



# ANC Whip

The bi-monthly newsletter of the ANC Caucus

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## National Environmental Management Amendment: Integrated Coastal Management Bill

**A**partheid legislation distorted access to natural resources, denying the majority of South Africans the use of land, water, fisheries, minerals, wildlife and clean air. South Africa's apartheid policies, combined with the under-regulated activities of local and transnational corporations, contributed to the degradation of environmental resources, including soil, water and vegetation.<sup>1</sup>

Coastal management in South Africa, has historically been fragmented and uncoordinated, resulting in environmental degradation and lost economic opportunities. Following the UN Conference on Environment and Development (UNCED) in 1992, a call was made for coastal state to prioritise coastal management issues. South Africa embarked on a comprehensive participatory and consultative process to develop a national policy for Sustainable Coastal Development in South Africa. The policy was endorsed by cabinet and published as the "White Paper for Sustainable Coastal Development in South Africa" in April 2000. The World Summit on Sustainable Development (WSSD) held in 2002, and the subsequent Johannesburg Plan of Implementation, highlighted the need to promote an integrated, multi-disciplinary and multi-sectoral coastal and ocean system of management. The Bill seeks to facilitate the implementation of the White Paper, and to simplify the legislative framework regulating the use of coastal resources.

### Objectives of the Bill

The Bill provides for the conservation of the coastal environment and to further ensure that the development and use of natural resources within the coastal zone is socially and economically justifiable and ecologically sustainable. Its objective is also to promote social equity through the appropriate management of coastal resources, making best

economic use of these resources whilst ensuring the protection of the natural environment. Besides the legal and administrative framework that the Bill provides, its orientation is to promote coastal environment as a heritage of all communities. It is also aimed at ensuring equitable access to the opportunities and benefits, and address needs of vulnerable groups.

### Content

Key areas of content relate to coastal zones and public property, protection zones and access, estuaries and the boundaries of these areas. Management and its related institutional arrangements is a strong feature of the Bill and this leads to the nature of the Protection of coastal reserves. Pollution is covered in the Bill both of marine and coastal nature. Finally, the administrative matters related to the enforcement of the Bill are outlined.

### Political considerations

This Bill, in furtherance of the transformation objectives of the ANC, includes measures aimed at securing equitable access to the opportunities and benefits of coastal public property. This is meant to ensure that historically disadvantaged people have equitable access to all public coastal areas. The overall efficacy of these measures should be weighed up against the racially distorted ownership patterns of prime coastal property. The recent amendments form part of a broader process, to bring environmental legislation in line with the broad objective of providing a better life for all, in line with the principles for environmental management set out in the Reconstruction and Development Programme.

### (Footnotes)

*Ready to Govern, 1992*

# Correctional Services Amendment Bill

**T**he Bill amends the Correctional Services Act 111 of 1998, in order to align it with the White Paper on Correctional Services.

The rationale is that when the Principal Act was crafted and passed by Parliament (1998), the policy White Paper on Correctional Services was not in existence.

The White Paper was introduced in 2005 and this Amendment Bill incorporates the spirit and intentions of that White Paper.

The White Paper lays emphasis on the correctional intentions of the Department and the rehabilitation aspects thereof.

On its course through Parliament, the Bill was sent to the NCOP for consideration.

The Bill is now at the stage whereby the National Assembly will consider amendments by the Select Committee on Security and Constitutional Affairs which they affected on 12 February.

The Select Committee made technical and terminology amendments, reformulated Clause 56 which deals with the incarceration framework.

The clause as it stands now provides discretion to the National Commissioner to determine the periods for incarceration for those who qualify for parole.

The earlier formulation had problems of interpretation.

Clause 70 deals with discretionary powers of the Office of the Inspecting Judge. The Select Committee has inserted the formulation in subsection 4 that ensures that the appointment of the Chief Executive Officer (CEO) is regulated by the Public Service Act (PSA).

This seeks to permit the Office of the Inspecting Judge to recommend a person of his/her choice to be appointed by the National Commissioner in accordance with the PSA criteria.

## Objectives of the Amendment Bill

- To amend the Correctional Services Act 111 of 1998 to align it with the White Paper on Correctional Services(2005)
- To introduce the principles of correctional behaviour in dealing with offending behaviour of sentenced persons
- To introduce the principles of security and promote safety of inmates, staff and members of the public

- To introduce the notion of decent facilities and to ensure conditions consistent with human dignity for offenders
- To address the principle of care in order to promote well-being needs of inmates, including access to social and psychological services
- To deal with the principle of development in order to ensure skills development
- To deal with the principle of after care in order to ensure successful social re-integration in society

## Content

The Amendment Bill inter-alia, deals with the following broad areas, namely:

- Definitions, the deletion and introduction of new concepts
- The permissible age of children staying with female offenders
- Powers of the Minister of Correctional Services, the National Commissioner and the National Council on Corrections
- Powers and function of the Judicial Inspectorate and the parole system

## Political implications

Key issues that have been debated in the Parliamentary process have revolved around the powers of the inspecting Judge; the powers of the Minister; the role of the Commissioner and the role of the CEO.

