence on petitions, representations, submissions, and any other matter before the committee.
- Conduct public hearings.
- Consult any Assembly or Council committee or subcommittee, or any joint committee or subcommittee.
- Determine its own working arrangements.
- Meet at a venue determined by it, which may be a venue beyond the seat of Parliament.
- Meet on any day and at any time, including-
  - On a day which is not a working day,
  - On a day on which the Assembly is not sitting,

- At a time when the Assembly is sitting, or
  - During a recess.
- Exercise any other powers assigned to it by the Constitution, legislation, the other provisions of these rules or resolutions of the Assembly.

## 6. Method of work of the Portfolio Committee on Employment and Labour

The Committee meets on Wednesdays, as per its adopted programme. The Committee must request permission from House Chairperson if it needs to meet outside of slot, on days other than Wednesdays.

## 7. Purpose of the Report

The purpose of this Report is to provide an account of the Portfolio Committee on Employment and Labour's work during the 6<sup>th</sup> Parliament and to inform the Members of the 7<sup>th</sup> Parliament of key outstanding issues pertaining to the oversight and legislative programme.

This Report provides an overview of the activities the Committee undertook during the 6<sup>th</sup> Parliament, the outcome of key activities, as well as any challenges that emerged during the period under review and issues that should be considered for follow up during the 7<sup>th</sup> Parliament. It summarises the key issues for follow-up and concludes with recommendations to strengthen operational and procedural processes to enhance the Committee's oversight and legislative roles in future.

## 8. Key statistics

The table below provides an overview of the number of meetings held, legislation and international agreements processed and the number of oversight trips and study tours undertaken by the Committee, as well as any statutory appointments the committee made, during the 6<sup>th</sup> Parliament:

**Table 2: Key Statistics for the period 2019/20 - 2023/24**

Activity	2019/20	2020/21	2021/22	2022/23	2023/24	Total
<b>Meetings held</b>	16	32	25	26	31	<b>130</b>
<b>Legislation processed</b>	0	0	2			<b>2</b>
<b>Oversight trips undertaken</b>	0	1	1	10	0	<b>12</b>
<b>Study tours undertaken</b>	0	0	0	0	1	<b>1</b>
<b>International agreements processed</b>	0	0	1	0	0	<b>1</b>
<b>Statutory appointments made</b>	0	0	0	0	0	<b>0</b>
<b>Interventions considered</b>	0	0	0	0	0	<b>0</b>
<b>Petitions considered</b>	0	0	0	0	1	<b>1</b>



**9. Stakeholders:**

The stakeholders include the Department of Employment and Labour, all its entities reporting to the Minister of Employment and Labour, organised business and organised labour.

**10. Briefings and/or public hearings**

The Committee conducted public hearings on the Employment Equity Amendment Bill on 13, 14 and 15 April 2021 as well as on the Compensation for Occupational Injuries and Diseases Amendment Bill on 21, 22, 23, and 28 April 2021. The submissions made were considered when the Bills were finalised.

**11. Legislation**

The following pieces of legislation were referred to the Committee and processed during the 6<sup>th</sup> Parliament:

**Table 3: Legislation referred to and processed by the Committee during 2019/20 – 2023/24**

Year	Name of Legislation	Tagging	Objectives	Completed/Not Completed
2019/20	None	N/A	N/A	N/A
2020/21	Compensation for Occupational Injuries and Diseases Amendment Bill [2021]	Section 75	To amend the COIDA, 1993, so as to amend, substitute, insert, delete and repeal certain definitions and sections; to provide for matters pertaining to the Board and its members; to provide for the Commissioner to perform certain functions that were previously performed by the Director-General; to further provide for matters pertaining to the rehabilitation, re-integration and return to work of occupationally injured and diseased employees; to regulate the use of health care services; to provide for the Commissioner to review pension claims or awards; to provide for administrative penalties; to regulate compliance and enforcement and to provide for matters connected therewith.	Completed
	Employment Equity Amendment Bill	Section 75	To amend the EEA, 1998, so as to amend a definition; to insert certain definitions and to	Completed

Year	Name of Legislation	Tagging	Objectives	Completed/Not Completed
	[2021]		delete a definition; to provide for the Minister to identify sectoral numerical targets in order to ensure the equitable representation of suitably qualified people from designated groups; to provide criteria for the Minister to issue certificates; and to provide for matters connected therewith.	
2021/22	None	N/A	N/A	N/A
2022/23	None	N/A	N/A	N/A
2023/24	None	N/A	N/A	N/A

**a) Challenges emerging**

The following challenges emerged during the processing of legislation:

- Regulations with regards to the Employment Equity Amendment Act had not been finalised due to extensive consultations required.

