



The Machinery of Government

*Structure and Functions
of Government*

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In the latter half of the twentieth century, many countries in the world have enthusiastically taken on the daunting and challenging task of reforming their governments along the principles of good governance.

In South Africa the post-1994 era has seen many rigorous structural changes being introduced as part of government's transformational drive to adapt and cope with the many dynamic contemporary challenges.

New and more focused entities or agencies were and continue to be created to complement the already existing ones. In addition, already existing structures have been and continue to be revisited and assessed while new policies and strategies are being put in place in key areas, such as human resource management, to achieve good governance.

In this booklet we try to capture, in brief and simple terms, the structure of the government of South Africa, that is, its three spheres and other important bodies such as parastatals, statutory commissions, public entities, and research institutions. We also look at the various elements that contribute individually as cogs in the overall wheel of the service delivery machinery in the country. In the process we pay particular attention to some important systems such as budgeting, law making and the disciplinary system in the public service.

We believe that this booklet will go a long way to guide and inform citizens about the role of the various organs of the state and what part each one of them plays in service delivery. Also, public officials, particularly the new recruits, as well as officials from other sectors that are also participating in service delivery will hopefully benefit from this booklet. From the snapshot of the government that this booklet offers, they will be able to identify and locate their role firstly as individuals and secondly within their institution within the overall machinery of government.



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LIST OF ACRONYMS

BAS	Basic Accounting System
CFO	Chief Financial Officer
CPI	Consumer Price Index
CPSI	Centre for Public Service Innovation
E-govt	Electronic government
ELRC	Education, Labour Relations Council
FFC	Financial and Fiscal Commission
FMS	Financial Management System
FOSAD	Forum for South African Director-Generals
GBE	Government Business Enterprises
GCIO	Government Chief Information Office
GITO	Government Information Technology Officer
GITOC	Government Information Technology Officers Council
GPSSBC	General Public Service Sector Bargaining Chamber
ICS	Improvement in Conditions of Service sub-vote
IDP	Integrated Development Plan
IGF	The Intergovernmental Forum
IM	Information Management
ISRDP	The Integrated Sustainable Rural Development Programme
IT	Information Technology
LRA	Labour Relations Act
MEC	Member of Executive Council
MinMec's	Ministers and Members of Provincial Councils Committee
MTBPS	Medium Term Budget Policy Statement
MTEC	The Medium Term Expenditure Committee
MTEF	Medium-Term Expenditure Framework
MTSF	Medium-Term Strategic Framework
NCOP	The National Council of Provinces
NEDLAC	National Economic Development Labour Council
NIA	National Intelligence Agency
OGCIO	Office of the Government Chief Information Officer
OPSC	Office of the Public Service Commission
OSS	Open Source Software
PCC	The President's Co-ordinating Council (replacing the IGF)
PE	Public Entity
PERSAL	Personnel and salary system
PHWSBC	Public Health and Welfare Sectoral Bargaining Council
PPP	Public Private Partnerships
PSCBC	The Public Service Co-ordinating Bargaining Council
SALGA	The South African Local Government Association
SITA	State Information Technology Agency
SMS	Senior Management Services
SSSBC	Safety and Security Sectoral Bargaining Council
URS	Urban Renewal Strategy

CHAPTER 1



An Introduction



1.1 THE MEANING OF GOVERNMENT

Government refers to the body or bodies responsible for governing the State. In South Africa these bodies would refer primarily to the political executive, namely the President and his Cabinet at the national level; and Premiers and Executive Councils at the provincial level. In common usage, however, the term “government” is often used to refer to any part of the State and public administrative apparatus. An example of this would be any reference made to the legislature, executive and judicial branches of “government”, and their respective components.¹

1.2 BACKGROUND

Every country has its own government and all governments have structures that enable them to function properly. It is important that every person living in a country familiarises themselves with the government in that country and how each of the components or structures within the government contributes in its overall functions.

This publication provides simple and useful basic information on how the government of South Africa is structured and how its components work individually and together as a system or Machinery of Government. Its main purpose is to serve as a dummy guide for the public at large with a practical elementary perspective on how the government through its various structures function to, among other things, provide a variety of services, how these services are provided and how they can be accessed. It is also envisaged that, through its simplicity of structure and style, this publication would provide any visitors to the country a quick and useful snapshot of the government of this country.

It is hoped that public employees, especially those that have just joined the public sector, would find the publication particularly useful. Firstly, it would help them to understand the government better. Secondly, It would give them a better understanding of how each one of the departments fit within the whole machinery of government; and thirdly, it would help them decipher their impact as an individual public employee within their respective department and on a wider spectrum within the entire public sector.

¹ Theunissen, C.A. 2000 "Administering National Government", in Venter A (ed) 2001, Government in the New South Africa, Pretoria: Van Schaik, p.118

The publication provides a description of the three main constitutional organs of the state, namely, the legislative, the executive and the judiciary¹. It also discusses the three main levels or spheres of the government as prescribed by the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), namely, the National, Provincial and Local levels.

In addition, some of the important decision-making processes within these spheres are discussed in order to highlight the democratic principles inherent in the South African governmental system.

The traditional legislative, executive and judicial structures cannot sufficiently meet the needs of all citizens in a complex, contemporary society. Most modern states therefore, establish various statutory bodies and public entities to increase the capacity of the state in providing services to the various components of society. These bodies and public entities are established to, inter alia, enable citizens to determine the various avenues available should the need arise to seek assistance or recourse.

The rest of the publication is mainly devoted to the functioning of the structures, the processes as well as the strategies developed by government to give effect to its policies. One section focuses on ways in which the three spheres of government work together to provide services to the people of South Africa. In the subsequent chapters, attention is devoted to inter alia the planning cycle, budgeting cycle, law making, policy formulation, human resource management and development, information technology management, discipline and anti-corruption and auditing

CHAPTER 2

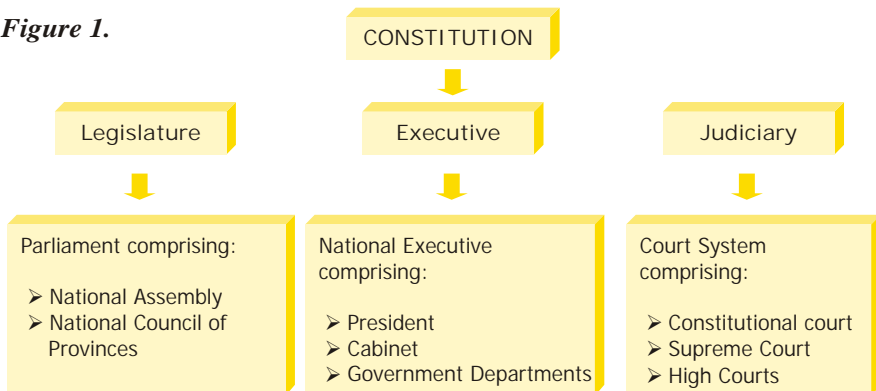
The Constitution and
System of Government

2.1 SYSTEM OF GOVERNMENT

In the Republic of South Africa, the Constitution serves as the supreme law of the country. Any law or conduct inconsistent with it is invalid and the obligations that it imposes must be fulfilled. All laws passed by Parliament or any other legislative body, (provincial or a municipality) have to meet the stringent requirements that are laid down in it.

According to the Constitution of the Republic of South Africa, 1996, South Africa is one sovereign, democratic state with the division of power between legislative, executive and judicial authorities (trias politica principle - Figure 1).

Figure 1.



All the legislative bodies in the three spheres of government, that is, Parliament in the national sphere, the nine provincial legislatures in the provincial sphere and the 284 local government legislatures in the third sphere of government are subject to all conditions contained within the Constitution. The Constitution binds the government of South Africa to abide by the principles of democracy and transparency and promote the rights and privileges of every citizen in the country by declaring among other things:

- ✓ human dignity;
- ✓ freedom of conscience, religion, thought, belief and opinion;
- ✓ freedom of expression within particular limits;
- ✓ freedom of association;
- ✓ freedom to make political choices including forming a political party, participating in its activities, campaigning for a political party or cause and having free, fair and regular elections;



2.2 SPHERES OF GOVERNMENT

The government of the Republic of South Africa is divided into spheres. These are the national, provincial and local spheres of government. National government is responsible for policy formulation and making, developing national standards and norms, and rules and regulations. Exclusive functional areas for provincial governments include abattoirs, ambulance services, provincial planning, provincial cultural matters, provincial roads and traffic. Local governments take care of local government matters which include local amenities, markets, municipal abattoirs, municipal roads, noise pollution and street trading.

The Constitution declares that the three spheres of government are distinctive, interdependent and interrelated.

- a) ***Distinctive***: meaning that each sphere has its own unique area of operation.
- b) ***Interdependent***: meaning that the three spheres are required to co-operate and acknowledge each other's area of jurisdiction.
- c) ***Interrelated***: meaning that there should be a system of co-operative governance and intergovernmental relations among the three spheres. (See the next chapter for an elaborate discussion of these concepts). These concepts will be further explained in the next chapters.

2.3 NATIONAL GOVERNMENT

2.3.1 President

The President is Head of State and head of the national executive.

The President is not a member of Parliament. However, he may be called to account in Parliament for his executive decisions and actions.

The President exercises the executive authority together with other members of the Cabinet forming the national executive.

2.3.2 Cabinet

The Cabinet consists of the President as head of Cabinet, a Deputy President and Ministers. The President selects his/her Deputy and other Ministers from members of the National Assembly.

The President is elected by the National Assembly at its first sitting after a general election. In South Africa, the term of office for a President is five years. No person may hold the office of President for more than two terms.

The President may remove ministers from office or may re-allocate functions to ministers. This is an important requirement as the President is ultimately accountable to Parliament for the success or failure of government policies or the success or failure in delivering public services to the South African society.

In addition, the President has the authority to inter alia, assent and sign bills before they become enforceable, summon the two houses of Parliament in cases of urgency, make particular appointments as required by the Constitution and to pardon or reprove offenders and remit any fines, penalties or forfeitures.

Accountability and responsibilities:

Members of the Cabinet are collectively and individually accountable to Parliament for the way in which they exercise their duties and perform their functions. In addition, Cabinet can collectively as a body be held accountable for government policy in general. However, an individual Minister could be held accountable for the way in which a particular policy for which he/she is responsible, has been carried out.

2.3.3 Government departments

There are 39 National departments that have Cabinet Ministers as political heads and Directors-General as Administrative heads. The full names of the national departments are listed in Schedule 1 of the Public Service Act.

2.3.4 Parliament

The legislature in the national sphere of government is referred to as parliament, and it consists of two "houses", namely:

- the National Assembly; and
- the National Council of Provinces.

2.3.4.1 National Assembly

The National Assembly consists of no fewer than 350 and not more than 400 members who have been elected by the people of South Africa to represent their views and expectations. Members of the National Assembly represent the various political parties that participated in the elections. Each political party is represented according to the support it enjoys among the electorate. This is called proportional representation. This means that, before an election, every party draws up a list of candidates in order of preference. The candidates are then elected from these lists in proportion to the number of votes the party wins in the election. The system guarantees that even minority groups are afforded an opportunity to have their views represented.

The National Assembly could be considered the most active component of Parliament. Most of the legislation is introduced in the National Assembly and the most extensive debates take place in this "house" of Parliament, as members strive to promote the issues their political parties feel strongly about. The most important function of Parliament is to make laws for the country.

Other functions include: holding the Executive accountable; fulfilling judicial functions relating to its own activities; and considering petitions from members of the public.

2.3.4.2 National Council of Provinces (NCOP)

In a sense the NCOP replaces the Senate, which was the second House of Parliament under the Interim Constitution. According to Section 42 (4) of the Constitution the NCOP represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces. To carry out its Constitutional mandate, the NCOP participates in the national legislative process and provides a national forum for public consideration of issues affecting the provinces.

The NCOP consists of 90 members, with ten delegates from each of the provinces. In each delegation there are four special delegates and six permanent delegates. The four special delegates comprise the Premier of the province, or any member of the provincial legislature designated by the Premier to head the provincial delegation, and three special delegates.

2.4 PROVINCIAL GOVERNMENT

Since the general elections in 1994, after the country was re-demarcated, South Africa has the following provinces: Eastern Cape, Northern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, North West and Western Cape.

2.4.4 Provincial legislature

In a province the legislative authority is vested in the provincial legislature. A provincial legislature consists of members who represent political parties that took part in the elections and have been voted in through a system that ensures proportional representation, comparable to the system in the national elections for the House of Assembly. Like the National Assembly in the national sphere of government, a provincial legislature elects a chairperson called Speaker and a deputy chairperson called Deputy Speaker at its first sitting after an election.

In terms of the Constitution, a provincial legislature has the authority to, inter alia: pass its provincial Constitution, pass its provincial legislation with regard to matters concerning its people, e.g. agriculture, consumer protection, cultural matters environment and health services. It may also decide by way of a majority of at least two thirds of its members to change the name of that province.

If a province fails to fulfil an executive obligation required in terms of legislation or the Constitution, the national executive (consisting of the President and Cabinet) is required to intervene. It is the role of the national executive to ensure that provinces meet minimum standards for service delivery; maintain an economic unity; maintain national security; and prevent a province from taking unreasonable steps that may be prejudicial to the interests of another province or the country as a whole.

2.4.5 Provincial executive

The executive authority of a province is vested in the Premier. In the execution of his/her duties, he/she is assisted by an Executive Council composed of members of the provincial legislature. The Premier may also summon the provincial legislature to extraordinary meetings and perform other prescribed functions such as assigning responsibilities to members of the Executive Council.

As in the case of Cabinet in the national sphere of government, the members of the provincial Executive Council are responsible for the functions assigned to them. They are individually and collectively accountable to the provincial legislature and the public for the performance of the functions assigned to them.

The members of the Provincial Executive and the public also enjoy the same privileges and public access as under the National Assembly.

2.5 LOCAL GOVERNMENT

Local government is the third distinctive but interdependent and interrelated component of the system of government.

The local government consists of municipalities. Municipalities are headed by municipal councils with legislative and executive authority over matters related to their respective communities.

Like other spheres of government, the local government has departments that help effect government policies. However, to ensure that the unity of the state is maintained, municipal governmental policies and actions have to adhere to national and provincial legislation. The provincial government is required to supervise local government to ensure that essential national standards are maintained or to set minimum standards for service delivery and economic unity.

The local government is the sphere of government closest to the people because it operates at local/community level. It has a developmental role to provide local basic services like water provision, local markets, provision and maintenance of infrastructure, and local economic development. Local government is also required to promote the involvement of communities and community organisations in matters pertaining to this sphere of government.

2.5.1 Municipalities

Currently, there are 284 municipalities in South Africa. These municipalities can be grouped into three categories, namely.

- **Category A:** The metropolitan councils of which there are currently six (Tshwane, Durban, Johannesburg, Ekurhuleni, Nelson Mandela, and Cape Town).
- **Category B:** A municipality that shares municipal executive and legislative authority in its area with a Category C municipality within whose area it falls. (Currently there are 231)
- **Category C:** A municipality that has municipal executive and legislative authority in an area that includes more than one municipality. (Currently there 47).

Municipalities can be regarded as units within the local sphere of government and in terms of their role, they operate at the level of communities. Their responsibilities include among other things local tourism, municipal health services, municipal public transport, air pollution, local markets, licensing of dogs, noise pollution, control of public nuisances, cemeteries and other services required by inhabitants.

Like with other spheres of government, the Constitution binds municipalities to adhere to the principle of transparency. Committee meetings can only be held behind closed doors when it is reasonable to do so.

Municipalities are directly involved in the daily lives of the communities they serve. Therefore they have an obligation to develop a culture of participatory governance to encourage and empower local communities to participate in the affairs of their municipalities.

2.5.2 Executive

Each municipal council is headed by a municipal manager who is the head of administration and also the accounting officer. The municipal manager advises council and its committees on administrative matters such as policy

issues, financial matters, organisational requirements, personnel matters. As accounting officer, the municipal manager is comparable to a director-general in the public service. He/she has to personally provide reasons to council for the way in which the financial affairs of the departments of council had been conducted.

According to section 11(1) of the Municipal Systems Act (Act No. 32 of 2000) the executive and legislative authority of a municipality is exercised by the council of the municipality.

2.6 TRADITIONAL LEADERS

Section 211 of the Constitution gives recognition to the institution, status and role of the traditional leadership. In terms of Section 212 (1) national legislation may provide for role for traditional leadership as an institution at local level on matters affecting local communities.

National or provincial legislation may provide for the establishment of houses of traditional leaders. At national level, there is a National House of Traditional leaders, and at provincial level, there are houses of traditional leadership in the Eastern Cape, KwaZulu-Natal, Limpopo, and North West provinces.

2.7 JUDICIARY

The Judiciary is the third organ of the State in South Africa. The judicial authority of the Republic of South Africa is vested in the courts. The courts are independent and subject only to the Constitution and the law. No person or organ of state (i.e. government department or institution performing in terms of the Constitution or exercising public power) may interfere with the functioning of the courts. Any order or decision issued by a court is binding on all persons and all organs of state to which it applies.

The South African judicial system comprises the following bodies as identified in the Constitution, 1996:

Constitutional Court; Supreme Court of Appeal; The High Courts (or other court of appeal that may be established in terms of national legislation); and Magistrates' Courts.

Other courts may be established or recognised in terms of an act of Parliament including any court of a status similar to either the High Courts or Magistrates Courts. Below is a short overview on the functions and powers of the above mentioned courts or judicial system:

2.7.1 Constitutional Court

The Constitutional Court is the highest for the interpretation, protection and enforcement of the Constitution. The Chief Justice is the head of the Constitutional Court. The Court may decide on any judicial and constitutional matters. Should an individual be dissatisfied with a decision of another court regarding e.g. his/her rights as contained in the Bill of Rights in the Constitution, the Constitutional Court can finally decide on whether such rights had been infringed. Also, if it is in the interest of justice a person can even bring a matter directly to the Constitutional Court.

Only the Constitutional Court can certify the Constitution before it can be enacted as the supreme law of the country or province. The Constitutional Court in fact also has the final decision on an act of Parliament or an act of a provincial legislature.

2.7.2 Supreme Court of Appeal

The Supreme Court of Appeal is situated in Bloemfontein, Free State Province. It is the highest court in respect of all other matters. The head of the Supreme Court of Appeal is the President, and is appointed by the State President. It also consists of the Deputy President and other judges of appeal who are also appointed by the State President.

