

Trafficking Bill Passed by National Assembly

2012-06-14

Department of Justice and Constitutional Development

Three key justice bills have been passed by the national assembly and sent to the national council of provinces for concurrence.

The three bills are the Prevention and Combating of Trafficking in Persons Bill, the Sheriffs Amendment Bill and the Judicial Matters Amendment Bill.

The Prevention and Combating of Trafficking in Persons Bill was tabled in Parliament in March 2010.

The proposed legislation seeks to give effect to South Africa's obligations as set out in various international agreements such as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons. The protocol places particular emphasis on women and children. The bill will bring South African law into line with international standards.

The bill flows from an investigation and report conducted and produced by the South African Law Reform Commission on trafficking in persons.

The bill advocates putting public awareness campaigns in place designed to prevent and combat human trafficking. The proposed legislation seeks to render human trafficking a criminal offence.

The bill would also put appropriate punitive measures in place. Forcing people into debt bondage is also viewed as a criminal act. Clause seven will also make it an offence to use the services of victims of trafficking. Trafficking is described as an international crime.

Carriers transporting people across South Africa's borders would be guilty of an offence if the victims did not possess valid travel documentation. All individuals that come into contact with people suspected of being trafficked are obliged to report it to the police.

The bill will also prohibit the prosecution of victims of trafficking. The hope is that victims will act against traffickers as witnesses.

Internet service providers are also required to take whatever measures possible to prevent their services from being used to facilitate human trafficking. Internet addresses involved in trafficking must be reported to the police.

Local courts will have jurisdiction over trafficking cases that occur in other countries.

The law prohibiting the disclosure of personal information falls away in the case of children suspected of being victims of traffickers. Everyone is required to report such incidences to the relevant authorities. Those who do not will be criminally liable.

The proposed legislation also allows for those convicted of trafficking to be forced to pay compensation to a victim for damages, injuries, both physical and psychological and loss of income, amongst others.

The Sheriffs Amendment Bill was tabled in Parliament in January 2012.

The proposed legislation aims to:

- Facilitate the establishment of advisory committees to help with the appointment of sheriffs
- Regulate the appointment of acting sheriffs
- Empower the minister to appoint sheriffs and acting sheriffs in areas where no appointments were made
- Regulate allowances paid to members of the South African Board for Sheriffs
- Provide for the dissolution of the board and the appointment of an interim board
- Regulate the use of the fidelity fund for sheriffs
- Regulate the auditing of records and financial statements of the fidelity fund for sheriffs
- Regulate improper conduct by sheriffs

According to the bill's memorandum, certain challenges in the sheriff's profession had been identified.

The bill had been drawn up to address the challenges "in the interests of the administration of justice".

It is also designed to transform the sheriff's profession so as to enhance access to justice.

Entry into the sheriff's profession is a key focus area of the bill.

As regards the board for sheriffs, the bill calls for an 11 member board.

The board would consist of:

- 5 sheriffs
- Justice department official
- 1 attorney nominated by Law Society of South Africa
- 1 member nominated by national credit regulator
- 3 fit and proper persons designated by minister

The proposed legislation also stipulates that the board develop "measures to enhance the opportunity of previously disadvantaged persons to have access to fidelity fund accreditation".

Presently, fidelity fund certificates are given to sheriffs with sufficient financial resources to run an office.

The Judicial Matters Amendment Bill was tabled in Parliament in March 2012.

An explanatory summary of the bill was published in the Government Gazette at the beginning of March 2012.

According to the notice at the time, the bill aims to amend the:

- Special Investigating Units and Special Tribunals Act of 1996
- National Prosecuting Authority Act of 1998

In terms of the Special Investigating Units and Special Tribunals Act, the bill intends:

- Further regulating how the special investigating unit (SIU) conducts litigation
- Allowing for a SIU member to be seconded to another state entity
- Empowering the SIU to charge and recover a fee for its work

The SIU was established to carry out investigations at the president's request.

As regards the National Prosecuting Authority Act, it aims to:

- Further regulate the pay of deputy directors and prosecutors
- Regulate continued employment and conditions of service of NPA financial investigators and analysts

Sabinet Cape Town Office