**b) Issues for follow-up**

The 7<sup>th</sup> Parliament should consider following up on the following concerns that arose:

- Monitoring of new regulations being established with regards to the Employment Equity Amendment Act

**12. Oversight trips undertaken.**

Table 4 below reflects the oversight visits undertaken during the 6<sup>th</sup> Parliament.

**Table 4: Oversight trips undertaken during 2019/20 – 2023/24**

Date	Area Visited	Institution/ entity	Recommendations	Responses to Recommendations	Follow-up Issues	Status of Report
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13 March 2020	Compensation Fund Headquarters in Tshwane	Department of Employment and Labour	The Minister should ensure that the CF Head Offices are capacitated and provided with adequate support, tools of trade and security.		Continuous	Adopted
26 February 2021	Vanderbijlpark in Gauteng	Arcelomittal Disaster	The Committee made the following recommendations for the Minister of Employment and Labour ensures that: <ul style="list-style-type: none"> <li>• DEL gives the Committee feedback regarding the meeting between Management and Unions held on 5 March 2021.</li> <li>• The Department updates the Committee on Unemployment Insurance claims for the families of the deceased workers.</li> <li>• The Department briefs the Committee on the technical report from the employer and other experts.</li> <li>• The Department briefs the Committee on the progress of the 90 days' investigation.</li> <li>• Arcelormittal management holds regular meetings with labour at plant level and give feedback to labour on regular basis.</li> </ul>			Adopted
18 -21 April 2022	Gqeberha; eQonce and East London, EC	Labour Centres and SEEs, Department of Employment and Labour	The Committee made the following recommendations that the Minister of Employment and Labour should ensure that: <ul style="list-style-type: none"> <li>• The provincial department work with stakeholders of PWDs to ensure that PWDs are equitably represented in</li> </ul>		Continuous	Adopted

			<p>the establishment of the provincial department.</p> <ul style="list-style-type: none"> <li>• The queues in labour centres are properly managed and shelters provided for clients to protect them from extreme weather conditions.</li> <li>• If possible, comprehensive services are provided at the bus that provide UIF services to the community.</li> <li>• The performance targets are set in accordance with the available resources to the provincial department.</li> <li>• The tools of trade are made available to the labour centres to ensure that they meet their performance mandate.</li> <li>• The working conditions, including ventilation and refreshment spaces are improved to ensure appearance of professionalism to the public.</li> <li>• DEL continues with negotiations to ensure that the National Treasury Department grants preferential procurement status to the SEEs.</li> <li>• SEEs are supported by advertising their products broadly since there are many schools that lack school furniture.</li> <li>• The Department explore the possibility of providing transport for PWDs employed</li> </ul>			
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			<p>by SEEs.</p> <ul style="list-style-type: none"> <li>• SEE employees who belong to Makoti Medical Scheme are made aware of the package of benefits for which they qualify, and the list of doctors approved by the scheme.</li> <li>• The Department has a national strategy with all public and private workplaces to prioritise optimal utilisation of skilled disabled persons.</li> <li>• There are public engagements with members of the communities through Public Outreach Programmes to empower and educate people about relevant labour laws, including UIF, COIDA, OHSA, BCEA and CCMA powers and functions.</li> <li>• The role of labour inspectors is understood by everyone involved in the labour sector.</li> </ul>			
March – September 2022	All provinces	Farming Industry, jointly with PC on Agriculture, Land Reform and Rural Development	<p>The Minister of Employment and Labour should consider:</p> <ul style="list-style-type: none"> <li>• Amending the OHSA to provide that the Act be made applicable to private dwellings or accommodation provided by farmers on farms, or for those private dwellings to be regarded as a workplace for the purpose of OHSA inspections.</li> <li>• Developing mechanisms to regulate the number of farm workers that may share a room/hostel room on a farm to</li> </ul>		Continuous	Adopted