The Supreme Court of Appeal may decide appeals on any matter except on Constitutional matters.

2.7.3 High Courts

Presently there are ten court divisions in South Africa and they are situated in Cape Town, Grahamstown, Kimberley, Bloemfontein, Pietermaritzburg, Pretoria, Umtata, Bisho, Sibasa and Mmabatho. Each of these divisions, with the exception of Sibasa, is composed of a Judge President and, if the President so determines, one or more Deputy Judges President and as many judges as the President may determine from time to time. There are also three local divisions:

- Witwatersrand Local Division (Johannesburg),
- Durban and Coast Local Division (Durban) and
- South-eastern Cape Division (Port Elizabeth).

These courts are presided over by judges in the provincial courts concerned.

A provincial or local division has jurisdiction in its own area over all persons residing or being in that area. These divisions hear matters that are of such a serious nature that the lower courts would not be competent to make an appropriate judgement or impose a penalty. Except where minimum or maximum sentences are prescribed by law, their penal jurisdiction is unlimited and includes life imprisonment in certain specified cases.

2.7.4 Magistrates courts

Magisterial districts have been grouped into 14 clusters headed by chief magistrates and in a few cases by senior magistrates. In order to strengthen the independence of the judiciary, all magistrates in South Africa fall outside the ambit of the Public Service. Although the regional courts have a higher penal jurisdiction than magistrate's courts (district courts), an accused person cannot appeal to the regional court against the decision of a district court, only to the High Court. There are 432 magistrate's courts in South Africa, with 1 453 magistrates and 1 875 public prosecutors.

Unless all the parties in a case consent to higher jurisdiction, the jurisdiction of a magistrate's court is limited to cases in which the claim value does not exceed R100 000 where the action arises out of a liquid document or credit agreement, or R50 000 in all other cases.

2.7.5 Other courts available in South Africa include:

Special superior courts, constituted by the President for matters relating to state security and public order;

Circuit local divisions that are itinerant courts that periodically visit areas designated by the Judge President of the provincial division concerned;

Small claims court where cases involving civil claims not exceeding R3 000 are handled free of charge by a legal expert, either a practicing advocate or attorney.

Other civil courts where civil claims arising from indigenous law and custom are handled by authorised headmen or their deputies.

There are other bodies and commissions that are in one way or another attached to the judicial system in South Africa. These include:

- The Rules Board for Courts of Law;
- Judicial Service Commission;
- Law Commission;
- Magistrates Commission;
- Family Advocate; and Legal Aid.

Of these, the last two would be discussed as, by nature of the service they provide, they are directly involved with the community.

Family Advocates of South Africa operate in the provincial and local divisions of the High Court. Family advocates work with family counsellors and they report to the courts and make recommendations that will serve the best interest of children in divorce actions.

Family advocates get involved in divorce matters either at the request of courts, one or both parties to the litigation or on their own initiative whereupon they would require authorisation from of the court.

The Legal Aid Board on the other hand, renders or makes available legal aid to indigent persons, has the power to engage legal practitioners and lays down conditions for granting legal aid. It provides free legal representation on behalf of the state, to detainees, sentenced prisoners and accused persons in circumstances where substantial injustice would result should they not be represented.

2.8 CONSTITUTIONAL BODIES

To ensure that the Constitutional principles are acknowledged in actions performed by political office bearers, public officials and private citizens, a number of Constitutional institutions have been established. These institutions play an oversight role with respect to the functioning of government institutions. The composition, functions and powers of these institutions are briefly described below:

2.8.1 Public Protector

The Office of the Public Protector, called the Ombudsman in other countries, plays a very important role. Its main responsibility is to ensure that public institutions serve private citizens and institutions in a fair and equitable manner.

The Public Protector has to ensure that private citizens have an avenue to raise concerns regarding the state and its machinery. Some of the responsibilities of this office are to investigate any improper conduct by public officials or public institutions, to take appropriate action to rectify actions or decisions that were found to be unacceptable and to report its investigations to Parliament.

The Public Protector cannot investigate court decisions. Courts belong to the Judiciary and various means are available should someone be dissatisfied with a decision of a court of law

2.8.2 Human Rights Commission

Given its past history, South Africa needed a body that would ensure that similar mistakes are not committed again. The Human Rights Commission was formed with an aim to promote a culture of human rights characterised by the respect, protection, of such rights as enshrined in the Bill of Rights, and to monitor and from time to time assess the extent to which human rights are observed in South Africa. To do that the Commission has to obtain information

from government departments and other public institutions on the measures they have taken in respect of human rights in areas such as housing, health care, food, water, social security, education and the environment. In cases the rights of individuals and communities have been violated, the commission has the power to secure appropriate corrective measures.

2.8.3 Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

In order to honour its commitment to acknowledge the diversity in the South African society, the government established the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities. Its functions include among others to promote respect by individuals and communities of the rights of other cultural, religious and linguistic communities; and to promote and develop peace, friendship, humanity, tolerance and national unity amongst the different cultural, religious and linguistic communities and to ensure that the equality of the different groups is acknowledged; and to enable the Commission to perform its functions it has the power to monitor, investigate, research, educate, lobby, advise and report on matters concerning the rights of cultural, religious and linguistic communities.

The Commission must be broadly representative of the different main cultural, religious and linguistic communities in South Africa and must also broadly reflect the gender composition of South Africa.

2.8.4 Commission on Gender Equality

The Commission was established to promote respect for gender equality and the protection, development and attainment of gender equality. To achieve this, the Commission has to constantly monitor, investigate, research, educate, lobby, advise and report on issues concerning gender equality.

2.8.5 Auditor-General

The Auditor-General's role is to audit the accounts and financial statements of national and provincial departments as well as municipalities and any other institution or accounting entity. In addition, the Auditor-General may report on the accounts, financial statements and financial management of any institution funded from the National Revenue Fund, a provincial revenue fund or by a municipality. The Auditor-General is also authorized to audit the financial affairs of any institution that may, in terms of law, receive money for public purposes.

2.8.6 Electoral Commission

One of the cornerstones of democracy is regular, free and fair elections. The Electoral Commission was established in South Africa to manage report on national, provincial and municipal elections and ensure that they are free and fair.

2.8.7 Independent Communications Authority of South Africa

Information is one of the key requirements to ensure that any society can exercise their rights. Through readily accessible information, people are able to establish whether government and its institutions function effectively and to voice their views about the services they receive from these public institutions. In South Africa, an Independent Communications Authority was established to regulate broadcasting.

The Independent Authority has to ensure fairness and diversity of views broadly representing South African society.

2.8.8 Financial and Fiscal Commission

The Financial and Fiscal Commission has been created to make recommendations regarding matters as prescribed in the Constitution relating to the three spheres of government.


The Commission is an independent body and is required to act impartially. National legislation regulates its functions.

The Commission consists of members appointed by the President. It comprises a chairperson, deputy chairperson and nine members, each of whom is nominated by the executive council of a province; two persons nominated by organised local government; and nine other persons. Members are appointed according to their expertise.


2.8.9 Central Bank

The establishment and functioning of the central bank is provided for in Section 223 of the Constitution. The primary objective of the South African Reserve Bank is to protect the value of the currency in the interest of balanced and economic growth in South Africa. The Bank is required to perform its functions independently and without fear, favour or prejudice. However, regular consultation has to take place between the Bank and the national Minister of Finance.

CHAPTER 3



The Intergovernmental System in South Africa



When the intergovernmental system is discussed it is also necessary to consider what the constitution says in that regard. Also, an important aspect of the intergovernmental system is how the different government spheres are funded because without the necessary funding they are not able to deliver services.

Different structures exist to promote cooperation and good relations between the governmental spheres. These institutions primarily exist within the executive or implementing branch of the government. The National Council of Provinces is also referred to as an instrument of intergovernmental relations within the legislative or policymaking branch of government because it deals with policy matters that have both national and provincial specific implications. Other aspects enhancing coordination and integration between government spheres, and across government as a whole, are the planning framework of government, the existence of government clusters, the functioning of the President's Coordinating Council and the Integrated Sustainable Rural Development and the Urban Renewal Programmes, and the committees of Ministers and Members of Provincial Executive Councils (MINMECs)

3.1 CONSTITUTIONAL FRAMEWORK REGARDING THE MULTISPHERE SYSTEM OF GOVERNMENT

Intergovernmental relations in the South African context concern the interaction of the three spheres of government, that is, the national, provincial and local spheres of government and its institutions. (Chapter 3 of the Constitution.

As mentioned in the previous chapter, the Constitution provides that the three government spheres are "distinctive, interdependent and interrelated". These concepts reflect the three constituent components of the decentralised South African State. The following working definitions are provided for these three concepts in the Intergovernmental Relations Audit Report (1999:7):

3.1.1 Distinctive

"The distinctiveness of each sphere is the degree of legislative and executive autonomy entrenched by the Constitution. One sphere is distinguishable from the other in its powers to make laws and execute them. In short, each sphere has distinctive legislative and executive competencies. The allocation of

competencies is based on the assumption that there are particular public interests which are best served by the respective spheres of government. The existence of unique provincial and local interest called for their protection and promotion not through a unitary but through a decentralised state".

3.1.2 Interdependent

"The interdependence of the spheres is the degree to which one sphere depends upon another for the proper fulfilment of its constitutional functions. There are two interrelated aspects to this dependency. First, the provincial and local spheres have an entitlement to assistance from the national and provincial governments respectively, in order for them to fulfil their constitutional functions. Second, the flip side of the entitlement is the duty on the national and provincial spheres to supervise the provincial and local spheres respectively to ensure that they fulfil their constitutional functions. This duty entails both the monitoring of the other sphere and intervening when a dependent sphere fails to fulfil its functions. The interdependence between the spheres is thus reflected in this co-relationship in which a particular sphere (national or provincial, as the case may be) has the responsibility of empowerment and oversight, as well as, under certain circumstances, intervention in the dependent sphere".

3.1.3 Interrelated

"The inter-relatedness of the spheres is the duty on each sphere to "co-operate with one another in mutual trust and good faith" for the greater good of the country as a whole. Based on the distinctiveness of each sphere, the relationship is one of relative equality. However, because this relationship must be realised within the duty of co-operative government, the result is not "competitive federalism". Consequently, a duty is imposed on each sphere to avoid litigation against another sphere".

3.2 INTERGOVERNMENTAL FISCAL SYSTEM

South Africa's intergovernmental fiscal system is based on a revenue-sharing model, with provinces largely dependent on transfers from the national government, while municipalities are only partially dependent on such transfers. The underlying principles of the system are grounded in the Constitution and related legislation, and its functioning has evolved since 1994 (Intergovernmental Fiscal Review, 2001:3).

The crux of the financial arrangements for provinces made by the Constitution, is that revenue raising is, by and large, reserved for national government. Provinces have a number of potential sources of revenue: an

equitable share of national revenue and other conditional grants from the national government, taxes and user charges. The most important source of revenue for provinces is their equitable share to which they are entitled under the Constitution to fulfil their executive obligations (IGR Audit Report, 1999:140). The equitable share is an unconditional allocation to provinces. It is consistent with the notion of relatively autonomous provinces with the constitutional responsibility to govern in certain areas.

Once nationally raised revenue has been divided amongst the spheres of government, the national government may allocate further grants to provinces from its equitable share. These grants may be conditional. This means that they need not be available to all provinces and could be dependent on the provinces receiving them adopting certain policies or doing certain things. Therefore, in order to receive these grants provinces may have to comply with certain directives from national government. Conditions attached to such grants could include monitoring provisions, specifications relating to the purpose for which the grants are to be used, time clauses, etc (IGR Audit Report, 1999:140-141).

	1999/00	2001/01		2001/02	2002/03	2003/04
	Actual	Budget	Revised estimate	Budget	Medium-term estimate	
R million						
National allocation	66 154	75 212	74 414	84 286	89 954	95 432
Provincial allocation	99 032	106 037	108 736	117 387	126 564	135 221
<i>Equitable share</i>	86 595	94 408	96 186	104 136	112 560	120 215
<i>Conditional grants</i>	12 437	11 629	12 551	13 251	14 004	15 006
Local government allocation	4 419	3 713	5 712	6 506	7 155	7 849
<i>Equitable share</i>	2 136	2 330	2 330	2 618	3 002	3 551
<i>Conditional grants</i>	2 243	1 383	3 382	3 888	4 153	4 298
Allocated expenditure	169 605	184 962	188 863	208 180	223 672	238 502
<i>Percentage shares</i>						
<i>National</i>	39,0%	40,7%	39,4%	40,5%	40,2%	40,0%
<i>Provinces</i>	58,4%	57,3%	57,6%	56,4%	56,6%	56,7%
<i>Local government</i>	2,6%	2,0%	3,0%	3,1%	3,2%	3,3%

Table 1.1 The division of revenue between the spheres of government 1
The data set out in this table is extracted from the 2001 Budget Review to show broad trends and have not been updated.

3.2.1 The division of revenue between the spheres of government

It is argued in the Intergovernmental Fiscal Review (2001:3) that expenditure patterns reflect that national government's role is foremost one of policy making, with provincial and local governments performing major roles in the provision of social and basic services.

Table 1.1 shows that the actual budget of the national government for 2000/01 was R184 billion, after excluding debt service, intergovernmental grants and grants-in-kind. National government's main spending is not directed at social or basic services: this funding flows through provinces and local government.

Whilst national government has responsibility for few per capita type expenditures, provinces and local government are responsible largely for such population-dependent functions. The more people in a province or municipality, the more pressure on their budgets to spend in order to provide services to local or provincial populations.

Provincial governments have the largest spending budgets. They are responsible for the implementation of major social services, including school education, health (including academic and regional hospitals, as well as primary health care), social grants and welfare services, housing and provincial roads. Since these functions have limited or no cost recovery potential, provinces are largely dependent on transfers from nationally raised revenue.

Table 1.1 shows that the provincial budget totalled R121,4 billion in 2001/02, comprising R117,5 billion of transfers from national. The transfers came in the form of unconditional "equitable share" of R104 billion, and R13,4 billion of conditional grants.

Local government generally has more fiscal capacity than the provinces. Although there are big variances among municipalities, they raise on aggregate about 90 percent of own revenue. Municipalities can raise property tax and turnover/payroll regional levies on businesses, as well as user charges (and a surcharge) on the provision of electricity and water. However, although budgeting on the expectation of collecting all their revenue, many municipalities do not collect a significant portion of revenue due. This results in deficits at the end of the financial year.

The Government recognises that the local sphere should be strengthened if it is to discharge its developmental mandate. It is therefore examining refinement of the intergovernmental fiscal system to improve national and provincial support to local government. There is also a concerted attempt to enhance cross-sphere linkages in local planning and budgeting, through the Integrated Sustainable Rural Development Support Programme and the Urban Renewal Strategy.

The system continues to evolve:

- In line with the Constitution, many national and provincial departments are considering which of their functions are best performed in the local sphere, and should be devolved to local government. Functions under such review include housing delivery, primary health care and the district health system, water and municipal policing.
- Decentralisation of management is also being considered, for functions like education (to regions), health (to districts and hospitals) and justice (cost centres at local court level)
- Within the local government sphere, legislation promulgated in 2000 lay the basis for a new division of powers and functions between district and local municipalities, and policy processes continue to assign these powers.

These proposed developments have marked fiscal implications. Shifting of functions will not only involve shifts in funds, fiscal powers, assets and liabilities, but also of personnel. This challenge is all the greater, as the pressure to equalise remuneration and conditions of work introduces cost pressures. The fiscal challenge is to manage these pressures to avoid them squeezing out funding for service delivery and non-personnel expenditure (Intergovernmental Fiscal Review, 2001:3-5)

3.3 INTERGOVERNMENTAL STRUCTURES

3.3.1 Co-operation between the structures

Various structures exist to promote interaction and co-operation between the three spheres of government. Intergovernmental structures within the executive or implementing branch of government are the following:

3.3.1.1 Intergovernmental Forum

The Intergovernmental Forum (IGF) was the most prominent of the IGR institutions established in late 1994 to promote co-operation on matters of mutual concern to all three spheres of government. As an inclusive body, the IGF was initially seen to be important for consultation between national and provincial government. It basically served as a briefing session for government and was a forum for ministers, directors-general and national and provincial governments to meet.

Weaknesses of the IGF were that its decisions were not binding, it consisted of too many members which made it unmanageable, its agenda was un-strategic and it had no linkages with other IGR structures.

The President's Coordinating Council (PCC) consequently replaced the IGF

3.3.1.2 Intergovernmental relations committees of Ministers and Members of Provincial Councils (MinMec's)

MINMEC's primarily exist within the areas of concurrent or joint competency between national and provincial government departments, i.e. areas listed in Schedule 4 of the Constitution. A MINMEC is normally composed of a national minister and nine MEC's of the provinces of a sector, provincial officials and representatives of the South African Local Government Association (SALGA). The interface between the different sectoral role-players within the MINMEC's makes it an important instrument for intergovernmental cooperation. MINMECs allow the provinces to explain the peculiarities of their situations to each other and provide them with a major opportunity to interact with the national minister. Terms of reference differ from one MINMEC to another, but essentially they provide advice, identify problems, anticipate potential areas of conflict, comment on national policy and propose legislation, and determine short- and long-term priorities.

The MINMEC's are not constitutionally prescribed and are therefore informal entities of IGR, based on mutual trust and cooperation. The MINMEC's have since 1994 emerged as important institutions for intergovernmental cooperation. Criticisms leveled at MINMEC's are that there are too sectorally focused, there is a lack of integrated planning and there is an absence of strategic thinking (IGR Audit Report, 1999:35).

Although the MINMEC's in most sectors are of an informal nature, the education and finance sectors regulated their fora by legislation which created the Council of Education Ministers and the Budget Council, respectively (Levy, 2001:100).

3.3.1.3 Organised local government

With the advent of the first democratically elected government in 1994 organised local government was radically reconstructed to meet the challenges of post-apartheid development and brought within the system of IGR. The reforms were effected through the 1996 Constitution which required an act of Parliament to provide for the recognition of the national and provincial organisations representing all South African municipalities in one national organisation. Accordingly, section 2(b) of the Organised Local Government Act of 1997 recognised only one national organisation (the South African Local Government Association, referred to as SALGA) and provided that all the different categories of municipalities in the provinces were to be represented in this organization.