The Bill calls the State to regulate corrections and to mobilise community resources so as to ensure active community involvement for effective rehabilitation.

It draws a distinction between parole roles, courts functions and the Executive which has been the tradition in South Africa and those societies with a parole system.

The emphasis is on accountability and checks and balances.

# National Environmental Management: Waste Bill

In 1996 the Department of Environmental Affairs and Tourism (DEAT) undertook a review of existing environmental legislation in order to ensure that it was aligned to the New Constitution and the policies of the ANC government. It was also undertaken to streamline and consolidate legislation governing the environment. The National Environmental Management Act of 1998 was developed as an overarching framework legislation for environmental management. As part of the law reform process, the Department recently undertook to develop national legislation governing pollution and waste management.

## Objectives of the Bill

This Bill gives effect to the ANC's injunction that waste management policy should place emphasis on preventing pollution and reducing waste through direct controls, and on increasing the capacity of citizens and government to monitor and prevent the dumping of toxic waste.

It is a further step in the plan to ensure that the socio-economic development of South Africa, the health of its people and the quality of its environmental resources are no longer adversely affected by uncontrolled and uncoordinated waste management.

It establishes a waste management system that concentrates on avoiding, preventing and minimising waste and makes provision for waste management services for all by extending an acceptable standard of waste collection, as well as transportation, treatment and disposal services to all communities.

## Content of the Bill

The Bill covers the protection of health and well being of the citizens of the nation, as well as protecting the environment by providing reasonable measures for consumption of natural resources; minimising the generation of waste; reducing, re-using, recycling and recovery of waste; treating and safe disposal of waste as a last resort; preventing pollution and ecological degradation; securing ecologically sustainable development while promoting justifiable economic and social development; promoting and ensuring the effective delivery of waste services; remediating land where contamination presents a significant risk of harm to health or the environment and achieving integrated waste management reporting and planning.

## Political Considerations

The incineration or burning of waste is a key concern that members of the public expressed during the public participation process. These concerns revolved around the environmental, agricultural and health impact of incineration. Although many submissions proposed the outright banning of incineration, there are competing commercial and job security interests that had to be considered in providing an acceptable resolution. The Committee reached a compromise in that incineration should be strictly regulated and that it should be viewed as a last resort.

# Housing Development Agency Bill

The Housing Development Agency Bill reaffirms the strategic objectives of the Reconstruction and Development Programme, which among others, seeks to:

- Establish an integrated and coherent approach to government programmes with clearly defined goals
- Give direction to this process by way of creating new frameworks
- Decide where land and infrastructure is to be located for purposes of development – particularly socio-economic development

- Successfully link construction with development and growth
  - Ensure that the financial sector contributes and participates in the delivery chain.
- Challenges pertaining to housing are two-fold: on the one hand dealing with a huge accumulated historical housing backlog, whilst at the same time having to manage the phenomenon. The delivery of houses needs to take place at a faster pace, given the challenges of migration, urbanisation and the

targets agreed upon in relation to the Millennium Development Goals.

Protests and demonstrations prior to the 2004 General Election and the 2006 Local Government Elections, show failure to deliver within the low and middle income strata, and inadequacies in delivery of basic services continue to be one of the biggest challenges in consolidating democracy.

In response to these challenges, government proposed a special purpose vehicle to respond to these and other challenges.

The expropriation, acquisition, holding and disposing of land efficiently and effectively became a main challenge.

The challenges presented by capacity at municipal level due to lack of skills and proper financial management suggested a new vehicle to steer the

delivery process. Even at Metro level challenges are critical.

The Housing Development Agency therefore is meant to ensure that there is centrally co-ordinated planning and budgeting, project management and monitoring in the provision of sustainable human settlements and infrastructure delivery in housing development.

After public hearings and deliberations at Portfolio Committee level, the Bill was amended to include objections and concerns by Political Parties and various stakeholders.

The Bill had been deliberated upon extensively and was adopted by the Portfolio Committee on 26 March 2008.

In relation to the ANC Programme of Action, the Housing Development Agency should be established by December 2008.



*ANC Whip is a bi-monthly newsletter of the ANC Parliamentary Caucus that publishes a synopsis of the ANC work in Parliament. It is issued fortnightly while Parliament is in session by the Media & Communications and the Research Units in the Office of the Chief Whip.*

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