**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NO. 1019**

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**INTERNAL QUESTION PAPER 12 – 2021**

**1019. Mr M G E Hendricks (Al Jamah-ah) to ask the Minister of Home Affairs:**

(1) With reference to his request to the SA Law Reform Commission (SALRC) in 2013 to investigate the possible adoption of a single marriage statute for the Republic, with the discussion paper 152, which was open for public participation from 1 January 2021 to 31 March 2021 and extended for another two months (details furnished), what are the reasons that the Green Paper was submitted by his department in April 2021, as the public participation process with the SALRC was still in progress;

(2) what are the reasons that his department submitted the Green Paper prior to obtaining the relevant reports of the SALRC in respect of the discussion paper 152, in view of the financial resources spent by his department in appointing the SALRC to attend to the discussion paper? NW1202E

**REPLY:**

1. The Department of Home Affairs (DHA) and the South African Law Reform Commission (SALRC) are engaged in two separate processes, albeit related. In the first instance, the Minister of Home Affairs approached the SALRC in 2013 to investigate the possible adoption of a single marriage statute for South Africa. This was prompted by the realisation that Marriages in South Africa are regulated through different pieces of legislation, namely:
2. The Marriage Act, 25 of 1961 (monogamous marriage for opposite sex couples);
3. The Recognition of Customary Marriages Act, 120 of 1998 (polygamous marriages for opposite sex couples who are black South Africans); and
4. The Civil Union Act, 17 of 2006 (monogamous partnerships for both same and opposite sex couples).

However, the current marriage legislation doesn’t enable all South Africans of different religious and cultural persuasions to conclude legal marriages that accords with the Constitutional values of equality, non-discrimination and human dignity. The SALRC's brief or focal area is therefore, to investigate the possibility of having a single statute dealing with all marriages in South Africa. The SALRC conducted a pre-investigation. In April 2019 the Commission of the SALRC approved the first paper of its investigation, namely Issue Paper 35, which was published in April 2019 for general information and comment. Comments were received from respondents which enabled the development of a discussion paper on the matter. In December 2020, the Commission approved the draft discussion paper 152 on the possible adoption of a single marriage statute which was subsequently published for general information and comment in January 2021.

Notwithstanding the mandate assigned to the SALRC, it then transpired that the legislation that regulates marriages in South Africa is not informed by a primary policy, which prompted the DHA to initiate the development of a marriage policy, which policy can then lead to legislation. However, the department is working closely with the SALRC to ensure harmony and synergy between the two processes to inform policy positions and proposals that are aligned and compatible with one another.

1. During the 2019/2020 financial year, the DHA hosted country-wide Ministerial dialogues with various interest groups with the purpose of stimulating discussions and soliciting inputs on the key issues that should be addressed by the Marriage Policy. Following government processes that guides the development of a public policy, the Department produced a Policy Paper (Green Paper) which was taken through the relevant Clusters for approval by Cabinet. The Green Paper on Marriage Policy was approved by Cabinet on 21 April 2021 for public comments, and published in the government gazette on 04 May 2021. The roadmap towards the implementation of the Marriage Policy is as follows:
2. Gazetting of the draft Marriage Policy for public comments by 30 April 2021
3. Submission of the Marriage Policy to Cabinet for approval by 31 March 2022
4. Submission of the Marriage Bill to Cabinet for approval by 31 March 2023
5. Submission of the Marriage Bill to Parliament for approval by 31 March 2024

**END**