The Act also provided for the nomination of people to represent the municipalities on the Finance and Fiscal Commission, which recommends the formula to the National Treasury for the division of the "equitable share" of the national revenue across the nine provinces. The Act also provides for the strong representation of nominees from the local government associations in each of the nine provinces to the national council of SALGA and an equally sizeable delegation of ten nominees to the National Council of Provinces in which they participate as non-voting observers (Levy, 2001:96).

Members:

Any provincial local government association is entitled to be a member of SALGA for that province in terms of Section 5 of the Constitution of SALGA; All municipalities that are members of a provincial structure of SALGA are ipso facto municipal members of SALGA; and the association may refuse membership of SALGA, but reasons will have to be provided.

3.3.1.4 Forum for South African Directors-General (FOSAD)

FOSAD is a body of heads of department, with membership confined to national and provincial directors-general. Its chairperson is the Director-General in the Presidency. While the coordination and implementation of national policy is its fore-most activity, the forum provides a regular opportunity for Directors-General to share experiences around policy and implementation, exchange ideas and assist each other in the professional development and management of their departments. Formally, its role in intergovernmental relations includes fostering a dynamic interface between the political structures and the administration at the national and provincial levels, improving horizontal and vertical coordination of national policies, and sharing information on best practices in public management.

The wide-ranging brief of FOSAD - specially its reference to support and to facilitate the promotion of cooperative governance - makes it an important instrument to coordinate policy and to ensure that the "vision of the government of the day" - as well as of the future - is achieved (Levy, 2001:108).

3.3.2 Intergovernmental relations structure within the legislative branch of government

The Constitution describes the function of the National Council of Provinces (NCOP) as representing the provinces to ensure that provincial interests are taken into account at the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces (section 42 (4) of the Constitution).

The provinces are therefore represented in the NCOP at the national level and as organised local government are also represented through their 10 representatives (albeit in an observer status), the NCOP is regarded as an important instrument for intergovernmental relations (IGR Audit Report, 1999:114).

3.4 INTEGRATED GOVERNANCE ISSUES

Aspects promoting integrated governance are the planning framework of government, the existence of government clusters, the functioning of the PCC and the Integrated Sustainable Rural Development Programme and the Urban Renewal Strategy.

3.4.1 Planning framework

The basic principle underpinning government's approach to integration is that the work of government impacts on the totality of the lives of citizens in an integrated way. Irrespective of how government operates, the impact of its work is understood as being that of the one entity called government.

Therefore, the starting point in building integrated governance should be that systems and structures created should serve the purpose of ensuring effective and cost-efficient service to improve society's quality of life. It is, for example, not much use to anyone if upon completion of the construction of a health clinic or school, the necessary water, electricity or road access remains incomplete. The basic intention is to ensure that the narrow bureaucratic momentum of individual government departments does not unnecessarily reduce the democratic Government's overall capacity for speedy and effective delivery (Democratic Governance - a restructured Presidency at work, 2000/2001:14-15).

The recent introduction of a Planning Framework for government is designed to integrate and synchronize strategic policy processes with the budget cycle (Overview of Government's Programme of Action, 2001/2002:8)

Every department of state and provincial administration is expected to develop their own planning cycles within the overall planning framework of Government as agreed by Cabinet. The framework links the electoral, parliamentary and budgetary cycles, and ensures that policy decisions taken by Cabinet inform planning throughout government. The planning framework includes a sequence of activities that will culminate each year with a Medium Term Strategic Framework (MTSF) - a limited but focused set of medium-term strategic objectives that are shared by all spheres of government and inform the Medium Term Expenditure Framework (MTEF) that has been in operation for some time.

This will ensure that the two wheels of the carriage - strategic priorities and budgeting (finance) - are up to equal speed and are properly sequenced for government as a whole.

3.4.2 Cabinet and DG Clusters

In order to give effect to the objective of integrated governance, the programmes of government's 39 departments are grouped in cluster committees dealing with similar sectoral challenges. Oversight of the clustered activities is provided by the Ministers who constitute the six Cabinet Clusters. These clusters are:

- Social Sector,
- Economic Sector,
- Investment and Employment,
- International Relations, Peace and Security.
- Justice, Crime Prevention and Security.
- Governance and Administration (Overview of Government's Programme of Action, 2001/2002:8).

These committees have reduced the fragmentation of governance and have ensured that each hand knows what the other is doing. Clustered Ministers are well-placed to ensure, in conjunction with their colleagues, that concerted action is taken towards speedy and thorough policy implementation.

These clusters are in turn supported by corresponding clusters of Directors-General who work closely with the Policy Coordination and Advisory Services in the Presidency. The DG clusters ensure that the deployment of departmental resources keeps step with the agendas being set by Cabinet clusters. The deliberations of the Cabinet clusters are thus kept well informed and able to take coordinated administrative action, while the deliberations of the DG clusters are kept accountable to Cabinet through the relevant Cabinet Committees. Enhanced coordination among Directors-General is important and the Forum of South African Directors-General (FOSAD) has therefore assumed an important role in this regard (Democratic Governance - a restructured Presidency at work 2000/2001:15).

(See appendix A for a list of Ministries and Deputy Ministers serving in the clusters)

3.4.3 The President's Co-ordinating Council

The President's Coordinating Council (PCC) was formed in October 1999 and consists of the President as chairperson, the Deputy President, the nine provincial Premiers and the Minister and Deputy Minister for Provincial and

Local Government. It provided the opportunity for the Presidency to emphasize the strategic leadership role it attached to the Premiers and their significance in the system of cooperative government, together with their respective provincial Executive Councils. The PCC is also promoting cooperation between the national executive authority and the provincial executive authority on national development priorities and provincial development programs, and other matters of a high level policy nature, common to both spheres of government.

Other responsibilities of the PCC include:

- Enhancing the ability of the provincial executive councils to make an impact on the elaboration of national policies;
- Strengthening the capacity of provincial government to implement government policies and programmes;
Improving cooperation between the national and provincial spheres of government with regard to the strengthening of local government.
- Improving cooperation with regard to fiscal issues.
- Ensuring that there are coordinated programmes of implementation and the necessary structures with regard to such issues as rural development, urban renewal, safety and security, etc (Terms of reference of the PCC, October 1999).
- It was intended that in carrying out its brief, the PCC would further develop IGR practices and create new linkages with the other forums for intergovernmental relations such as, for example, the MINMEC's and statutory coordinating institutions.
- The PCC boosts the constitutional principle of cooperative governance by providing direct interaction between the executive authorities of the national and provincial governmental spheres. The PCC therefore presents an opportunity of being a consultative forum to ensure coordinated and integrated implementation of policies and programmes of government. It therefore plays a role in protecting against the fragmentation of governance (Democratic Governance - a restructured Presidency at work, 2000/2001:16-17).
- An important special workshop of the PCC was held on 14 December 2001 on the aspect of local government transformation, one-year after the system of local government came into being. The workshop was in essence about the three spheres of government, reviewing and assessing the local

government transformation process, reflecting on the challenges facing local government and agreeing on measures to be taken at the highest level to realize the ultimate vision of developmental local government. The outcome of this workshop was an agreement on the five key strategic objectives relating to local government transformation and that the three spheres of government have to tackle these challenges in an integrated way. Subsequent to the workshop a programme of action was developed on the priorities and action to be taken by the different role players.

3.4.4 Integrated Sustainable Rural Development Program and the Urban Renewal Strategy


In his State of the Nation address at the opening of Parliament on 9 February 2001, President T Mbeki said that it was government's aim to bring the programmes or projects in all three spheres of government together in a coordinated and integrated manner to address rural and urban poverty (The State of the Nation Address, 9 February 2001:9).

Government has therefore adopted the two programmes named the Integrated Sustainable Rural Development Program (ISRDP) and the Urban Renewal Strategy (URS). Poverty targeting and alleviation in the rural and urban areas is an explicit objective of both programmes which is being coordinated and facilitated by the Department of Provincial and Local Government (Ministerial briefing on the Integrated Sustainable Rural Development and Urban Renewal Strategies, 15 February 2001).

These programmes are therefore part of an overall strategy of government working in a new integrated way to produce results, a new way of operating that is work-focused. The whole idea of integrated governance is also to put in place a system for accountability and partnership, for the success of these programs is dependent on all stakeholders working together as one.

Nodes or spatial locations were identified where both the ISRDP (13 nodes) and the URP (5 localities) will be implemented. The nodal points and localities were identified to deliberately correspond with the landscape of underdevelopment and poverty in South Africa.

CHAPTER 4



Law and Policy-making

Laws and policies stipulate ways in which executive actions should be performed by government institutions or individuals - either authorising or prohibiting particular actions.

Original authority to make laws vest in the respective legislatures, namely Parliament, provincial legislatures and municipal councils. These laws (in the case of municipalities - by-laws) often authorise a political or administrative body or official to legalise the detail required to give effect to the laws, proclamations, regulations or rules.

In general terms, legislation has as its purpose the establishment in written form of rules for the regulation and control of future human behaviour. Therefore, the main purposes of laws are to establish and delimit the law and to communicate the law from the lawmaking authority to the public, and in particular to persons affected by it. A contravention of a law is penalised by some form of sanction, for example imprisonment for conviction of a criminal offence, or the withdrawal of an authorisation (e.g. a motor vehicle driving licence).

Policies as well as laws resulting from policies are borne out of a need of the community or government to regulate the conduct of persons either within public institutions or outside or both. A member of the national Cabinet or provincial Executive Council, a parliamentary committee member, or a member of municipal council is in the position to formally initiate a law or an amendment to an existing law.

4.1 POLICY-MAKING PROCESS

There is no hard and fast rule on what processes are followed. Often, a policy document is developed as a result of an identified need, requests by an interest group (e.g. an NGO), etc. Influential individuals may also propose new policies. Officials may also propose new policies resulting from their research. A member of the Executive Authority may also promote new policies.

At its conceptual stage, the policy commences with a broad framework. Through a series of consultations and deliberations, this concept gains momentum thus prompting the setting up of a task team within a department responsible for the particular function to develop a green paper on the draft proposal. Stakeholders might include government departments, statutory bodies and other institutions as well as members of the public, depending on what the purpose of the policy and whose interests it is meant to serve. Public hearings may be held, for example directly with the public or through

provincial governments to obtain inputs at grassroots level. However, where policies are mainly aimed at specific professions, the general public will usually not be involved directly in the policy development. In the case of e.g. the budgetary proposals, inputs are received from the public, but the Budget Council and ultimately the Minister of Finance has to consider the fiscal and economic implications before formulating the budget. The budget is in actual fact the presentation of the financial, fiscal and economic effects of various government policies.

The Green Paper is sometimes followed by a more elaborate and refined discussion resulting in a document called the White Paper. A department or a task-team designated by a Minister produces the White Paper. It is a broad government statement and it is an end product of the consolidated inputs from the stakeholders. Comment may again be invited from interested parties. The relevant parliamentary committee may make amendments or further proposals and then send the policy document back to the minister for further discussions and final decisions.

4.2 BILLS

Sometimes there is a need for a given policy to be converted into legislation or an Act. This implies that the policy document has to be converted into a Bill. A Bill is a draft version of an Act. It may be proposing either an entirely new Act, or an amendment to an existing Act. It can also simply repeal or cancel an existing act. A Bill has to be processed in a legislature, either through Parliamentary or the provincial legislatures.

There are four main types of Bills that may serve in Parliament:

- Ordinary Bills that do not affect the provinces (Section 75 of the Constitution)
- Ordinary Bills that affect the provinces (Section 76 of the Constitution);
- Money Bills (Sections 77 of the Constitution); and
- Bills amending the Constitution (Section 74 of the Constitution).

A Bill is classified into one of the four above-mentioned categories through a process called 'tagging'. The tagging will determine the procedures that a Bill should follow to become law. Bills are tagged by the Joint Tagging Mechanism (JTM), a committee consisting of the Speaker and the Deputy Speaker of the National Assembly, and the Chairperson and permanent Deputy Chairperson of the National Council of Provinces (NCOP).

4.3 DRAFTING

A Bill can be initiated and drafted by a number of bodies:

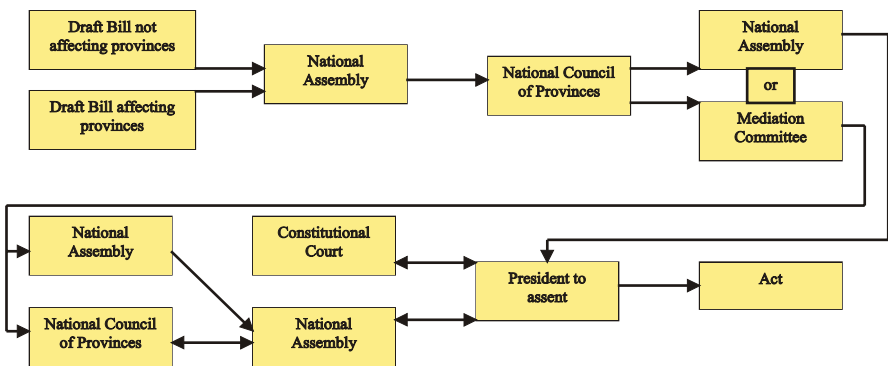
by a Minister of Cabinet or a member of the executive council of a province;
by a member of Parliament with an exception mentioned regarding a money Bill; or individual members of the legislature propose Bills called private members' Bills. A Committee concerned with ministers' legislative proposals decides whether the Bill meets particular criteria (which could include financial), and can be introduced to the legislature.

When a Bill is being drafted, the State Law Advisers are consulted in the Department of Justice and Constitutional Development, to ensure that Constitutional and other legal and practical implementation implications are considered, and that standards are adhered to.

4.4 TRANSFORMING A BILL INTO AN ACT

The way in which Bills become an Act varies as a result of a number of factors, particularly, where they are tabled and the particular issue dealt with. The processes for handling Bills differ somewhat between Parliament and the provincial legislatures. The two processes are discussed briefly in the following paragraphs. Figure 3 illustrates the process of passing a Bill in Parliament

Figure 3: Passing a Bill in Parliament



4.5 BILLS TABLED IN PARLIAMENT

4.5.1 Bills that do not affect the provinces: Section 75 Bills

A draft Bill prepared by a government department and submitted by the relevant Minister to Cabinet. After Cabinet's approval the State Law Advisers in the Department of Justice and Constitutional Development refine the draft Bill. Thereafter the Bill is introduced and tabled in the National Assembly for

First Reading while at the same time it or a summary thereof, is published in the Government Gazette for public scrutiny.

Once notice has been given, the Bill is referred to a relevant parliamentary committee which, after assessing the Bill may accept the Bill, make further amendments or reject it, usually after a process of public consultation. The Bill is then submitted to the National Assembly for Second Reading where the Bill is debated and voted on by the members. If the majority of the members of National Assembly voted in its favour, the Bill is referred to the National Council of Provinces (NCOP) for consideration. If passed, the Bill is referred to the President for his assent and signature after which it becomes an Act of Parliament, to come into effect on a date it is published in the Government Gazette, or a date set by the President in the notice in the Government Gazette.

The NCOP may reject or propose amendments to a bill. However, the National Assembly may actually overrule that decision and pass the bill regardless of the NCOP's rejection.

4.5.2 Bills that affect the provinces: Section 76 Bills

Bills on matters of concurrent competence of Parliament and the provinces as defined in Schedule 4 of the Constitution, 1996 include issues relating to e.g. casinos, racing, gambling, cultural matters, disaster management, environment and health services.

These Bills can either be tabled by a Cabinet Minister or Deputy Minister or a member of a committee in the National Assembly or in the NCOP by a member of a committee of the NCOP.

Once in the NCOP, a Bill is referred to a select committee. Then the Bill is referred for discussions and deliberations to the various provincial legislatures. The NCOP members then get a voting mandate from their provincial legislatures. Each provincial delegation has one vote.

Thereafter the NCOP Committee considers the Bill whereupon it might be accepted; in which case it would be referred to the President for his assent. Alternatively, it might be amended or rejected, whereupon it would be referred back to the National Assembly for reconsideration. In the event of a dispute between the National Assembly and the NCOP the Bill is taken to a Mediation Committee. The Mediation Committee may agree on the Bill as passed by the National Assembly, the amended Bill as passed by the NCOP or another version of the Bill.

The Bill, when finally passed, is referred to the President for his signature. If the President has reservations about the constitutionality of a bill, he may refer it back to the National Assembly for consideration.

Before a Bill becomes an Act of Parliament it must be assented to and signed by the President. Thereafter the Act must be published and it will come into force when it is published or on a date determined in terms of the Act. Anybody in the Republic can challenge the constitutionality of a Bill or Act in the Constitutional Court.

4.6 BILLS TABLED IN A PROVINCIAL LEGISLATURE

According to Schedule 5 of the Constitution, 1996 provinces have exclusive legislative power over a variety of areas including, ambulance services, libraries other than national libraries, provincial cultural matters, provincial sports etc. At provincial level, a member of the Executive Council, a member of the provincial legislature or a committee may draw up a bill, after which it has to be approved by the Executive Council before being dealt with in the legislature.

The draft bill is then published in the Provincial Gazette and also advertised in various newspapers for the public to assess and comment on it. Members of the public have a period of 14 days during which to make comments on a draft bill thus introduced. The Speaker of the provincial legislature then introduces the bill and identifies the Committee, which would in turn hold debates and if required, recommend amendments to the Bill. The Bill would then be voted upon and either passed or rejected. If it was passed, it is referred to the Premier who signed it into a provincial Act or, if he has reservations about the constitutionality, referred it back to legislature

4.7 LAWS OF MUNICIPAL COUNCILS

A municipal council may make by-laws for the effective administration of the matters under its administration. However, councils prefer to decide by way of resolutions. The reason for this is that resolutions are easier to pass and easier to amend. If by-laws are passed they need the approval of the provincial premier. Amendments in the same way have to follow a long and often cumbersome process.

4.8 ROLE OF PARLIAMENTARY COMMITTEES

The Parliamentary committee system is one of the most important mechanisms for ensuring efficient, transparent government and allowing public input in the law-making process.

The key committees are listed in Appendix D of this publication:

CHAPTER 5

Integrated planning framework
and budgeting cycle

Following Cabinet's decision all departments and provinces have to implement the new Planning Framework, a summary of which is attached. This chapter provides guidelines for the implementation of the Planning Framework and includes a detailed outline of the planning cycle and the role of different agencies in the planning process.

The Medium Term Strategic Framework (MTSF) is a limited but focused set of medium - term strategic priorities that are shared by all spheres of government and inform planning, budgeting and implementation. It links policy priorities, planning and budgeting for government as a whole. The MTSF is the key output of a broader Planning Framework, which comprises a sequencing exercise (Planning Cycle), that will enhance strategic medium - term prioritization and ensure that the policy decisions taken by Cabinet inform planning exercises throughout government.