			<p>ensure that an acceptable number of farm workers can live in a safe and comfortable place with human dignity and privacy that each individual need.</p> <ul style="list-style-type: none"> <li>• Ensuring that the Compensation Fund (CF) should consider introducing a retirement financial product targeted at farm workers. Further, proper study and analysis of the circumstances must be made so that the best suitable product can be developed.</li> <li>• Enhancing mechanisms to regulate labour brokers, develop a credible database of labour brokers in South Africa with the number of employees, compliance with labour legislation, particularly in relation to the employment of casual workers. Further, produce reports on an annual basis about the impact of labour brokers on the working and living conditions on farms.</li> <li>• In line with the District Development Model, the Minister of Agriculture, Land Reform and Rural Development; Cooperative Government; Police; and Employment and Labour should improve the coordination of their activities, especially in relation to</li> </ul>			
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			<p>information dissemination campaigns, training in farming communities in respect of land tenure and labour laws, as well as legal protections available to victims of violations of labour and tenure rights.</p> <ul style="list-style-type: none"> <li>• DEL must conduct regular training with the farming communities that are effective with tangible outcomes, including training farmer organisations and farmers themselves about unionisation and decent work in farming areas.</li> </ul>			
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**a) Challenges emerging**

The following challenges emerged during the oversight visits:

- There was difficulty in accessing some farms and factories.

**b) Issues for follow-up**

The 7<sup>th</sup> Parliament should consider following up on the following concerns that arose:

- Security services should be provided for Members when going on oversight visits.

**13. Study tours undertaken.**

The Portfolio Committee on Employment and Labour undertook a study tour to Kenya during the 6<sup>th</sup> Parliament.

**Table 5: Study Tours undertaken during 2019/20 – 2023/24.**

<b>Date</b>	<b>Place visited</b>	<b>Objectives</b>	<b>Lessons learned</b>	<b>Status of report</b>
27 March – 1 April 2023	Kenya	The PC was preparing to consider the National Labour Migration Policy (NLMP) that was being	Kenyan migration policies appear to be more advanced and comprehensive	Adopted

		<p>formulated by the Department. Kenya was chosen as an appropriate country to benchmark on labour migration challenges because it is an important transit point for irregular migrants in the East African area. The objectives of the study tour were:</p> <ul style="list-style-type: none"> <li>❖ To observe how Kenya manages to deal with the impact of immigrants in the labour market. This is to gather related background information that can be transferred domestically.</li> <li>❖ To assess how institutional and regulatory bodies in Kenya are dealing with third country nationals coming for legal immigration or international protection.</li> <li>❖ To assess the migration trends and developments in Kenya over the past ten years.</li> <li>❖ To assess the Kenyan migration policy to ascertain the guiding principles of the policy and how it integrates migrants into the labour market and communities.</li> <li>❖ To assess the current challenges or opportunities brought by immigration.</li> <li>❖ To assess how the Kenyan government addresses challenges in public international law and the international protection of immigrants.</li> <li>❖ How is the Kenyan government's legal and regulatory environment for immigrants structured?</li> <li>❖ To learn from Kenyan migration policy how to manage the phenomenon of emigration and providing support for Kenyan citizens working in other countries.</li> </ul>	<p>than those of most other countries in the region. Their existing legislation governs immigration (entry, stay, exit, needed travel documents, and naturalization), migrant worker rights and employment, and the rights and protection of refugees. Surprisingly, Kenya is one of the few countries in the region that addresses labour migration, mostly to defend migrants' rights in other countries. The delegation made the following observations:</p> <ul style="list-style-type: none"> <li>❖ Labour Migration Policy (LMP) in Kenya seems to focus on Kenyans employed in other countries rather than management of foreign nationals employed in Kenya.</li> <li>❖ The Republic of Kenya has bilateral agreements on labour with Qatar, Saudi Arabia, and United Arab Emirates. In accordance with these agreements, these countries help with preparatory training of workers destined for their labour markets.</li> <li>❖ The Constitution and the labour laws of Kenya are modelled on the laws of South Africa. Therefore, the legal framework of Kenya is largely extracted from South African Constitution.</li> <li>❖ The informal sector constitutes the larger percentage of the economy of the Republic of Kenya.</li> <li>❖ The Labour Management Information System of Kenya does not provide sufficient information to</li> </ul>	
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			<p>manage labour migration.</p> <ul style="list-style-type: none"> <li>❖ Youth unemployment is extremely high in Kenya, estimated at approximately 80%.</li> <li>❖ Kenya does not have quotas for foreign nationals to be employed in certain sectors of the economy. The principle is that locals must be employed except where there is no suitably qualified Kenyan citizen.</li> <li>❖ The LMP Bill has been tabled before Parliament of Kenya.</li> <li>❖ Self-employment e.g. selling fruits or vegetables, is regarded as being employed in Kenya.</li> </ul>	
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**(a) Challenges emerging**

The following challenges emerged during the Study Tour:

- The Delegation could not visit some areas that were recommended by the High Commissioner due to time and distance constraints.
- Kenya did not have an Act of Parliament on labour migration. The Labour Migration Bill had been tabled before Parliament of Kenya.
- Labour Migration Policy of Kenya focuses on Kenyan nationals working abroad.

