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**MINISTER  
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REPUBLIC OF SOUTH AFRICA**

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Mr S G Thobejane, MP  
Chairperson: Committee on Private Members'  
Legislative Proposals and Special Petitions  
P O Box 15  
**CAPE TOWN**  
8000

Dear Mr Thobejane

**PRIVATE MEMBER'S LEGISLATIVE PROPOSALS RELATING TO THE HUMAN RIGHTS  
COMMISSION ACT, 1994 (ACT 54 OF 1994)**

I have been informed that—

- (a) on 26 August 2009 Ms M P Mentor, MP, submitted private member's legislative proposals that seek to amend the Human Rights Commission Act, 1994 (Act 54 of 1994) (the Act), and the Commission on Gender Equality Act, 1996 (Act 39 of 1996), to the Speaker of the National Assembly; and
- (b) these legislative proposals were referred to the Committee on Private Members' Legislative Proposals and Special Petitions (the Committee) for consideration.

I would like to take the opportunity to make certain remarks regarding the matter.

At the outset it needs to be pointed out that the President, on 1 July 2009, transferred the administration and powers and functions entrusted by the Commission on Gender Equality Act, 1996, from me to the Minister of Women, Children and People with Disabilities. I will, therefore, limit my remarks to Ms Mentor's legislative proposals relating to the Act.

Since the commencement of the Act and the establishment of the South African Human Rights Commission (the Commission) numerous amendments to the Act, dealing with a variety of matters, have been proposed by, amongst others, the Commission. It has also been proposed that the Act should be amended so as to—

- (a) insert the provisions of the repealed sections 115 to 118 of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), where applicable, in the Act; and
- (b) bring the existing provisions of the Act in line with the provisions of the Constitution of the Republic of South Africa, 1996.



My Department has prepared a draft South African Human Rights Commission Amendment Bill (the Bill) to give effect to the above-mentioned proposals. It should be noted that the Bill does not contain amendments to the Act to give effect to the recommendations of the Parliamentary Ad Hoc Committee on the Review of Chapter 9 and Associated Institutions which was chaired by Prof A K Asmal.

During August 2008 the Bill was submitted to the Commission for its comments. The Commission's comments were received during November 2008. However, on 21 November 2008 the National Assembly, during its consideration of the Report of the above-mentioned Ad Hoc Committee, agreed to the following motion:

**"The Deputy Chief Whip of the Majority Party moved: That the House—**

- (1) appreciates the extensive work done by the Ad Hoc Committee on Review of Chapter 9 and Associated Institutions in the execution of its mandate;
- (2) recognises that a number of the recommendations contained in the Report will have far-reaching implications for Chapter 9 and Associated Institutions;
- (3) notes that the Ad Hoc Committee, among others, recommends the establishment of a properly resourced Unit to co-ordinate all interactions between the National Assembly and state institutions strengthening democracy;
- (4) adopts the recommendation in the Report pertaining to the establishment of the Unit on Constitutional Institutions and other Statutory Bodies;
- (5) urges speedy establishment of the Unit on Constitutional Institutions and other Statutory Bodies and recommends that its location, structure and mandate be determined by the Speaker, having given due consideration to the National Assembly's constitutional obligations with regard to Chapter 9 institutions, associated bodies and other statutory bodies;
- (6) urges further that consideration be given to the implementation of the recommendation in the Report pertaining to budgets of the bodies reviewed being contained in a separate programme in Parliament's budget vote, as envisaged by the Ad Hoc Committee; and
- (7) resolves that the rest of the Report be held in abeyance with a view to allowing the Fourth Parliament to consider it in a manner it deems appropriate." (my emphasis)

At the time, it was decided that the Bill should not be introduced into Parliament until Parliament has formally considered all aspects of the Report of the Ad Hoc Committee.

I would like to emphasise that I regard the promotion of the Bill as urgent. I have, therefore, requested my Department to attend to the promotion thereof as soon as possible. We are, however, mindful of the limited time available to Parliament to consider legislation during its 2009 session.

I am of the view that it would probably be—

- (a) undesirable for the Committee, at this point in time and in a separate process, to proceed with the consideration, and further processing, of Ms Mentor's legislative proposals relating to the Act; and



- (b) more appropriate for my Department to consider those legislative proposals as part of its holistic review of the Act and, if supported, to include the necessary amendments giving effect thereto in the Bill.

I would like to request you to consider the possibility of—

- (a) not proceeding with the consideration, and further processing, of Ms Mentor's legislative proposals relating to the Act; and  
(b) allowing my Department to consider those legislative proposals as part of its holistic review of the Act and, if supported, to include the necessary amendments giving effect thereto in the Bill.

I do not deem it necessary to evaluate and discuss the merits of Ms Mentor's legislative proposals relating to the Act at this stage.

Your kind consideration of my request will be appreciated.

With kind regards

*J. Raabe*  
MR J T RADEBE, MP  
MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

Date: 15/10/09.....