The overall purpose of the Planning Framework is to align government's planning cycles and procedures and to ensure that policy and planning inform budgetary processes. Government sets its key policy priorities based on the mandate it receives from the electorate. These need to be translated into policies and programs, which are implemented by the various agencies. Departments and provinces need to develop their programs based on the policy priorities of Cabinet. This must be synthesized with to the Integrated Development Plans developed in March by Local Government.

The short, medium and long- term priorities are drafted by departments, refined by clusters and FOSAD, and finalized by Cabinet at the January Lekgotla.

The medium term is defined as three years and the Planning Cycle commences every year in September/October when departments and provinces are expected to develop their cluster relevant priorities and submit them to the Presidency.

The Planning Cycle is an annual event. After the initial three - year (medium term) set of priorities are determined departments continue to plan for year three whilst continuing to evaluate the existing year of implementation within the context of the medium term. For the 2002/2003 Planning Cycle departments would focus on the medium term, 2003 - 2005, and target to inform the MTEF of 2004 - 2006.

This allows all departments to remain focused on a set of medium term priorities that is informed by Cabinet and based on the election mandate of government.

5.1 THE MTSF AND THE MTEF

Cabinet finalizes the MTSF at the January Lekgotla and this informs the business plans of Departments, as required by the National Treasury in terms of the requirements of the MTEF.

The Medium Term Expenditure Framework details government's 3-year rolling expenditure and revenue plans for national and provincial departments.

The planning exercise that commences in September/October is different from the development of business plans as departments and provinces are required to report on their annual activities, review their mid term plans and develop their short, medium and long term plans. The MTEF requires the development of business plans that detail their activities and expenditure based on the finalized MTSF.

The short, medium and long term plans of departments and provinces are due in October to the Presidency and business plans are submitted to National Treasury 15 working days after Budget day.

This sequence ensures that planning informs budgeting and that the corporate strategy developed by Cabinet is held in view by all spheres of government.

5.2 ROLE OF DEPARTMENTS AND PROVINCES IN THE PLANNING FRAMEWORK

Departments and Provinces commence their planning and review exercise in September/ October. This entails the development of short, medium and long-term priorities, the mid - term review, and the mid- term report. They match the planning against the previous year, informed by the election mandate, the State of the Nation Address of the President, the key policy direction set by the Makgotla, and their cluster priorities.

5.3 PLANNING CYCLE PROCESSES

5.3.1 Departmental and Provincial Priorities

The sequence begins in September/October each year, when departments and provinces normally review progress and plan for the next year and the medium term.

Each provincial and national department will now also produce short, medium and long - term priorities as well as mid- term reports and a mid term review. The accounting officers of each department must ensure that this stage of the process is completed by the end of October.

All national departments submit their priorities and the mid- term reports to the Presidency and their corresponding clusters. Provincial departments submit

their plans and priorities to the corresponding provincial clusters and the provincial Directors-General. The Provincial Directors-General will submit copies of the reports and priorities to the Presidency and the Department of Provincial Affairs and Local Government. The Provincial reports must include summaries of the Integrated Development Plans.

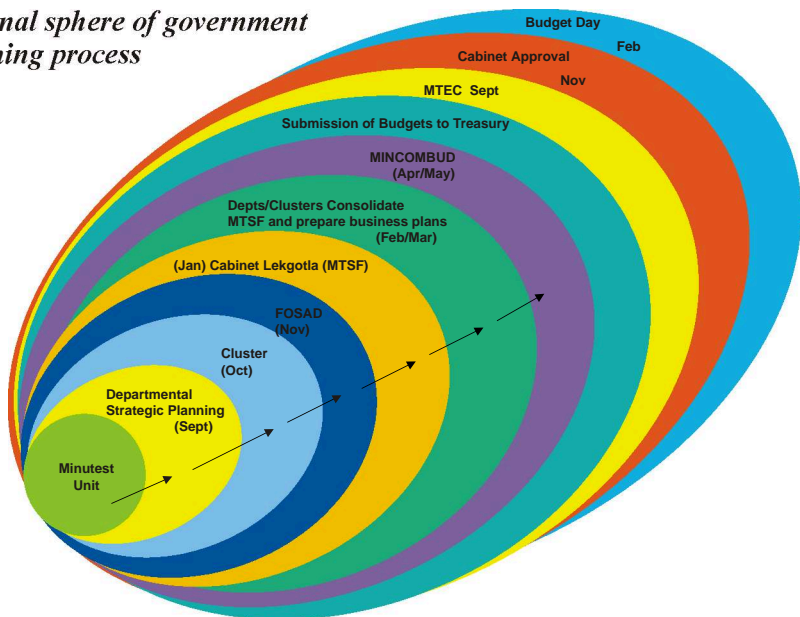
It is expected that Local Government will have submitted their IDP's to the Provincial planning process.

The priorities should:

- Make a transparent link to the five priority areas of government
- Be informed by and interrogate the strategic priorities issued by Cabinet for the preceding year (January and July Makgotla)
- Be located at the strategic level and explicitly indicate where coordination with other agencies will occur
- Identify partnerships with other spheres of government
- Be appropriately located within the short, medium and long- term priorities set by the same department.

In addition, the reports should state whether the existing baseline budget is appropriate and as well as a brief outline of any additional skills requirements.

*National sphere of government
Planning process*



5.3.2 Cluster Level Priorities

In mid November, DG clusters review the material they received from their member departments and integrate the short, medium and long- term priorities. This process is completed in consultation with the relevant cluster-coordinating Ministers. The revised set of cluster priorities is submitted to FOSAD in the same format used by departments.

During November/December clusters meet with their coordinating Ministers to review their cluster level priorities. An additional review process is conducted in June prior to the submission of cluster reports to the July Lekgotla.

5.3.3 FOSAD

During the second half of November, FOSAD receives the submissions from clusters, synthesizes and amends the reports and produces a draft Medium Term Strategic Framework (MTSF) that is submitted to the Presidency for distribution to Ministers and Deputy Ministers by mid- December to prepare for the January Lekgotla.

5.3.4 Cabinet Makgotla

With the information contained in the draft MTSF, Cabinet will be equipped to make decisions regarding policy priorities or expenditure shifts, the skills portfolio of its institutions and other levers that need to be utilised in achieving the overall strategic priorities of government.

At the end of the January Lekgotla, Cabinet releases the final MTSF and this is communicated to the nation through the President's State of the Nation Address and the GCIS communication campaign. In this way the MTSF does not only cascade down to the departments and provinces, but is communicated to the public.

The MTSF sets out the way in which government has translated its mandate into short, medium and long - term priorities, and sets out a mix of programmes that will be deployed to achieve its objectives.

The July Lekgotla is an important point of review, as it will allow departments to begin to align their priorities for the September/October Planning Cycle as well as prepare their submissions for the October Adjustment Estimates.

5.3.5 Consolidation of MTSF for Budget Purposes

FOSAD, supported by the Central Coordinating Committee, will ensure that all departments receive the MTSF as soon as it becomes available. Ministers and Directors General will be responsible for ensuring that departmental staff fully understand the Framework and the direction it provides for departments.

Spending agencies then undertake detailed planning and budgeting exercises to ensure that their programmes and projects are geared to achieving the

objectives set out in the Framework. Business plans must demonstrate an explicit link with the Medium Term Strategic Framework. This phase will end in March, when the MTEF process commences.

5.4 THE BUDGETING CYCLE

Medium-term budgeting is the basis of the budget reform initiatives. It reinforces the link between Government's policy choices, its budget and the delivery of services, which serves to strengthen political decision-making and accountability.

This Section gives a simplified outline of the budget process in the form of a series of decision stages that form the building blocks used in preparing the Budget. Far from being logical and straightforward as it might be evident while reading through this section, these stages are greatly overlapping and some processes are repetitive throughout. In total, there are seven of such stages, all of which are based on some critical thematic decision points.

5.4.1 The prioritisation stage

The prioritisation stage commences in April as National Treasury and provincial treasuries prepare for initial discussion on Government's policy and spending priorities at the Ministers' Committee on Budget (May to June) and the Budget Council Lekgotla (July).

The prioritisation stage forms a springboard within the budgeting cycle. During this stage numerous consultations with various decision-makers occur to review and help prioritise government's policies on service delivery in relation to the available revenue to be provided in the budget.

Apart from the Ministers' Committee on Budget, consultations with organised local government, the South African Local Government Association (SALGA), take place through the Budget Forum or the Local Government MINMEC. In their deliberations, these forums have to consider recommendations from the Financial and Fiscal Commission on the Division of Revenue Bill, tabled during April/May each year.

Cabinet has to make further policy choices and prioritise on service delivery programmes on the basis of resource constraints to facilitate better management of public finances over time. Basically, the focal point of this stage is to align government budgeting cycles and procedures and to ensure that policy and procedure inform the budgetary process. Therefore, inputs from bodies that are close to the public such as SALGA, at local government sphere, are fundamental to help identify areas that have been neglected in terms of service provision.

While the annual budget preparation cycle could be said to start around April with the prioritisation stage, there are some important events that cannot be ignored. In principle, the President, in his State of the Nation Address sets the tone for the budget preparation for the next year. In his keynote address, the President identifies some policy priorities for the new medium-term expenditure period.

5.4.2 Preparation and review of MTEF budget submissions

Beginning in April up to August, the preparation and review stage centres on the preparation and submission of Medium-Term Expenditure Frameworks by national and provincial departments. The National Treasury publishes a set of guidelines to guide all national departments in the preparation of the MTEF submissions. Each provincial treasury is responsible for the publication of guidelines for its respective departments.

The departmental medium-term expenditure frameworks include important information derived from The Estimates of National Expenditure. In this document, policy developments, legislation and other factors affecting expenditure are outlined alongside departmental spending plans. Also, details of departmental outputs and service delivery indicators are provided as another step towards setting "measurable objectives" for each expenditure.

As soon as the departmental draft budget submissions have been handed over to the National Treasury, they are distributed to various spending teams and budget analysts. These teams evaluate the submissions in regular consultation with the departments and give departments feedback in the form of comments on departmental policy options. By mid August departments submit their responses in preparation for the Medium-Term Expenditure Committee (MTEC) discussion early in September.

For example, the integrated justice sector cluster review team which consists of the Department of Safety and Security, Justice and Constitutional Development, Correctional Services and National Treasury plays a predominant role in this stage. In June, this Team develop a common approach to the policy and budgetary priorities of the cluster and facilitate alignment of the departmental budget submissions to cluster priorities.

In July, the Team considers cluster-wide issues affecting each department's budget submission, and also assist National Treasury to compile a cluster-wide assessment of needs and priorities. These meetings continue until the MTEC has completed the process of drafting recommendations to the Ministers' Committee on the Budget and Cabinet.

5.4.3 Review of the macroeconomic and fiscal framework and the Division of Revenue

This is a key decision stage in the budget process for national, provincial and municipalities and it runs from July to September, almost parallel with preparation and review of budget submissions stage. The macroeconomic and fiscal framework and the Division of Revenue between the three spheres of government are finalised during this stage and the decisions made impact greatly on each government sphere.

The stage revolves around two inter-related but distinct decisions:

- The overall budget framework which includes fiscal policy considerations that lead to overall spending growth, inflation (including debt interest projections); and
- It evaluates the division of revenue between the three spheres of government, which culminates in the Division of Revenue Act.

The main events during this stage are:

- a) The workshop on the review of macroeconomic framework looking at the key spending pressures throughout the three spheres of government. The outcomes of its discussions feed into:

- The August sectoral joint MINMEC committees consisting of the national ministers and MEC of concurrent functions, e.g. health, education, welfare and housing. And
- The August discussions by the Ministers' Council on the Budget, the Budget Council and the Budget Forum, that focus on the preparations of memoranda on the preliminary macroeconomic and fiscal framework and the Division of Revenue.

- b) A meeting of the extended Cabinet in September that discusses recommendations presented by the Ministers' Committee on the Budget (The extended Cabinet comprises the national Cabinet and the nine provincial premiers).

5.4.4 Medium-Term Allocation Process: Recommendation stage

The Medium-Term allocation stage takes place in September and it is mainly centred on the national and provincial hearings of the Medium-Term Expenditure Committees. Provincial MTECs that are made up of some provincial officials and a representative from the national MTEC conduct hearings in each province.

The officials from the national MTEC form an important link between the provincial MTECs and the National MTEC.

The MTECs are technical committees whose main task is to make recommendations to political decision-makers on the changes to the medium-term allocations of departments in accordance with the preliminary Division of Revenue among the three spheres of government. When the MTECs meet, they invite senior departmental officers such as the accounting officer and the chief financial officer to make sure that departments realign their trends of proposed expenditure with the baseline allocations available.

The Committee makes recommendations to the Minister of Finance on changes to the 3-year allocations for national votes taking into account:

- a) Government's broad policy and spending priorities for the next three years, guided by political discussions at the start of the budget cycle; and
- b) the estimated change to the national share base on the preliminary macroeconomic and fiscal framework and the Division of Revenue between the three government spheres.

5.4.5 Medium-Term Budget Policy Statement (MTBPS)

The Minister of Finance tables the Medium-Term Budget Policy Statement in Parliament at the end of October each year.

In his Medium-Term Budget Policy Statement (MTBPS), the Minister of Finance:

- Outlines government's medium-term macroeconomic and fiscal position; and
- Outlines government's broad policy and spending priorities over the next three-year period.

The tabling of the MTBPS takes place three months before the detailed budget is tabled in Parliament. This enables Parliament and the public in particular to actively engage with government's medium-term priorities and spending plans to ensure transparency and accountability.

During this time the Minister of Finance also presents the Adjustment Budget for the remaining period of the current financial year.

To prepare the Medium-Term Budget Policy Statement:

- National Treasury produces the first draft during October in consideration of government's medium-term macroeconomic and fiscal position; and its broad policy and spending priorities.
- The Minister of Finance reviews the draft MTBPS and tables the

revised document at the Ministers' Committee on the Budget and Cabinet for further consideration in the middle of October.

- The Minister of Finance tables the Statement before Parliament towards the end of October of each year.
- During the next three months after the MTBPS has been tabled, the Parliament has to work hard, holding discussions and consultations over the MTBPS in preparation for the National Budget in February.

5.4.6 The Medium-Term Allocation: Decision stage

After the tabling of the MTBPS in October, November sees the beginning of the Decision Stage. During this stage:

- The Minister of Finance reviews the recommendations of the Medium-Term Expenditure Committee on changes to the three-year allocations of national votes (A vote refers to the budget allocation of a departments on which Parliament has to vote);
- He then tables these before the Ministers' Committee on the Budget;
- Simultaneously, he reviews the final allocations to provincial and local government, including conditional grants;
- These are then tabled in the Budget Council and Budget Forum;
- Cabinet receives the recommendations from the Ministers' Committee on the Budget, the Budget Council and the Budget Forum for further consideration; and
- In mid November, National Treasury issues allocation letters to departments and provincial treasuries which outline Cabinet's decision on changes to the MTEF allocation of votes to the three spheres of government, giving a detailed outline of the rationale and conditions of the final allocations for national and provincial votes for the new MTEF period.

5.4.7 Preparation for the Budget

This is the final stage that will culminate in the presentation to Parliament of the Budget Speech on budget day by the Minister of Finance, and the tabling of budget documentation by provincial MEC for Finance in their respective legislatures. The Budget proposals by the Minister and MECs for finance are dealt with in a legislative process similar to that of a bill. This process involves review, analysis and discussion of the Government's proposed spending plans in relation to stated Government policy priorities over the medium-term period. During this stage, all departments work closely in drafting and finalising the national budget.

All the departments are requested to:

- Submit a first draft of their departmental vote of its Estimates of National Expenditure by early December to the National Treasury. The vote should focus on revision of policy developments and service delivery indicators in particular;
- Finalise the programme, standard item and economic classification of their medium-term allocation that have to be submitted in the form of a database by mid-December;
- Work closely with the National Treasury spending teams and analysts in finalising their departmental votes; and
- Get their departmental votes to be approved or 'signed-off' by accounting officers in the second week of February prior to printing.

At the end of January, a final draft of the Division of Revenue Bill is circulated to the FFC, provincial MECs of finance and organised local government for final consultation on the division of revenue.

Hereafter, the Bill is sent to Cabinet where it has to be reviewed for the last time in relation to recommendations from the FFC, provincial MECs of finance and organised local government. Cabinet would then approve the Bill and thereafter, the Minister of Finance will table it as the Estimates of National Expenditure in Parliament in Cape Town on budget day. Each MEC for finance will then table their provincial budgets in their respective provincial legislatures.

The tabling of the budget speech by the national Minister of Finance in Parliament during February is, as it has been shown in this chapter, a culmination of a long and arduous route that begins months prior to the occasion, almost immediately after the presentation of the previous year's budget speech. The draft budget submission for each year greatly informs the budget submissions for the year thereafter. The budget cycle is dealing with an iterative or repetitive chain of events that are mutually related.

5.4.8 Budget Review Stage

Immediately after the Minister of Finance and the MECs for finance have tabled their budget proposals, the Budget review stage starts. During this stage, the budget proposals are taken through a Parliamentary or provincial legislative process that involves reviewing, analysing and discussing Government's proposed spending plans in relation to its stated policy priorities over the medium term.

5.5 MANAGING THE MTSF

The overall management responsibility rests with FOSAD, supported by the Central Co-ordinating Committee. The development of the Framework on an annual basis will require dedicated capacity. The Framework sets out tasks that cover the entire year, and include inter alia ensuring that the sequence is

understood and the timetable adhered to; resource planning workshops with appropriate information; ensuring that medium term strategic priorities are submitted to the Presidency and cluster chairpersons on time by all national departments and provinces.

Within the Presidency, the Policy Coordination and Advisory Services branch together with the FOSAD Secretariat and the Central Coordinating Committee will ensure that the overall coordinating and monitoring tasks are performed punctually.

There may be a need to convene technical task teams comprising officials from central departments. The task teams will be convened only when required to perform specific tasks as identified by the Central Coordinating Committee.

Within provincial and national departments it is expected that the Chief Financial Officers as well as the Chief Information Officers, where they exist, be involved in the departmental management of the Planning Cycle.

The success of the Framework is dependent on accurate and timeous data being available to the departments, The Presidency, Clusters, and Cabinet.