**(b) Issues for follow-up:**

The 7<sup>th</sup> Parliament should consider following up on:

- Observations made by the delegation of the 6<sup>th</sup> Parliament during the Kenyan Study Tour.

**14. International Agreements:**

The Portfolio Committee on Employment and Labour met on 30 June 2021 to consider the request for approval by Parliament the *International Labour Organisation (ILO) Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work* an international agreement of the ILO, during the period under review and reported on 7 July 2021.

**Table 6: International Agreements concluded during 2019/20 – 2023/24**

Date referred	Name of International Agreement	Objective	Status of Report	Date of enforcement
30 June 2021	ILO Convention No. 190	Elimination of violence and harassment in the world of work	Adopted	

**(a) Challenges emerging:**  
The following challenges emerged during the consideration of the request for approval of ILO Convention 190:

- There were no challenges during the consideration of this request.

**(b) Issues for follow up:**  
The 7<sup>th</sup> Parliament should consider following up on:

- Enforcement of the Convention on Elimination of Violence and Harassment in the World of Work

**15. S  
tatutory  
appoint  
ments**

There were no statutory appointments made by the Committee during the 6<sup>th</sup> Parliament.

**16. Interventions**

The Committee did not receive any referral for intervention during the 6<sup>th</sup> Parliament.

**17. Petitions**

The Committee receive a petition from Solidarity and Cape Forum, calling on the Assembly to investigate the reassessment of the legality, rationality and desirability of the Employment Equity Regulations, 2023. (Dr P J Groenewald). Referred on 13 July 2023.

**Table 7: Petitions received during the 2019/20 – 2023/24.**

Title	Date referred	Current status
Proposed Employment Equity Regulations 2023	13 July 2023	Report adopted 6 March 2024

**(a) Challenges emerging:**  
The following challenge emerged during the consideration of this petition:

- The petition was lodged against the Draft Employment Equity Regulations that were gazetted for public comments. Therefore, there were no Employment Equity Regulations in place.
- There is still a belief by some employers in self-regulation that has not worked.

**(b) Issues for consideration:**

The 7<sup>th</sup> Parliament should follow up on:

- This matter was resolved and therefore there is nothing for the Seventh Parliament to follow up regarding this matter.

**18. Obligations conferred on Committee by legislation:**

The Money Bills Amendment Procedure and Related Matters Act, No. 9 of 2009 confers obligation to the committees of Parliament to compile the Budgetary Review and Recommendation Report. In compliance to this obligation, the Budgetary Review and Recommendation Reports were adopted annually by the Committee during its tenure 2019/20 – 2023/24. The Committee recommended that the Minister takes steps to ensure that:

- The vacant posts within the Employment and Labour portfolio are filled with suitably qualified persons without delay, priority being given to critical posts.
- The services of the Internal Audit and Audit Committees of the Department are fully utilised, and their reports implemented to avoid negative findings by the Auditor-General.
- Incidents of irregular expenditure and Fruitless and Wasteful Expenditure are investigated and officials who are found to have flouted regulations are timeously subjected to remedial action.
- The Inspection and Enforcement Services programme is adequately resourced so that suitably qualified inspectors can be appointed; provided with relevant tools of trade to monitor implementation of labour laws and that the retention strategy is developed.
- The funding of Productivity SA is timeously addressed in line with the proposed single funder mechanism to enable the entity to fulfil its mandate.
- Additional funding is made available to the CCMA to enable it to fully implement its statutory obligations.
- The current approved structure of the Supported Employment Enterprises is reviewed to capacitate the entity and government departments are encouraged to procure goods from the entity.