5.6 TRANSFER OF FUNCTIONS

The strategic plan of an institution can result in transfer of functions within an institution or between two or more institutions. Where a function is to be transferred between votes during a financial year, the relevant treasury must be consulted in advance, to facilitate any request for the resulting transfer of funds voted for that function in terms of Section 33 of the Public Finance Management Act, 1999. In the absence of agreement between the affected departments on the amount of funds to be transferred, the relevant treasury will determine the funds to be shifted. Should the Minister of Public Service and Administration or a Premier of a province make a determination regarding the transfer of a function in terms of the Public Service Act, 1994, that determination must accompany a request for the transfer of funds.

Should the Minister of Public Service and Administration or a Premier approve a function transfer after the finalisation of the adjustment estimates, it must be dealt with on a recoverable basis. Before seeking formal approval from the Minister of Public Service and Administration or the Premier of a province for any transfer of functions to another sphere of government, the transferring accounting officer must first seek the approval of the relevant treasury or treasuries on any funding arrangements.

The transfer of functions to municipalities must be dealt with in terms of the annual Division of Revenue Act. The department requesting additional funds through an adjustments budget must submit a memorandum to the relevant treasury, the Cabinet/EXCO Secretariat and any treasury committee of the Cabinet/EXCO, on a date determined by the relevant treasury. Where a national adjustments budget allocates funds to a province, the relevant provincial treasury must table an adjustments budget within 30 days of the tabling of the national adjustments budget, or within such longer period as the National Treasury may approve.

CHAPTER 6

Creating Government Departments and Public Entities

In a democratic system, people vote in a government and, in return, the government has to prioritise on improving the living conditions of the people that voted it in. This tends to be an enormous and highly challenging responsibility and in order to carry it out, the Government uses a wide array of bodies and structures such as departments and national public entities.

In this chapter we take a close look at these bodies and structures in order to explain how they are formed and how they differ from each other.

6.1 GOVERNMENT DEPARTMENTS

As we have just pointed out, departments, at both the national and provincial spheres play an important role in the execution of government functions. Departments at the national sphere of government are usually headed by Cabinet Ministers while those at the provincial sphere are headed by MECs.

The final decision on the establishment or abolition of any department or organisational component in government lies with the President. However, because of the constitutional implications of such an undertaking he needs support from other role players. In the case of government departments and organisational components in the national sphere, he has to work together with the Minister for Public Service and Administration while in the provincial sphere he has to work together with the Premier of the respective province.

When can a new department be formed?

- If a new portfolio for which the President or a Premier, in terms of the Constitution, has appointed a Minister or a Member of the Executive Council (MEC) requires the establishment of a new department;
- After the functions of an existing department have been reviewed, it could be decided that where necessary, that the department be split into to departments;
- After the review of the functions of two or more existing departments, these departments can be merged into one department.

Schedule 1 to the Public Service Act, 1994, lists all national departments and provincial administrations (namely Offices of the Premier).

Schedule 2 lists all provincial departments in each provincial administration, while Schedule 3 lists all organisational components.

6.2 CREATION OF A PUBLIC ENTITY (PE)

Cabinet approved on 4 April 2001, as an interim measure, the broad process for the creation of national PEs as set out in this chapter. This broad process is to remain in operation until it is replaced and/or updated by an appropriate institutional framework for PEs.

6.2.1 Rationale for using agencies (agencification)

To improve the quality and cost of services available to citizens, Government is committed to "do more with less". One mechanism has been to create semi-autonomous entities at arm's length from parent ministries.

PEs are established in the Public Sector, but outside the Public Service, typically for reasons of -

- Strategic, social or economic intervention by the State or to deal with strategic risks and dangers that the State or society faces to its security, health, prosperity or well being; and/or
- Adopting commercial and business principles in service delivery when it is required; and/or
- Signaling that there is need for objectivity and more operational autonomy, yet retaining accountability in the delivery of services.

There are two types of national public entities, namely Government Business Enterprises and PEs other than the government Business Enterprises. The two categories of PEs have different levels of autonomy. Government Business Enterprises, which generate their own income, have the most autonomy as these entities operate in a competitive market place where decisions are made in accordance with business principles. These entities normally pay tax and could in future be required to pay dividends.

PEs, other than the Government Business Enterprises, are normally extensions of a department with the mandate to fulfil a specific economic or social responsibility of Government. These entities are more reliant on Government funding and public money, either by means of a transfer from the Revenue Fund or through statutory money. As such, these entities have the least autonomy and are also accountable to Government for this money. In addition, the relevant Minister (hereafter called "the Executive Authority") has the responsibility to approve these entities' annual budget.

6.3 MANDATES FOR THE CREATION, LISTING AND CLASSIFICATION OF NATIONAL PES

6.3.1 Minister for the Public Service and Administration and the Minister of Finance

The Minister of Public Service and Administration has a responsibility to achieve a proper macro organisation of the Public Service by ensuring that any new or existing public function is allocated/transferred to the appropriate sphere of government, department and/or PE and to eliminate any duplication of functions.

Therefore, when a PE is established for a new or existing function, the Minister of Public Service and Administration must make a determination regarding the allocation/transfer of functions.

The Minister of Finance, on the other hand, has to oversee the uniform reporting and listing of all PEs, nationally and in the provinces, by ensuring that any new or existing PE is listed and accountable to Government. This Ministry has to make a determination regarding the allocation of monies from Government, including statutory funding, to a public entity or future public entity and ensuring that such an entity's funding requirements and mandate are within the ambit of the Medium-Term Expenditure Framework. (See chapter 4). It is important therefore that the accounting officer interface with the National Treasury on any new PE which is intended to be established.

6.4 PROCESS TO CREATE PES

The broad interim process for creating a public entity as approved by Cabinet on 4 April 2001 is set out below.

Step 1: Preparing a business case.

Executive authorities are required to prepare a business case that involves strategic assessment of the particular service to determine, among other things, its functional location and other possible options for service delivery. The assessment should also demonstrate the advantages of the public entity over other models of service delivery and how it will best serve the broader interests of the state.

The business case has to include two important studies. The first one should be a feasibility study that provides for qualitative reasons and benefits. The second one is a costing study that probes into financial matters, namely,

financial viability and value for money, affordability, and the ability to generate own income and other sources of income (user pay levies), partnership contributions and government transfer payments.

Other issues to be considered include, setting up service standards, Human resource management and work organisation issues and identifying an appropriate service delivery business model.

Step 2: Assessing the business case:

To enable the Minister for Public Service and Administration and the Minister of Finance to coherently exercise their legislative competencies, a joint evaluation panel is set up between the two ministries. The Minister for Public Service and Administration has to transfer a public service function to the new PE while the Minister of Finance has to prepare a written consent to its establishment. The set-up panel has to, among other things assess the relevant business case for an intended national PE.

Step 3: Formalising the establishment of a PE:

National executive authorities are required to inform the relevant portfolio committee and Cabinet of the consent to the establishment of a PE by the Ministers of Finance, and Public Service and Administration, before Cabinet approves that legislation on the establishment of the PE be introduced in Parliament.

Step 4: Implement the establishment of a PE:

Executive authorities are required to implement the establishment of a PE and effect the transfer of a public service function to the PE.

The deployment of people to work in the newly established public entity can be done either by:

1. Deploying/transferring public employees from relevant departments.
2. Appointing new employees.

CHAPTER 7



The Collective
Bargaining Process



7.1 COMPOSITION OF THE PUBLIC SERVICE

The total number of workers employed within the Public Service is about 1.1 million. It accounts for about a fifth of all formal employment and about a tenth of the labour force as a whole. This makes it the largest single employer in the country. Between 40 and 60 per cent of the public service workforce belongs to unions and staff associations. The Public Service has a substantial number of public servants that are members of more than one trade union. This blurs the picture regarding the exact level of unionisation or organisation in the Public Service.

The conditions of service/employment of the Public Service workforce were until recently determined centrally by the then Commission for Administration, currently the Office of the Public Service Commission (OPSC). In 1996 the Public Service Co-ordinating Bargaining Chamber was established to determine the salaries and conditions of service in the Public Service. Later, four sector councils were established for a similar purpose. Their prime focus is on the sector specific issues, i.e. Education, Health and Welfare, the Police and Core (general) Public Service.

7.2 RELATIONSHIP BETWEEN COLLECTIVE BARGAINING AND CABINET/PARLIAMENT

The bargaining process in the Public Service recognises the executive function of the Cabinet and does not interfere with the tasks/functions of both Cabinet and Parliament. The Cabinet and Parliament relate to the collective bargaining process(s) through the Minister of Public Service and Administration. The Treasury Instructions make provision for bargaining on both the conditions of service and salaries.

7.3 RELATIONSHIP BETWEEN EMPLOYER AND EMPLOYEE

The relations between the employer and the employee are regulated by the contract of employment concluded between the parties, and the conditions of employment recorded in various collective bargaining agreements. Conditions and terms of employment for employees at senior managerial level, that is, level 13 and above, are regulated by a contract of employment and a performance contract concluded between the parties. These top echelon employees belong to the Senior Management Service (SMS). Plans are

currently being explored for a similar kind of performance contractual employment arrangement to be cascaded down to all other government employees.

All employer-employee relationships are based on the Basic Conditions of Employment Act, (1997) Act 75 of 1997; Labour Relations Act, 1995 (Act 66 of 1995), Public Service Act, 1994 (Proclamation 103 of 1994) and all other related legislation that regulate the conditions of employment in the Public Service.

7.4 THE STRUCTURE OF COLLECTIVE BARGAINING

The collective bargaining arrangement in the Public Service is very important. There are currently four sectors and one central council at which the state as an employer bargains with the labour representatives/ unions. These are:

- a) Public Service Co-ordinating Bargaining Council (PSCBC) where most issues of mutual interest or transverse matters as they are often called are bargained;
- b) four sector councils covering the police (SSSBC), health and welfare (PHWSBC), educators (ELRC), core general public service and administration (GPSSBC); and
- c) all provinces and departments regularly negotiate with unions in the collective bargaining chambers as set out in the resolution of the PSCBC.

The above bargaining arrangements are recent and were conceptualised at the time when the Public Service had no culture of negotiation. Whilst the establishment of these structures was a progressive development, it was a very big challenge as well. The situation is further compounded by the existence of a complex legal framework with laws that have overlapping powers around the public service.

The educators and their auxiliary staff dichotomy is one such example. The educators fall under one piece of legislation whilst their support staff fall under another. The effect is that benefits and conditions of service for these employees are bargained in two different councils and yet they have one employer.

Until recently the annual budget contained a sub-vote -- that of Improvement in Conditions of Service (ICS sub-vote). It is from this sub-vote that various departments received their allocations to improve the conditions of service of their individual employees. The Cabinet took a decision to decentralise the budget thus abolishing the ICS sub-vote.

Collective bargaining in the public service will therefore be informed by the following principles:

- Bargaining over salaries and conditions of service will be conducted at the Sector Bargaining Councils;
- Employer and unions/employee representatives at the sector bargaining councils will have the powers to enter into collective agreements at central and or sectoral council jurisdiction and scope of the central and or sector bargaining council will include all employees employed in that sector (For example, educators and non-educators employed by the various departments of education);
- Jurisdiction of the Public Health and Welfare Sectoral Bargaining Council covers only those employees who are employed in the Health and Welfare sector (Other professionals employed by various sectors shall be catered for in those sectors);
- Jurisdiction of the SSSBC will be augmented to include both the employees of SAPS and the Department of Correctional Services; &
- PSCBC will set out framework standards and norms for the public service as a whole to ensure uniformity.

7.5 OBJECTIVES AND FUNCTIONS OF THE BARGAINING COUNCIL

The main objectives and functions of the Council, within its Constitutional scope, are to:

- Generally enhance labour peace in the Public Service by promoting a sound relationship between the State as employer and its employees;
- In terms of the Labour Relations Act, 1995 and the Constitution, negotiate and bargain collectively to reach agreement on matters of mutual interest to the employer and employees represented by admitted trade unions in the Council;
- Provide mechanisms for the resolution of disputes between the employer and (employees as well as) trade unions admitted to the Council, and to perform dispute resolution functions between the employer and employees within the registered scope of the Council, where the employer has the requisite authority to resolve such disputes;
- Designate sectors in the Public Service;
- Establish and administer a fund to be utilised for resolving disputes, collective bargaining and general administration of the Council; and
- Develop proposals for submission to NEDLAC or any other appropriate forum on policy and legislation that may affect labour relations in the Public Service.

7.6 PERIOD OF BARGAINING

Bargaining on the conditions of service and salaries is currently conducted every year the 2002 wage agreement has been settled for three years. The salaries are however to be improved annually in line with the changes in the CPI (Consumer Price Index)/inflation.

Bargaining on both the salaries and conditions of service has in principle, to be concluded within thirty days from the date negotiations commenced. But this in most cases does not happen and may take a long period of time - up to six months or more. However, in the event where parties cannot reach a consensus within the designated time, they should record the progress achieved and consider inviting the services of a third party.

7.7 ROLES OF DIFFERENT BARGAINING COUNCILS

Bargaining on the conditions of service is usually done in the respective bargaining councils. However, if there is an agreement that the areas are of a transverse nature, they are usually negotiated centrally at the PSCBC. With regard to the salary structure, salaries are not allowed to be negotiated and changed but sector specific allowances can be negotiated.

All areas of policy cannot be subjected to bargaining either in the PSCBC or Sector Councils. The department that introduces a policy change should consult with the relevant employees or employee representatives on the envisaged policy changes.

7.8 APPOINTMENT OF REPRESENTATIVES AND ALTERNATES

The Minister for Public Service and Administration, in consultation with the responsible ministers for sectors designated in terms of Section 37 of the LRA, is responsible for appointing authorised representatives who represent the employer in the Council. The trade unions in the Council may each be represented by two representatives for the first 20 000 members. Thereafter, they will have one additional representative for every additional 30 000 members or part thereof, up to a maximum of 5 representatives (part thereof shall be defined as members in excess of 15 000 members). A trade union may appoint any person to represent it in the Council, depending upon the issues that are to be discussed, and up to the number designated it in terms of Section 37 of the LRA. In addition, a trade union may appoint an alternate for each representative who represents that trade union as a substitute.

7.9 DETERMINATION OF BASIS OF VOTES

The voting rights of an admitted trade union in the Council are determined on the basis of the number of its members in good standing, who are employees as at 31 December of the previous year, in proportion to the number of members who are employees represented by all the trade unions in the Council.

If the Council negotiates a particular matter that concerns two or more sectors, the voting rights are limited to a trade union that can prove that it represents the affected employees. This is determined according to the number of its affected members in good standing who are in the sectors, in relation to the total number of affected members as represented by the trade unions admitted to the sectoral bargaining councils.

The Secretary determines the number of votes of each admitted trade union. These voting rights will apply from one annual general meeting to the next.

Soon after 31 March, but not later than 14 May of each year, the Secretary has to inform

- Such trade union of the number of votes it has in the council;
- Such trade union of the number of members it has in each designated sector;
- The council of the number of votes that each trade union has in the council; and
- The council of the number of members that each trade union has in each designated sector.

Any party that disputes the determination of the secretary may refer such a dispute for conciliation and if the dispute remains unresolved, for arbitration. If referred to arbitration, any arbitration award substitutes the Secretary's determination.

The employer has a number of votes equal to that of the admitted trade unions jointly. The voting rights in the Council are, at all times divided on an equal basis between the trade unions collectively, on the one hand, and the employer on the other hand.

7.10 CHAIRPERSON AND VICE-CHAIRPERSONS

The Chairperson and the two vice-chairpersons are appointed biennially at the meeting of the Council. The outgoing Chairperson usually presides over the annual general meeting of the Council and oversees the appointment of the new Chairperson.

Any person other than a representative or alternate of the parties to the Council who has consented to his/her nomination, may also be nominated as Chairperson. The person receiving the highest percentage of the total votes, is declared the duly elected Chairperson. However, in the event of a deadlock the Secretary draws lots (in accordance with clauses 9.15 and 9.16 of its Constitution), to determine the duly elected Chairperson. The term of office of any chairperson is 24 months unless removed by a decision of the Council. The Chairperson so removed or any past Chairperson may be re-elected.

7.11 SECRETARY AND OTHER PERSONNEL

The Council has to appoint a part-time or full-time Secretary or may request the employer that an employee be placed at its disposal, or be directed, to act as Secretary. With prior approval of the Council, the Secretary may appoint such part-time or full-time personnel. Alternatively, he/she may request that some employees be placed at the disposal of the Council or directed to perform administrative duties for the Council.

7.12 DECISIONS OF THE COUNCIL

Before any matter can be debated or decided upon, the Chairperson may require a written proposal that he/she will table before the Council. For any proposal to be considered, it has to be duly seconded.

According to the Act and the PSCBC Constitution, all matters that form the subject of a proposal can only be decided by the vote of the employer together with a majority of votes on the employee's side. The Council votes by show of hands by the chief spokesperson of each party. The Secretary acts as electoral officer. Unless a party requests a secret ballot, the chief spokesperson has the responsibility to carry his/her party's votes. Parties that have the right to vote at a meeting decide on procedural matters that are not regulated in the Constitution by way of a majority of votes on both the employer and employee sides.

Any party that could not attend a meeting of the Council, even though the latter was duly informed, cannot change or invalidate any decisions that were taken at that meeting. Any decision of the Council is regarded as a collective agreement in terms of the Act, and is binding on those parties within the council. In addition, it may be extended in terms of Section 32 of the LRA.

7.13 DISPUTES

7.13.1 Types of Disputes

Disputes between parties to the council about the interpretation and application of the Constitution

Often, parties to the Council disagree on the interpretation and application of the Constitution. If, even after extensive discussions and consideration the dispute cannot be solved:

- a) any of the parties involved in this kind of dispute may refer the dispute for conciliation and if the matter remains unresolved, for arbitration;
- b) before any party can refer a dispute for conciliation or arbitration, it has to ensure that a copy of the referral has been served on all the other parties to the dispute;
- c) the conciliator must attempt to resolve the dispute through conciliation within 30 days from the date of referral (this date might be extended by mutual consent between the parties concerned); or
- d) disputes that remain unresolved even after conciliation are referred for arbitration, and the arbitration award is final and binding.

Disputes between parties to the Council arising from negotiations

If parties in the Council cannot agree on a given matter even after negotiations, any party to the Council may declare a dispute on the matter. Hereafter, the Council may, by mutual consent between all the parties, agree to hold another meeting for further negotiations, or decide on fact finding, or bilateral talks or any other agreed mechanism to resolve the dispute. If the Council does not agree to a further meeting being held, or if a further meeting does not result in a collective agreement, the procedures set out in the relevant Sections of Chapter IV of the LRA shall apply.

7.13.2 Dispute Resolution Functions Of the Council

With regard to those disputes which the Council must deal with in terms of the LRA, the Council has to either appoint an accredited agency or a panel of conciliators and arbitrators to perform the dispute resolution functions. The conciliation or arbitration of a dispute by either the Council or its accredited agency should be conducted in accordance with the applicable provisions of the LRA. These provisions may be amended or substituted by a collective agreement of the Council.

7.13.3 Dispute Resolution In The Public Service

All disputes in the public service are handled through the public service disputes mechanisms. This means that disputes arising within a department are first dealt with in the department through the Dispute Resolution

procedures as defined by the Public Service Act and Public Service Regulations. If a dispute remains unresolved even if all the departmental procedures have been exhausted, it is referred to the relevant bargaining council.

7.14 AMENDMENT OF THE CONSTITUTION OF THE COUNCIL

The Constitution of the council may be amended by way of a decision of the council provided the employer on the one side, together with 66% of votes on the employee side vote in favour of amending the Constitution. No amendment can be considered unless at least 30 days prior notice of the proposed amendment has been given to the Secretary, unless otherwise agreed by the Council.

A proposal for the amendment of the Constitution should be transmitted to all representatives at least two weeks prior to the meeting at which it is to be considered. The Council may, by unanimous vote, amend the Constitution without notice. However, any amendment of or addition to this Constitution has no force or effect until certified by the Registrar in terms of Section 57(3) of the Act.

Finally, as it has been noted above, the main purpose of the Bargaining Council within the public sector is to provide a platform for the employer as well as the employee (represented by Unions) to jointly resolve disputes, thereby creating harmony and peace within the public service. However, particular principles exist, the significance of which totally determine the success of the efforts of the employer and the employee in maintaining harmony through the bargaining process within the public service.

7.15 COMMUNICATION

It is the employer's legal obligation to be transparent, democratic and accountable to all employees and/or their organisations. Departments have a right to communicate directly with their employees on any matter. In addition to communication generated through the process of collective bargaining in the public service as outlined in the LRA, it is the departments' right to open upward and downward communication channels with the employees and/or their employee organisations.

7.16 CONSULTATION

In addition to collective bargaining, the employer recognises that formal and informal consultation between the departments and employees and/or their organisations will enhance the relationship between management and the employees and their organisations. The departments recognise the importance of consultation at all level of the organisation including the institutional level, in order to ensure a smooth, effective and conflict free environment.


7.17 FREEDOM OF ASSOCIATION

It is the legal obligation of the State as the employer to:


- ✔ Subscribe to the principle of freedom of association as enshrined in both the Constitution of the Republic and the Labour Relations Act, 1995, in that any employee may exercise freedom of association to join or not to join a union;
- ✔ Guarantee protection against victimisation for trade unions' membership;
- ✔ Not make employment subject to the condition that an employee shall not join a union.

Recognise all rights of trade unions relating to freedom of association as per Constitution of the Republic of South Africa and relevant legislation and measures.

CHAPTER 8



Information Management



For a long time, government's business and administration processes have been dogged with countless problems as a result of lack of proper information co-ordination. The unavailability of a central accessible information pool for important personal details on citizens invariably results in unnecessary duplications and wastage of manpower. Each department was responsible for its own information database for which they had to delegate some staff members. This had a debilitating and slowing down effect on service delivery. During August 2000, following the recommendations of the Presidential Review Commission in 1998, the Government Information Technology Officer Council (GITOC) was established. The GITO Council was to facilitate change in government by introducing an effective information management strategy and a coordinated and consolidated information technology system that would be accessible to all government departments.

Electronic Government (referred to as e-Government) is a strategy for utilising information and communication technology across the three spheres of Government for greater impact and enhancement of the delivery of services to all citizens.

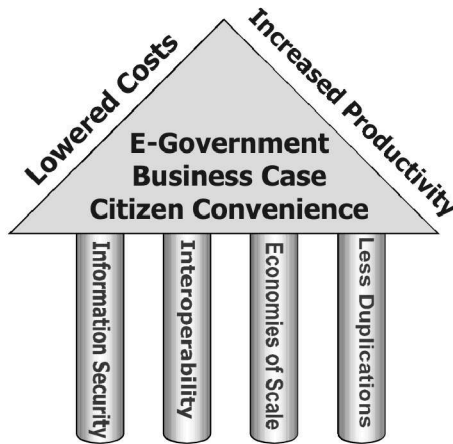
This e-Government Strategy seeks to put the ordinary citizen at the centre, in line with the "Batho Pele" principles with the following benefits in mind:

- a) improving the internal operations of Government to reduce cost and time of delivery of services;
- b) increasing the accessibility of information about public services in order to empower citizens and enhance accountability; and
- c) providing specific services electronically, be it through the Internet, telephone, television and other electronic means.

These three business principles are inseparable and constitute a business case for Government's investment in Information Technology (IT) related goods and services.

It is always important to identify what the customer wants, and then consider how to use IT to achieve this economically and effectively. Hence it does not help to acquire IT for its own sake. IT must bring value to Government's service delivery initiatives, and Government agencies should have a universal understanding of IT value. The concept of "Government's House of IT value" is demonstrated in Fig. 4 below.

Figure 4: The House of IT value



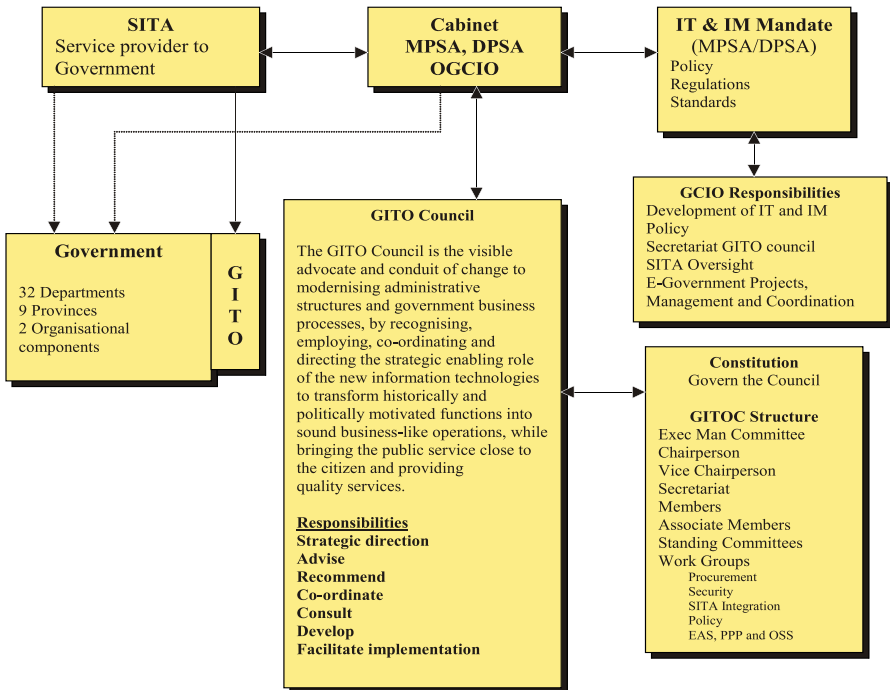
In simple terms, the IT value should be regarded as the collective benefits, both economically and socially, which are derived by all stakeholders from the use of equipment, software and services. Based on that IT applications should be valued only if they enable their users to achieve the following benefits:

- Increased productivity;
- Cost effectiveness; and
- Improved service delivery.

The following primary focus areas underpin the success of any e-Government initiatives, (the pillars of the House of IT value) which are:

- Interoperability- government IT systems must talk to each other, allowing for automatic sharing and exchange of electronic messages and documents, collaborative applications, distributed data processing and report generation, seamless transaction services, 'whole of government' search and queries, integrated systems management, etc.
- IT security - government operates in an environment where both electronic documents/data and IT systems must be protected from unauthorized access, malicious code and denial-of-service attacks.
- Economies of scale - currently the Government's economic muscle is fragmented and leads to unnecessary exploitation by some IT vendors. Development of local IT skills that are crucial to e-Government initiatives should be encouraged through the government's IT economic power.
- Elimination of duplication - government must abolish unnecessary duplication of similar IT functions, projects and resources, as well as practices of 're-inventing the wheel'.

For the above-mentioned co-ordination and consolidation to take place, coordinated IT structures have to be set up. The following are the structures that have been set up and their roles and interrelationships have been mapped out in Figure 5 below and brief explanations are included on the role of each player.



8.1 ROLES AND RESPONSIBILITIES

8.1.1 Minister and Department of Public Service and Administration (DPSA)

The Minister of Public Service and Administration is responsible for Information Technology (IT) and Information Management (IM) in the Public Service (Public Service Act). That includes the development of e-Government policy, regulations, standards and norms.

8.1.2 Government Chief Information Officer (GCIO)

To give effect to the above responsibilities of the MPSA, the Government Chief Information Officer position and Office of the GCIO (OGCIO) were established within the DPSA. They are responsible for the development of

IT/IM (e-Government) policies, regulations, standards and norms. The Office of the GCIO is responsible for SITA oversight, e-Government project coordination and management and the Secretariat function of the GITOC.

8.1.3 Government Information Technology Officer (GITO)

The GITO is responsible for aligning IT and IM with the strategic direction of a department. He/she is responsible for ensuring a flow of information on which decisions are made both within the department and the GITOC. This is to ensure that the interest of the department is represented in the GITOC and that the department stays informed on the strategic direction of IT/IM in the public service

8.1.4 Government Information Technology Officers Council (GITOC)

According to the Public Service Regulations, issued in terms of the Public Service Act, 1994 (Proclamation 103 of 1994), every department needs to have the following plans in place:

- A strategic plan stating the department's core objectives, an information plan that supports the strategic plan,
- An IT plan supporting the information plan, and
- An operational plan that enables the implementation of the IT plan and information management (IM).

This allows the IT and IM of a department to be aligned with the strategic direction of the department. Such coordination ensures standardisation, security, interoperability, and eliminates duplication of systems. This affected the service delivery of the public sector. Therefore the GITOC was created as the principal inter-departmental forum with a strategic focus on Information Technology (IT) and Information Management (IM) in the Public Service. The GITOC is governed by the GITOC Constitution.

8.1.4.1 Mission of the GITOC

The GITO Council is the visible advocate and conduit of change to modernising administrative government business processes. The GITO Council aims to achieve this by recognising, employing, co-ordinating and directing the strategic enabling role of the new information technologies to transform politically motivated functions and mandates into sound business-like operations, while the public service remains close to the citizen and providing quality services.

8.1.4.2 Composition

The GITO Council is composed of the Chairperson and Vice-chairperson, members, associate members, the Secretariat and invitees.

Members: the GCIO, the GITO of the national departments, provincial administrations and organisational components listed in schedules 1 and 3 of the Public Service Act, 1994 (Proclamation 103 of 1994). There is only one GITO function per provincial administration.

Associate members: representatives of public or private institutions, as recommended by the GITO Council, or any other person that the Minister of Public Service and Administration may designate.

Secretariat: the Office of the GCIO provides the secretariat function. The Secretariat provides assistance to the GITO Council, GITO Council standing committees and GITO Council work groups.

d) Invitees: advisors, specialists or any other person that the GITO Council may invite to attend the meetings of the GITO Council.

The GITOC is currently made up of representatives from 32 national departments, 9 provincial administrations, 2 organisational components, 2 allied government organisations (Associate members: State Information Technology Agency (SITA) and Centre for Public Service Innovation) and the GCIO, totaling 46 members.

8.2 OPERATION OF THE GITO COUNCIL

The Council comprises standing committees, work groups and the Executive Management Committee.

8.2.1 Standing committees are to oversee a specific portfolio (specific areas of concern of the Council) and have no specific beginning or end-date. Responsibilities include aspects such as authority to investigate and recommend on a continuous basis.

8.2.2 Work groups are specially assigned task teams that investigate specific areas of concern within a given period and budget, and report back on the findings to the Council with accompanied recommendations. There are currently seven work groups:

- Procurement: Liaise with National Treasury and SITA, as SITA is to become the IT Acquisition Centre (ITAC) for all government IT related procurement, replacing the State Tender Board function as from 1 April 2002.
- Security: Liaise with National Intelligence Agency, South African Communications Security Agency, South African Bureau of Standards and other security related institutions and give inputs on the security-related legislation and frameworks. It also provides security awareness training to the GITOC members.

- SITA Integration: attend to all issues pertaining to departments integrating into SITA.
- Policy: responsible to develop e-government policy, Public Service and SITA regulations, Minimum Interoperability Standards (MIOS) and other standards and norms.
- EAS: Address the development of an Enterprise Application System, such as the personnel, financial and logistical systems by National Treasury.
- PPP: investigate the feasibility of Public Private Partnerships and develop guidelines.
- OSS: investigate the feasibility of using open source software in government

8.2.3 Executive Management Committee consists of the Chairperson, Vice-chairperson, GCIO, chairpersons of the standing committees and convenors of the work groups. At least two members must represent the provinces.

All matters that impact on sphere of influence of the GITOC, such as e-Government policy, security policies, etc. should be tabled at the GITOC before submission to Cabinet. The Chairperson of the Council report via the OGCIO and the Director-General: DPSA to the MPSA and if required, to Cabinet.

Note:

The GITOC held a strategic planning workshop 20-22 February 2002 to review the current functioning of the GITOC and determine the way forward. As the GITOC is in the process of re-alignment, based on the outcome of the workshop, the above structure roles and responsibilities might change.

8.3 SITA

SITA is the primary IT service provider to the Public Service and is responsible to the MPSA (Shareholder and executive authority according to the State Information Technology Act, 1998 (Act 88 of 1998) and Public Finance Management Act, 1999 (Act 1 of 1999)). As the service delivery affects all the departments/provinces, the GITOC is entitled to address all matters related to IT/IM according to the SITA Act and PFMA. The service delivery of SITA is governed by the Business Agreement (BA) and Service Level Agreement (SLA) concluded between SITA and the relevant department/province.

8.4 THE IT PROCUREMENT PROCESS

The IT procurement process is currently being reviewed and shall be included in this document when an agreement has been reached at the GITOC, hopefully during the course of 2002/2003

8.5 TRANSVERSAL INFORMATION MANAGEMENT SYSTEMS

Decision-makers see evaluation as a key element of service delivery. They feel they need better evidence to inform policy and initiatives. They feel that information must be placed "within easy reach of the policy makers".

The current transversal systems that government is making use of are the following: BAS, PERSAL, LOGIS and Vulindlela. The first three systems are used for the day to day administrative functions and processes and Vulindlela has been recently developed in order to cater for the decision-makers referred to in paragraph one above.

8.5.1 Basic Accounting System (BAS)

BAS was developed to replace the 20 year old Financial Management system (FMS). The system came into operation on 1 April 1995. It is a system that is gradually being phased into all government departments and provincial administrations and is currently used by ten (10) national departments and some Provincial administrations.

BAS supports the following business functionalities:

- Period Opening and closing
- Receipts
- Accounts payable
- Travel and subsistence
- Debt
- Journal entry processing
- Disbursements
- Bank Services Interface
- Allocations
- Entity maintenance
- Budgeting
- Interfaces
- Conversion
- Central Statistics

8.5.2 Logistics Information System - LOGIS

The objective of Logis is to enable Departments to control and regulate stock levels and moveable assets, while at the same time satisfying internal user demand, resulting in optimised Logistics management.

Logistics management efficiency requires the interface of Logis and the FMS/BAS system to facilitate improved and efficient processing in the procurement process and development of efficient contract management.

The following are Logis functionalities:

- Batch runs and reports
- Enquiries
- Ledgers and suppliers
- Procurement
- Provisioning
- System administration
- Logis SCC system
- Training utilities

8.5.3 PERSAL transversal system

PERSAL is an integrated Human Resource, Personnel & Salary System, which was designed and written to cater for all aspects of Government regulations, prescripts, treasury instructions and Policy. The PERSAL system is used by all the National government departments and Provincial governments. The system has been in a operation since 1990, but is constantly updated to accommodate changes in technology, changes in policy and to efficiently address the user requirements by virtue of a suite of professional procedures as described within the ISO9001 Standards.

The system, being dynamic, caters for 34 different natures of appointments and constitutes 50 different pay groups that are diversified over 6 mainframes that are geographically situated.

PERSAL takes advantage of the information medium Internet, by providing a customised Intranet web page specifically for PERSAL. This bridges the gap in delivering information to the PERSAL clients. This service is available to all government users, irrespective of whether they can sign on to PERSAL or not. The Intranet scope includes help on PERSAL functions, the PERSAL user manual and simulated training, and will contribute to a paperless environment.

The system is standardised for all the central government departments and provincial administrations, including the SAPS and Correctional Services. This ensures better control and the facility to provide quick and accurate response to high level enquiries.

The system fully integrates the personnel -and salary sub systems to ensure that capturing of data is only done once. If personnel data that has financial implications is captured, e.g. promotions, the salary data will be updated accordingly. A full audit trail / stamp is kept of all actions performed on the system.

The system has interfaces with other systems which include financial institutions, educational institutions, employee institutions, medical funds, pension funds, insurance companies, Automated Clearing Bureau and financial systems.

8.5.4 Vulindlela

In the private sector, it's no exaggeration to say that the adroit manipulation of cash flow against budgeted expenditure is one of the prime causes of success, and is certainly one of the metrics closely observed by astute investors. That it is hard to do is evidenced by the number of companies that fail because of cashflow problems each year, and by the amounts of money companies are prepared to spend on buying software that will enable them to manage cashflow with ever greater precision, and in real-time. And in order for that to happen, of course, a company's financial systems must be enterprise-wide, with none of the silos of information that generally characterises much other corporate data. This is why, incidentally, the move towards creating other enterprise-wide applications has so often been tacked onto the financial systems, and so often led by the vendors of financial software. And then there's the government

For Government, achieving this integrated view of its financial affairs has not been possible up until now. "There has never been a government-wide balance sheet or cash flow statement."

"The only way that expenditure showed up was in the general ledger when payment was made - and that could be months later."

The result was that departments were working on thumb suck projections, never quite sure exactly how much money they actually had in the bank. As a result, Departments would ask for more money when in fact they had sufficient funds in their bank accounts, and Government would have to borrow to meet these unnecessary payments.