**19. Summary of outstanding issues relating to the department/entities that the Committee has been grappling with**

The following key issues are outstanding from the committee’s activities during the 6<sup>th</sup> Parliament:

**Table 8: Summary of outstanding issues**

<b>Responsibility</b>	<b>Issue(s)</b>
DEL, UIF & Productivity SA	On alternative funding model of Productivity SA, DEL to facilitate open communication lines that include UIF and CF
DEL & CCMA	Additional funding of the CCMA to enable it to fulfil its mandate regarding amended labour legislation
DEL	Capacitation of the Inspection and Enforcement Services programme regarding suitably qualified personnel and relevant tools of trade
DEL, CF & UIF	The reconfiguration of the DEL to meaningfully incorporate the employment mandate necessitated the legal separation of the Compensation Fund and the Unemployment Insurance Fund from DEL into two independent

Responsibility	Issue(s)
	funds. The architectural review of these two funds is in its early stages and must be closely monitored by the 7 <sup>th</sup> Parliament.

## 20. Other matters referred by the Speaker/Chairperson

The following matter was referred to the Committee:

**Table 9: Matters referred to the Committee.**

Date of referral	Expected report date	Content of referral	Status of Report
23 March 2021	30 June 2021	ILO Convention C190	Adopted 7 July 2021
31 May 2023	8 November 2023	Centre for Gender Equality substantive Reports	Adopted 22 November 2023
13 July 2023	15 November 2023	Petition by Solidarity and Cape Forum on Employment Equity Regulations	Adopted 6 March 2024

## 21. Recommendations

The Committee recommends that the Committee of the Seventh Parliament should follow up on the following:

- A clear strategy must be developed to curb the continued non-submission of Annual Financial Statements and Annual Reports by CF and UIF from happening again. This because it renders DEL to fall short to adequately exercise oversight over these entities.
- Security officials of Parliament and other relevant officials should accompany Members of Parliament when conducting oversight visits.
- Department of Employment and Labour (DEL) call centres should be fully capacitated.
- The Department must develop the ICT strategic plan and align all IT projects to the strategic plan.
- The Department must implement a comprehensive system for managing consequences related to poor performance. It must investigate all transgressions that led to material irregularities, irregular expenditure, and fruitless and wasteful expenditure. It must urgently implement all recommendations from investigation reports concluded as this will enhance a culture of accountability.
- The Department must continue to provide periodic reports on the utilisation of the R100 billion set aside for preservation and creation of jobs as part of the R500 billion stimulus package to alleviate the impact of Covid-19 lockdown.
- Furthermore, the periodic reports must provide the number of companies identified in the Auditor General Report during the follow-the-money process and employees disciplined as part of consequence management.
- The Department must fill the vacant funded posts without delay, especially the posts under the Inspectorate and Enforcement Services programme. Further, the post of Chairperson of the Northern Cape Risk Committee must be filled without delay.
- DEL should provide alternate energy source for SEE factories to support uninterrupted production output and to reduce the delivery lead times to customers.
- SEE capacity, processes and controls must be strengthened to enable credible financial and performance reporting.
- The Committee should receive regular updates on engagements between DEL and National Treasury on preferential procurement status of the SEE.
- Nedlac's capacity, processes and controls must be strengthened to enable credible financial and performance reporting.

- Nedlac must investigate all transgressions that led to irregular expenditure and urgently implement all recommendations from investigation reports concluded as this will promote the culture of accountability.
- Nedlac must provide the report on review of labour legislation to the Seventh Parliament as soon as the process is finalised.
- DEL should develop a Single Source Funding Model to ensure that the mandate of Productivity SA is funded through section 12 of the Employment Services Act read together with section 40(a) of the Employment Services Act.
- Temporary relaxation of the entry requirements which requires distressed companies to be in good standing with UIF and SARS and allow opportunities for companies to be assisted with compliance while concurrently assisting them to save jobs, should be considered.
- Adoption of the Institute of Management Development (IMD) Competitiveness Framework as a Country Framework for measuring and evaluating productivity and competitiveness.
- Application should be made to the National Treasury (NT) for the budget surpluses of other entities within the portfolio that are not going to be utilised by those entities, to be transferred to the CCMA.
- Application should be made to the NT that the budget surplus of the CCMA due to unforeseen or unavoidable circumstances be retained by the entity.
- CCMA should charge private sector clients more often for services rendered such as training and seminars provided.
- The Department must ensure that the best performing entities are less impacted by future budget cuts.
- Equitable representation of vulnerable groups in all levels of employment, including 47% representation of women in senior management services positions.

## **22. Master attendance list**

An additional report in this regard is available.