This clear need is one of the primary reasons for Vulindlela, National Treasury's mammoth data warehouse project using SAS Institute technology, which is aimed at providing financial managers with timeous, accurate views of their financial status.

Drawing on the financial data pumped into the data warehouse from all the existing financial systems such as Persal, FMS and so on, financial managers can now see actual versus project expenditure and can optimise cash flow. Even a slight reduction in the variance between the two is desirable because it translates into what is called "big money". The system also creates an audit trail of expenditure, which is particularly useful to establish trends.

From the wider point of view of the National Treasury, the warehouse has the ability to affect national finances profoundly.

SA is also one of the pilot countries for creating consolidated Government Financial Statistics (GFS) within the framework laid down by the international Monetary Fund and the World Bank. This framework is designed to enable comparisons of government spending between different countries, and required SA to reclassify all items of government expenditure within GFS standards. GFS had wider implications than producing standard reports on time. Future loans and funding depend on getting it right.


Vulindlela's consolidated view will thus play a major role in giving government the tools to ensure that it has the financial resources to deliver on its social objectives. It also has a human resources element, as it will allow Government to meet its own HR targets in terms of employment equity.

If the one side of Vulindlela is to make the management of state money more efficient, it's also opening up new vistas for the state's 35 000 managers and how they work. These managers are governed inter alia by the Public Finance Management Act, and Vulindlela gives them the tools to ensure that they are the statutory requirements.


That's from the one side. There's also the question of those government officials whose lack of financial discipline is the result of not knowing the true position. Vulindlela enables the creation of a culture of honesty but also shows up irregularities. This will enable government's fight against corruption to move onto a new level.

Government wants to see itself as a single corporation. This is really a classic data warehouse study, taking source data from many heterogeneous environments and consolidating it all into one location, enabling a timely, accurate picture.

CHAPTER 9



Issues of Discipline and
Termination of Service





9.1 CODE OF CONDUCT

A need exists for guidelines for all officials to obtain clarity with regard to their relationship with the legislature, the political office-bearers, other employees and the public. In the case of South Africa, a Code of Conduct was published on 17 June 1997. In the case of local government, a code of conduct has even been included in an act i.e. the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

The code of conduct has a very significant role to play within the public service. As it has been illustrated in this publication, government functions are like a system or machinery that consists of numerous components that work in synergy towards a common goal. Like cogs in a wheel, government employees are a key factor in the smooth, synergistic running of the different components of this machine. Just as synergy is the key factor in the operability of the machinery, discipline and adherence to a common, officially recognised set of groundrules is indispensable in ensuring a harmonious, co-ordinated effort by all the government employees.

Among other things, the Code of conduct deals with:

- a) an employee's relationship with the public;
- b) an employee's relationship with other employees;
- c) the required performance of duties; and
- d) personal conduct and private interests.

Although a Code of conduct contains excellent guidelines that could promote accountable governance, it could only serve a purpose if Government ensures that it is brought to the notice of all officials on a continuous basis, and that regular debates take place to promote its implementation.

This chapter focuses on a couple of areas that are dealt with in the Code of Conduct.

9.2 ISSUES OF DISCIPLINE

9.2.1 Disciplinary code and procedures

Discipline in the Public Service is regulated by the Disciplinary Code and Procedures for the Public Service.

Through the collective bargaining process, a collective agreement has been reached on how discipline should be handled in the workplace. The objective of having this agreement is to:

- Support constructive labour relations in the Public Service;
- Promote mutual respect between employees and between employees and employer;
- Ensure that managers and employees share a common understanding of misconduct and discipline;
- Promote acceptable conduct;
- Provide employees and the employer with a quick and easy reference for the application of discipline;
- Avert and correct unacceptable conduct; and
- Prevent arbitrary or discriminatory actions by managers towards employees.

This agreement is contained in PSCBC Resolution no. 2 of 1999, which can be accessed from the DPSA website. The agreement outlines the various behaviors that are regarded as acts of misconduct. Annexure A of the aforementioned resolution defines an act of misconduct. An employee will be guilty of misconduct if she or he, inter alia:

- Fails to comply with, or contravenes an Act, regulation or legal obligation;
- Willfully or negligently mismanages the finances of the State (Note: Chapter 10 of the PFMA deals with issues of Financial Misconduct which should also be dealt with in the same manner as all other cases of misconduct);
- Without permission possesses or wrongfully uses the property of the State;
- Willfully, intentionally or negligently damages and or causes loss of state property;
- Endangers the lives of self or others by disregarding safety rules or regulations;
- Prejudices the administration, discipline or efficiency of a department, office or institution of the State;
- Misuses his or her position in the public service to promote or to prejudice the interest of any political party;
- Steals, bribes or commits fraud;
- Accepts any compensation in cash or otherwise from a member of the public or another employee for performing her or his duties without written approval from the department;

- Fails to carry out a lawful order or routine instruction without just or reasonable cause;
 - Absents or repeatedly absents him/herself from work without reason or permission;
 - Commits an act of sexual harassment;
 - Discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution;
 - Performs poorly or inadequately for reasons other than incapacity;
 - Without written approval from her or his department, performs work for compensation in a private capacity for another person or organisation either during or outside working hours;
 - While on duty, is under the influence of an intoxicating, illegal, unauthorised, habit-forming and/or stupefying drug, including alcohol;
 - While on duty, conducts herself or himself in an improper, disgraceful and unacceptable manner;
 - Contravenes any prescribed Code of Conduct for the public service;
 - Assaults, or attempts or threatens to assault, another employee or person while on duty;
 - Incites other personnel to unprocedural and unlawful conduct;
 - Displays disrespect towards others in the workplace or demonstrates abusive or insolent behaviour;
 - Intimidates or victimises fellow employees;
 - Prevents other employees from belonging to any trade union or body;
 - Operates any money lending scheme for employees for own benefit during working hours or from the premises of the public service;
 - Carries or keeps firearms or other dangerous weapons on state premises, without the written authorisation of the employer;
 - Gives false statements or evidence in the execution of his or her duties or falsifies records or any other documentation.
- (This list is not exhaustive)

The following flow diagram juxtaposes two different key processes that are used in discipline. One process is used for minor cases that can be handled informally. The other process pertains to more serious cases that warrant the formal disciplinary process.

strip here

Although the Public Service has developed a uniform disciplinary code, most departments have developed their own departmental policies and procedures. These have to be developed and customised in order to suite their unique situation without detracting from the provisions of the Disciplinary Code.

Dealing with disciplinary cases requires caution. It is of great significance that dismissal be used only as a last resort where the undesirable conduct cannot be rectified. In instances where employees feel that their cases have not been properly handled or that their penalties are unjustifiably too heavy, employees have a provision to appeal to the executing authorities of departments and provincial administrations.

9.3 INCAPACITY

The incapacity measures are used when an employee is unable to perform at the expected level. Performance assessment over an employee's assessment cycle should provide evidence as to their consistent poor performance during

this process. A collective agreement, contained in PSCBC Resolution no. 12 of 1999, captures the incapacity code and the procedures that should be followed in cases of possible incapacity of employees.

9.3.1 Application of the Incapacity Code

The Incapacity Code is used under the following circumstances:

- Where the employee is unable to consistently perform at the expected level;
- When a trend of poor performance has developed, not as the result of once-off poor performance; and
- To improve the poor performance of an employee rather than to rid the department of the employee.

The flow diagram on the next page depicts procedures that are uniformly adhered to throughout government when cases of poor performance are dealt with. Employees are not dismissed on grounds of incapacity before incapacity procedures have been applied. Also, it is important that employees know the level or standard of performance required before they can be subjected to this Code.

Below are other issues that should also be assessed when the Code is applied:

- Impact on public service, component, colleagues and public;
- Extent to which an employee fails to meet the set standard/s;
- Extent to which an employee lacks necessary skills to perform the job;
- Nature of an employee's work and responsibilities;
- Circumstances pertaining to an employee.

*Incapacity Code and Procedures in Respect
of Poor Performance*

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Sometimes it emerges that for some obscure reasons employees do not want to perform at a required standard despite their proven ability to perform at that level. If employers are convinced of such deliberate under-performance, the misconduct (disciplinary) procedures are applicable.

Note: The incapacity procedure is not a once-off event like a disciplinary hearing, but involves a series of events. It is largely based on the counseling approach referred to in the Code. If the employer decides to invoke the incapacity procedure, the steps outlined in the flow diagram need to be followed. The following page contains a schematic illustration of the latest incapacity Code and procedures (poor performance) for the Public Service.

9.4 ILL-HEALTH OR INJURY

The Incapacity Code on ill-health is obviously not applicable each time an employee takes sick leave. The following factors should guide the employer in deciding whether to invoke the Code i.e. whether:

- The employee exhausted his/her sick leave for the specific sick leave cycle for the same or related ailment;
- Disability leave (in terms of the new leave provisions) has been repeatedly granted to the employee for the same or related ailment;
- The employer is aware or suspects that the employee is suffering from a chronic illness;
- The employee has been involved in a serious accident;
- The employer is aware or suspects that the employee is suffering from alcohol or drug dependency; or
- The employee's performance has suffered as a result of his/her illness.

The procedure outlined in the code should be seen as a management instrument to be invoked by the employer, not the employee. The procedure is only used in cases of poor performance or non-performance that are directly linked to ill-health or injury. It cannot be used in cases where there is apparent abuse of sick leave (this constitutes misconduct). This Code is also applicable to cases of alcohol or drug abuse where it can be linked to ill-health (i.e. where a pattern of constant intoxication or drug dependency is clear) - otherwise to be dealt with in terms of the disciplinary Code.

Evidence by a medical practitioner is critical in deciding how to deal with an employee in terms of the procedure to determine their state of health. (It is also important to note that this code is not a tool to punish an employee but to assist him/her.)

The following diagram on the next page is a schematic illustration of the latest incapacity Code due to ill-health and procedures for the Public Service

strip here

9.5 TERMINATION OF SERVICE AND OTHER DISMISSALS

Chapter V of the Public Service Act, 1994, sections 16 and 17 deal with other issues of termination of service. Section 16 of the Public Service Act, 1994 deals with issues of retirement and retention of services. It will be noted that various ages of retirement are authorised for different categories of public employees, depending on their period of employment and their conditions of service on appointment. Section 17 of the Public Service Act, 1994 deals with other conditions under which employees can be discharged from the Public Service.

Every officer other than a member of the services (Police, Defence, Correctional) or an educator, a member of the National Intelligence Agency or the South African Secret Service, may be discharged from the public service for any of the following reasons:

- Owing to abolition of his/her post or any reduction in or reorganisation or readjustment of departments or offices;

- If, for reasons other than his/her own unfitness or incapacity, his/her discharge will promote efficiency or economy in a department or office in which he/she is employed or will otherwise be in the interest of the public service; (Note: these two processes are currently negotiated in the PSCBC)
- On account of misrepresentation of his/her position in relation to a condition for permanent appointment;
- If his/her permanent appointment constitutes a security risk for the state;
- If the President or Premier appoints her/him in the public interest under any law to an office to which the provisions of the Public Service Act, 1994 do not apply;
- Who absents himself/herself from official duties without permission of his head of department, office or institution for a period exceeding one calendar month. (With regard to this reason, an employee can be reinstated upon submission of a motivation with convincing reasons for such absence and the executing authority may on good cause shown by the employee approve the reinstatement of that employee.)
- On account of continued ill-health;
- On account of unfitness for his or her duties or incapacity to carry them efficiently; and
- On account of misconduct.
- If, in the case of an officer appointed on probation, his or her appointment is not confirmed.

9.6 ANTI-CORRUPTION IN THE PUBLIC SERVICE

A unit has been established within the Department of Public Service and Administration that deals with anti-corruption and high profile cases in the Public Service. This Unit works in partnership with other government departments that fall under this security cluster to combat white-collar crime and other anti-corruption related issues in the Public Service.

The mission of the Anti Corruption and High Profile Cases Unit is to:

- Develop and implement an anti-corruption Strategy for the Public Service;
- Facilitate the development and implementation of a national anti-corruption strategy;
- Establish and maintain an information system on corruption, promote regional and international co-operation on corruption; and
- Facilitate the management of disciplinary cases of selected high-profile employees.

9.7 AUDITING

In the monumental book by EL Normanton (1966:2) public audit is defined as " a special device for making public accountability a reality." It is important to note that the auditing thus undertaken should in all respects be independent. That implies that the state auditor should be independent of government and be able to express an opinion or a finding if it is found that wasteful action has occurred.

In South Africa the Auditor-General Act, 1995 (Act 12 of 1995), was passed by Parliament, enshrining the Auditor-General's independence in accordance with the Constitution. The Act further elaborates on, among other things:

- The accounts which shall be audited;
- The procedure according to which auditing shall be done;
- The steps to be taken by the Auditor-General as a result of an audit.

To enable the Auditor-General to perform his/her duties, he/she may require a person from within the institution whose accounts are being audited (usually the head of the institution or Accounting officer) to appear before him/her with books, vouchers or documents necessary to enable the audit.

According to the Public Finance Management Act, 1999, the accounting officer is specifically charged with the responsibility regarding budgetary control in his/her department, and has to ensure that;

- Expenditure of that department is in accordance with the vote of the department;
- Effective and appropriate steps are taken to prevent unauthorised expenditure;
- Report to the executive authority and the relevant treasury any impending under-collection of revenue due, or shortfalls in budgeted revenue or overspending.

10. CONCLUSION

This book was born out of a great need to introduce to as many people as possible the different structures that constitute the whole system of government, as well as the various processes and functions of each of the structures that collectively form the system of government.

It is hoped that the information contained in here would go a long way to empower and enrich many people, including the public servants with valuable knowledge. Through such knowledge, people would be able to better understand the various functions and processes within government, i.e. where to go for which service etc.

Public service employees on the other hand, are the most important and indispensable organ or hub of the entire system or machinery of government. Each government structure has to fulfil its mission that ultimately contributes to the overall mission of the government. In the same way, public employees have to understand their roles as individuals and how, on a larger scale all public employees have to collectively contribute towards making service delivery by the government a reality for the people. It is in that light also that this book was compiled.

This is the first attempt to do what eventually turned out to be a daunting task, that of, capturing and presenting the entire system of government, which is complex in a simplified and comprehensive manner, without omitting or distorting some of the important information. With that in mind, we would really appreciate it if people in each of the bodies discussed in this book would kindly share their views as regards the content. It is in that way that our endeavour towards empowering people with knowledge can improve in the subsequent editions.

Appendix A Cabinet Clusters

Note: In all the clusters there are other departments that are also serving in more than one cluster. They are included in the grid below and when discussing the programmes run by various departments a cross-reference will be made to the relevant clusters.

CABINET COMMITTEES AND THE CLUSTER APPROACH						
MEMBERS	GOVERNANCE & ADMINISTRATION	INTERNATIONAL RELATIONS, PEACE & SECURITY	JUSTICE, CRIME PREVENTION & SECURITY	ECONOMIC	INVESTMENT & EMPLOYMENT	SOCIAL SERVICES
CHAIR - PERSON	The Deputy President	The President	The Deputy President	The Minister of Home Affairs. (Dr. G.M. Buthelez)	The President	Minister of Home Affairs (Dr. G.M. Buthelez)
MINISTERS						
	President					
	Deputy President					
	Home Affairs	Home Affairs	Home Affairs			
	Education	Education			Education	Education
	Defence	Defence	Defence			
	Finance	Finance	Finance	Finance	Finance	Finance
	Provincial Affairs and Local Government	Provincial Affairs & Local Government	Provincial Affairs and Local Government	Provincial Affairs and Local Government	Provincial Affairs and Local Govt	
	Transport			Transport	Transport	Transport
	Public Works			Public Works	Public Works	
	Social Development		Social Development			Social Development
	Safety and Security	Safety and Security	Safety and Security			Safety and Security
	Housing			Housing		Housing
	Trade and Industry	Trade and Industry	Trade and Industry	Trade and Industry	Trade and Industry	Trade and Industry
	Justice and Constitutional Development	Justice and Constitutional Development	Justice and Constitutional Development			Justice and Constitutional Development
	Public Service and Administration	Public Service and Administration		Public Service and Administration	Public Service and Administration	Public Service and Administration
	Correctional Services					Correctional Services
	Agriculture and Land Affairs					
	Water Affairs and Forestry			Water Affairs and Forestry		Water Affairs and Forestry
	Health			Health		Health
	The Presidency	The Presidency				The Presidency
	Sport and Recreation	Sport and Recreation				Sport and Recreation

	Foreign Affairs Arts, Culture, Science and Technology	Foreign Affairs Arts, Culture, Science and Technology	Foreign Affairs Arts, Culture, Science and Technology	Arts, Culture, Science and Technology
	Environmental Affairs and Tourism	Environmental Affairs and Tourism	Environmental Affairs and Tourism	Environmental Affairs and Tourism
	Intelligence Services Minerals and Energy	Intelligence Services	Minerals and Energy	Intelligence Services
		Correctional Services		
		Public Enterprise	Public Enterprise	Public Enterprises
		Labour	Labour	Labour
		Communications	Communications	Communications
		Agriculture and Land Affairs	Agriculture and Land Affairs	Agriculture and Land Affairs
DEPUTY MINISTERS	Safety and Security	Safety and Security		Safety and Security
	Education		Education	Education
	Home Affairs	Home Affairs		Home Affairs
	Public Works Agriculture and Land Affairs	Public Works Agriculture and Land Affairs	Public Works Agriculture and Land Affairs	Public Works Agriculture and Land Affairs

Appendix B

SCHEDULE 1 - CONSTITUTIONAL INSTITUTIONS

1. The Commission on Gender Equality
2. The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities
3. The Financial and Fiscal Commission
4. The Human Rights Commission
5. The Independent Communications Authority of South Africa
6. The Independent Electoral Commission
7. The Municipal Demarcation Board
8. The Pan South African Language Board
9. The Public Protector

SCHEDULE 2 - MAJOR PUBLIC ENTITIES

1. Air Traffic and Navigation Services Company
2. Airports Company
3. Alexkor Limited
4. Armaments Corporation of South Africa
5. Central Energy Fund (Pty) Ltd
6. DENEL
7. Development Bank of Southern Africa
8. ESKOM
9. Independent Development Trust
10. Industrial Development Corporation of South Africa Limited
11. Land and Agricultural Bank of South Africa
12. SA Broadcasting Corporation Limited
13. SA Forestry Company Limited
14. SA Nuclear Energy Corporation
15. SA Post Office Limited
16. Telkom SA Limited
17. Trans-Caledon Tunnel Authority
18. Transnet Limited
19. Any subsidiary or entity under the ownership control of the above public entities

SCHEDULE 3 - OTHER PUBLIC ENTITIES

Part A: National Public Entities

1. Accounting Standards Board
 2. Africa Institute of South Africa, Pretoria
 3. Afrikaanse Taalmuseum, Paarl
 4. Agricultural Research Council
 5. Artscape
 6. Banking Sector Education and Training Authority
 7. Board on Tariffs and Trade
 8. Business Arts of South Africa, Johannesburg
 9. Castle Control Board
 10. Chemical Industries Education and Training Authority
 11. Clothing, Textiles, Footwear and Leather Sector Education and Training Authority
-

12. Commission for Conciliation, Mediation & Arbitration
13. Compensation Board
14. Compensation Fund, including Reserve Fund
15. Competition Board
16. Competition Commission
17. Competition Tribunal
18. Construction Education and Training Authority
19. Construction Industry Development Board
20. Council for Geoscience
21. Council for Medical Schemes
22. Council for Nuclear Safety
23. Council on Higher Education
24. Cross-Border Road Transport Agency
25. Diplomacy, Intelligence, Defence and Trade and Industry Sector Education and Training Authority
26. Education and Labour Relations Council
27. Education, Training and Development Practices Sector Education and Training Authority
28. Employment's Condition Commission
29. Energy Sector Education and Training Authority
30. Estate Agency Affairs Board
31. Film and Publication Board
32. Financial and Accounting Services Training Authority
33. Financial Services Board
34. Food and Beverages Manufacturing Industry Sector Education and Training Authority
35. Forest Industries Sector Education and Training Authority
36. Foundation for Education, Science and Technology, Pretoria
37. Freedom Park Trust
38. Greater St. Lucia Wetland Park Authority
39. Health and Welfare Sector Education and Training Authority
40. Human Sciences Research Council (HSRC)
41. Information Systems, Electronics and Telecommunications Technologies Training Authority
42. Ingonyama Trust Board
43. Insurance Sector Education and Training Authority
44. Iziko Museums of Cape Town
45. Johannesburg World Summit
46. Legal Aid Board
47. Local Government, Water and Related Services Sector Education and Training Authority
48. Manufacturing Advisory Council
49. Manufacturing Development Board
50. Manufacturing, Engineering and Related Services Education and Training Authority
51. Marine Living Resources Fund
52. Market Theatre Foundation
53. Media, Advertising, Publishing, Printing and Packaging Training Authority
54. Media Development and Diversity Agency
55. Mine Health and Safety Council
56. Mines and Works Compensation Fund
57. Mining Qualifications Authority
58. Municipal Infrastructure Investment Unit
59. Natal Museum, Pietermaritzburg

60. National Agricultural Marketing Council
 61. National Arts Council
 62. National Botanical Institute
 63. National Coordination Office of the Manufacturing Advisory Centre Programme NAMAC
 64. National Development Agency
 65. National Economic, Development and Labour Council
 66. National Electricity Regulator
 67. National Electronic Media Institute of SA
 68. National Empowerment Fund
 69. National Film and Video Foundation
 70. National Film Board
 71. National Gambling Board of South Africa
 72. National Health Laboratory Service
 73. National Home Builders Registration Council NHBC
 74. National Housing Finance Corporation
 75. National Library, Pretoria/Cape Town
 76. National Lotteries Board
 77. National Museum, Bloemfontein
 78. National Nuclear Regulator
 79. National Productivity Institute
 80. National Research Foundation
 81. National Small Business Council
 82. National Student Financial Aid Scheme
 83. National Urban Reconstruction and Housing Agency NURCHA
 84. National Year 2000 Decision Support Centre
 85. National Youth Commission
 86. National Zoological Gardens of South Africa, Pretoria
 87. Nelson Mandela Museum, Umtata
 88. Northern Flagship Institution, Pretoria
 89. Performing Arts Council of the Free State
 90. Perishable Products Export Control Board
 91. Police, Private Security, Legal and Correctional Services Training Authority
 92. Primary Agricultural Education and Training Authority
 93. Public Investment Commissioners
 94. Rent Control Board
 95. Road Accident Fund
 96. Road Traffic Management Corporation
 97. Robben Island Museum, Cape Town
 98. SA Blind Workers Organisation, Johannesburg
 99. SA Civil Aviation Authority
 100. SA Council for Architects
 101. SA Council for Educators
 102. SA Diamond Board
 103. SA Excellence Foundation
 104. SA Heritage Resources Agency
 105. SA Housing Fund
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106. SA Housing Trust Limited
107. SA Institute for Drug-free Sport
108. SA Library for the Blind, Grahamstown
109. SA Local Government Association (SALGA)
110. SA Maritime Safety Authority
111. SA Medical Research Council
112. SA National Accreditation System
113. SA National Parks
114. SA National Roads Agency
115. SA Qualifications Authority
116. SA Quality Institute
117. SA Revenue Service
118. SA Sport Commission
119. SA Tourism Board
120. SA Weather Service
121. Secondary Agricultural Sector Education and Training Authority
122. Servcon
123. Services Sector Education and Training Authority
124. Social Housing Foundation
125. Special Investigation Unit
126. State Information Technology Agency
127. State Theatre, Pretoria
128. The National English Literary Museum, Grahamstown
129. The Playhouse Company, Durban
130. Thubelisha Homes
131. Tourism and Hospitality Education and Training Authority
132. Trade and Investment South Africa
133. Transport Education and Training Authority
134. uMalusi Council for Quality Assurance in General and Further Education and Training
135. Unemployment Insurance Fund
136. Universal Service Agency
137. Universal Service Fund
138. Urban Transport Fund
139. Voortrekker Museum, Pietermaritzburg
140. Wage Board
141. War Museum of the Boer Republics, Bloemfontein
142. Water Research Commission
143. Wholesale and Retail Sector Education and Training Authority
144. William Humphreys Art Gallery
145. Windybrow Centre
146. Any subsidiary or entity under the ownership control of the above public entities

Part B: National Government Business Enterprises

1. Albany Coast Water Board
 2. Amatola Water Board
 3. Aventura
-

4. Bala Farms (Pty) Ltd
5. Bloem Water
6. Bushbuckridge Water Board
7. Council for Mineral Technology (Mintek)
8. Council for Scientific and Industrial Research (CSIR)
9. Export Credit Insurance Corporation of South Africa Limited
10. Ikangala Water
11. Inala Farms (Pty) Ltd
12. Kalahari-East Water Board
13. Kalahari-West Water Board
14. Khula Enterprises
15. Lepelle Northern Water
16. Magalies Water
17. Mhlathuze Water
18. Namakwa Water
19. Ncera Farms (Pty) Ltd
20. North West Water Supply Authority Board
21. Ntsika Enterprises
22. Onderstepoort Biological Products
23. Overberg Water
24. Pelladrift Water Board
25. Rand Water
26. SA Bureau of Standards (SABS)
27. SA Rail Commuter Corporation Limited
28. Sasria
29. Sedibeng Water
30. Sentech
31. Umgeni Water
32. Umsombomvu Fund
33. Any subsidiary or entity under the ownership control of the above public entities

Part C: Provincial Public Entities - Eastern Cape: _____

1. Centre for Investment and Marketing in the Eastern Cape
2. Eastern Cape Appropriate Technology Unit
3. Eastern Cape Arts Council
4. Eastern Cape Consumer Affairs Court
5. Eastern Cape Gambling and Betting Board
6. Eastern Cape Liquor Board
7. Eastern Cape Local Road Transport Board
8. Eastern Cape Museums
9. Eastern Cape Provincial Housing Board
10. Eastern Cape Provincially Aided Libraries
11. Eastern Cape Regional Authorities
12. Eastern Cape Rural Finance Corporation Limited
13. Eastern Cape Socio-Economic Consultative Council
14. Eastern Cape Tourism Board
15. Eastern Cape Youth Commission

Free State: _____

1. Free State Consumer Affairs
2. Free State Council for Citizenship, Education and Conflict Resolution
3. Free State Gambling and Gaming Board
4. Free State Investment Agency
5. Free State Liquor Board
6. Free State Mangaung Nursing College
7. Free State Youth Commission
8. Phakisa Major Sport and Development Corporation

Gauteng: _____

1. Gauteng Agriculture and Farming Development Trust
2. Gauteng Economic Development Agency
3. Gauteng Gambling Board
4. Gauteng Rental Housing Tribunal
5. Gauteng Tourism Authority

KwaZulu-Natal: _____

1. Amafa Akwazulu Natali
2. Ezemvelo Kwazulu-Natal Wildlife
3. KwaZulu-Natal Gambling Board
4. KwaZulu-Natal House of Traditional Leaders
5. KwaZulu-Natal Taxi Council
6. KwaZulu-Natal Tourism Authority
7. KwaZulu-Natal Provincial Planning and Development Commission
8. Natal Arts Trust
9. Natal Trust Fund
10. Natal Sharks Board
11. UMsekelo Municipal Support Services

Mpumalanga: _____

1. Mpumalanga Gambling Board
2. Mpumalanga Gaming Board
3. Mpumalanga Housing Board
4. Mpumalanga Investment Initiative
5. Mpumalanga Parks Board
6. Mpumalanga Regional Training Trust
7. Mpumalanga Tourism Authority

Northern Cape: _____

1. Northern Cape Tourism Authority
2. Northern Cape Youth Commission

Limpopo: _____

1. Gateway International Airport
2. Northern Province Agricultural and Rural Development Corporation

- 
3. Northern Province Appeal Tribunals
 4. Northern Province Development Tribunals
 5. Northern Province Gaming Board
 6. Northern Province Housing Board
 7. Northern Province Investment Initiative
 8. Northern Province Liquor Board
 9. Northern Province Local Business Centres
 10. Northern Province Panel of Mediators
 11. Northern Province Planning Commission
 12. Northern Province Roads Agency
 13. Northern Province Tourism Board

North West: _____

1. Invest North West
2. Mmabana Arts, Culture and Sport Foundation
3. NW Agricultural Services Corporation
4. NW Communication Service
5. NW Eastern Region Entrepreneurial Support Centre
6. NW Gambling Board
7. NW Housing Corporation
8. NW Parks and Tourism Board
9. NW Provincial Aids Council
10. NW Provincial Arts and Culture Council
11. NW Youth Development Trust

Western Cape: _____

1. WC Cultural Commission
2. WC Gambling and Racing Board
3. WC Investment and Trade Promotion Agency
4. WC Language Committee
5. WC Liquor Board
6. WC Nature Conservation Board
7. WC Provincial Development Council
8. WC Tourism Board
9. Any subsidiary or entity under the ownership control of the above public entities

Part D: Provincial Government Business Enterprises _____

1. Casidra (Pty) Ltd
2. Eastern Cape Development Corporation
3. Free State Development Corporation
4. Ithala Development Finance Corporation
5. KwaZulu Transport Corporation Ltd
6. Mayibuye Transport Corporation
7. Mjindi Farming (Pty) Ltd
8. Mpendle-Ntambanana Agricultural Company (Pty) Ltd
9. Mpumalanga Agricultural Development Corporation

10. Mpumalanga Economic Empowerment Corporation
11. Mpumalanga Housing Finance Company
12. Northern Province Development Corporation
13. NW Development Corporation
14. Any subsidiary or entity under the ownership control of the above public entities

Appendix C

Government MINMECs and other committees that participate in South Africa's government planning, budgeting and policy-making process:

- ❑ MINMEC for the Department of Agriculture
- ❑ Intergovernmental Technical Committee for Agriculture (ITCA)
- ❑ Arts, Culture, Science and Technology MINMEC
- ❑ Arts, Culture, Science and Technology Technical Committee
- ❑ Tourism MINMEC
- ❑ Tourism MIPTECH
- ❑ Environment MINMEC
- ❑ Environment MINTECH
- ❑ Health MINMEC
- ❑ Housing MINMEC
- ❑ Committee of the Heads of Housing Departments
- ❑ Local Government MINMEC
- ❑ Local Government Technical MINMEC
- ❑ MINMEC for Public Works
- ❑ Committee of Heads of Departments of Public Works
- ❑ The Executive Co-ordinating Committee (ECC) (Department of Safety and Security)
- ❑ MINMEC for Social Development
- ❑ Committee of Enquiry into a Comprehensive Social Security System
- ❑ MINMEC on Sport and Recreation
- ❑ Technical Intergovernmental Committee for Sport and Recreation (TIC)
- ❑ MINMEC for Traditional Affairs
- ❑ Technical MINMEC for Traditional Affairs
- ❑ MINCOM (Ministerial Committee of Ministers of Transport)
- ❑ COTO (Committee of Transport Officials)
- ❑ Department of Water Affairs and Forestry MINMEC
- ❑ Department of Water Affairs and Forestry Technical Committee (MINTEC)

Budget Council : Composition _____

Chairperson - ex officio the Minister of Finance; and
Deputy chairperson - Deputy Minister or Director General.

Members: _____

9 MECs for Finance as political heads of finance;
Chairperson of the Financial and Fiscal Commission or a delegation from the FFC designated by the chairperson may attend; and
other persons may be invited to attend.

Other co-ordinating structures

- ❑ Council of Education Ministers
- ❑ Heads of Education Department Committee (HEDC)
- ❑ Free State Province Provincial and Local Government (Co-ordinating) Committee
- ❑ PROVLOC
- ❑ Free State Province Technical PROVLOC
- ❑ Gauteng Intergovernmental Forum
- ❑ Gauteng Premier's Co-ordinating Committee
- ❑ Proposed Provincial, Traditional Leaders and Local Government Forum of KwaZulu-Natal (PROVTRALOG)
- ❑ KwaZulu-Natal Provincial Cabinet Clusters
- ❑ Mpumalanga Province Cluster Committee (Cabinet level)
- ❑ Mpumalanga Province Intergovernmental Relations Forum (MIGRF)
- ❑ Province of the Northern Cape Sub-Directorate: Intergovernmental Relations and Protocol
- ❑ Limpopo Province Directorate: Intergovernmental Relations and Protocol Services
- ❑ North West Province Directorate: Intergovernmental Relations and International Relations
- ❑ North West Intergovernmental Forum (NWIGF)
- ❑ Western Cape Province Provincial Advisory Forum
- ❑ Western Cape Provincial Constitutional Technical
- ❑ Department of Foreign Affairs Directorate: Intergovernmental and
- ❑ Provincial Protocol
- ❑ Forum of Provincial Directors General
- ❑ Loan Coordinating Committee (LCC) (non-operative)
- ❑ Local Government Budget Forum (LGBF)

Provincial co-ordinating structures

- ❑ Eastern Cape Political Intergovernmental Forum
- ❑ Eastern Cape Technical Intergovernmental Forum

Appendix D

Key parliamentary committees that play a role in the law and policy-making process in government:

1. Ad Hoc Committees

- ❑ Ad hoc Committee on Pan-African Parliament
- ❑ Ad hoc Joint Committee on General Intelligence Law Amendment Bill
- ❑ Ad hoc Committee on Report No 13 by the Public Protector

2. Parliamentary Committees

The National Assembly and the National Council of Provinces have committees responsible for oversight of government departments and consideration of legislation produced by and relating to those departments. In the National Assembly these committees are called Portfolio Committees and in the National Council of Provinces they are called Select Committees.

There are also Joint Committees, which consist of members of both Houses.

(i) Joint Standing Committees

- ❑ Constitutional Review Committee
- ❑ Joint Committee on Ethics and Members' Interest
- ❑ Joint Committee on Reconstruction and Development Program
- ❑ Joint Monitoring Committee on Improvement of Quality of Life and Status of Children, Youth and Disabled Persons
- ❑ Joint Monitoring Committee on Improvement of Quality of Life and Status of Women
- ❑ Joint Standing Committee on Defence
- ❑ Joint Standing Committee on Intelligence

(ii) Portfolio Committees (National Assembly)

There is a portfolio committee for every government department. Each committee consists of about seventeen MPs and is responsible for shadowing its respective department. The committees monitor their departments and may investigate and make recommendations relating to legislation, budget, structure, functioning and anything else. Each committee elects its own chairperson.

- ❑ Portfolio Committee on Agriculture and Land Affairs
- ❑ Portfolio Committee on Arts, Culture, Science and Technology
- ❑ Portfolio Committee on Communications
- ❑ Portfolio Committee on Correctional Services
- ❑ Portfolio Committee on Defence
- ❑ Portfolio Committee on Education
- ❑ Portfolio Committee on Environmental Affairs and Tourism
- ❑ Portfolio Committee on Finance
- ❑ Portfolio on Foreign Affairs
- ❑ Portfolio Committee on Health
- ❑ Portfolio Committee on Home Affairs
- ❑ Portfolio Committee on Housing
- ❑ Portfolio Committee on Justice and Constitutional Development
- ❑ Portfolio Committee on Labour
- ❑ Portfolio Committee on Minerals and Energy
- ❑ Portfolio Committee on Provincial and Local Government
- ❑ Portfolio Committee on Public Enterprises
- ❑ Portfolio Committee on Public Service and Administration
- ❑ Portfolio Committee on Public Works
- ❑ Portfolio Committee on Safety and Security
- ❑ Portfolio Committee on Social Development
- ❑ Portfolio Committee on Sport and Recreation
- ❑ Portfolio Committee on Trade and Industry
- ❑ Portfolio Committee on Transport
- ❑ Portfolio Committee on Water Affairs and Forestry

1.1 Standing Committees

Standing Committee on Private Members' Legislative Proposals and Special Petitions

Standing Committee on Public Accounts

Select Committees of the NCOP

- Security & Constitutional Affairs
Justice & Constitutional Development, Safety & Security, Defence, Intelligence, & Correctional Service
- Education
Education, Arts, Science & Technology, Sports & Recreation
- Finance
Finance
- Social Services
Health (Social Services), Welfare and Population Development, Home Affairs
- Economic and Foreign Affairs
Trade & Industry, Foreign Affairs, Mineral and Energy Affairs
- Agriculture & Land Affairs
Agriculture & Land Affairs, Water & Forestry, Environmental Affairs & Tourism
- Public Services
Housing, Public Works, Transport
- Local Government & Administration
Provincial & Local Government, Public Service & Administration
- Members Legislative Proposals
Members Legislative Proposals
- Labour and Public Enterprises
Labour, Youth, Women & Persons with Disabilities, Public Enterprises, and Post, Telecommunication & Broadcasting