



PARLIAMENT: REGULATIONS, LEGISLATION, PUBLIC PARTICIPATION / SUBMISSIONS

BUSA Workshop- 2024

ABOUT COMPANY

Introducing Thompson Trust: Your Strategic Partner in Parliamentary Affairs

At Thompson Trust, we redefine excellence in parliamentary monitoring, government affairs, and stakeholder management. With a focus on timely appraisal, we forge invaluable connections within the political landscape.

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MD - RENEE THOMPSON

Reneé Thompson is an experienced Researcher, Parliamentary and Government Liaison Officer with a demonstrated history of working in Parliament and Government for 16 years. She holds a Master's in Journalism from Stellenbosch University and is currently pursuing her PhD, with her research focusing on the legislative process of the South African Parliament and Portfolio Committees.

Over the course of her career, Reneé has held numerous specialized positions, including various roles within the African National Congress (ANC) Caucus at Parliament. Her experience includes drafting political party statements for the National Assembly, speech writing, internal communications management, media, communication, and stakeholder management.

She also served as Parliamentary Liaison Officer for two Cabinet Ministers. Reneé was one of the inaugural recipients of the Apolitical Academy Public Service Fellowships.

Thompson Trust runs its corporate social investment programs through Sisters 4 Life, a non-profit organization that focuses on women's empowerment in rural areas of the Western Cape. Sisters 4 Life is a registered NGO that can also issue Section 18A to donors .

During Women's Month in August 2021, Reneé was recognized as one of the 50 Women in Power in South Africa under the category: The Networking Woman.

Reneé Thompson and Thompson Trust are PRISA accredited for SADC.



KEY SUCCESSES

TOBACCO INSTITUTE OF SOUTHERN AFRICA (TSA)

- Tracked the Tobacco Products and Electronic Delivery Systems Control Bill
- Successfully ensured that the process is delayed in order for the bill to lapse when Parliament rose for the 2019 Elections.

PHILLIP MORRIS ANC POLICY CONFERENCE

- Ensured that submissions was made on harm reduction products and healthier alternatives.
- Harm reduction/healthy lifestyle text was adopted at ANC Elective Conference December 2022
- <https://www.anc1912.org.za/wp-content/uploads/2021/04/4th-National-Policy-Conference-Recommendations.pdf>

KEY SUCCESSES

PARLIAMENT

- Monitored the tabling on the Tobacco Bill
- Upon the Bill being tabled, we embarked on a public education drive in order to ensure that the public is aware of the bill and its implication on smokers. This resulted in 32 000 submissions

SOUTH AFRICAN BREWERIES

- Successfully lobbied for the exclusion of the Liquor Amendment Bill from the priority list of legislation for 2022/2023.
- Ensured the exclusion of alcohol abuse in the Declaration of the ANCWL Conference 2023 (I was part of the drafting team).
- Ensured that submissions were made on harm reduction products and healthier alternatives.
- Harm reduction and healthy lifestyle text was adopted at the ANC Elective Conference in December 2022—see page 19 of the National Policy Conference Recommendations.pdf (see point 23)

BICAMERAL STRUCTURE & LEGISLATIVE DYNAMICS

BICAMERAL STRUCTURE

NATIONAL ASSEMBLY (NA):

The lower house, consisting of Members of Parliament (MPs) directly elected by the public

NATIONAL COUNCIL OF PROVINCES (NCOP):

The upper house, representing the provinces Members are chosen by provincial legislatures

Parliament is a bicameral legislature consisting of two houses: the National Assembly and the National Council of Provinces.

Parliament is responsible for passing laws, overseeing the executive branch, and representing the interests of the South African people.

The South African Parliament operates within the framework of the country's constitution, and its workings are guided by parliamentary rules and procedures.

The interaction between the National Assembly and the National Council of Provinces ensures a comprehensive legislative process that takes into account both national and provincial perspectives.

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ELECTIONS:

- General elections are held at least every five years to elect members of the National Assembly.
- Provincial legislatures, elected concurrently with the National Assembly, select members for the National Council of Provinces.

ROLE OF THE NATIONAL ASSEMBLY



The National Assembly is the primary legislative body, responsible for passing laws, approving the budget, and overseeing the executive.



The President is elected by the National Assembly.

ROLE OF NATIONAL COUNCIL OF PROVINCES (NCOP):



Represents the provinces to ensure that provincial interests are taken into account in national legislation.



Reviews and participates in the legislative process initiated by the National Assembly.

LEGISLATIVE PROCESS

- Proposed laws, known as bills, can be introduced in either house.
- Bills go through several readings and committee stages for scrutiny and debate.
- Both houses must approve a bill before it becomes law.

**BILL
INDUCTION**



**BILL
READING,
SCRUTINY &
DEBATE**

**HOUSES
APPROVALS**



COMMITTEE SYSTEM



Committees in both houses play a crucial role in examining legislation, conducting inquiries, and overseeing government departments.

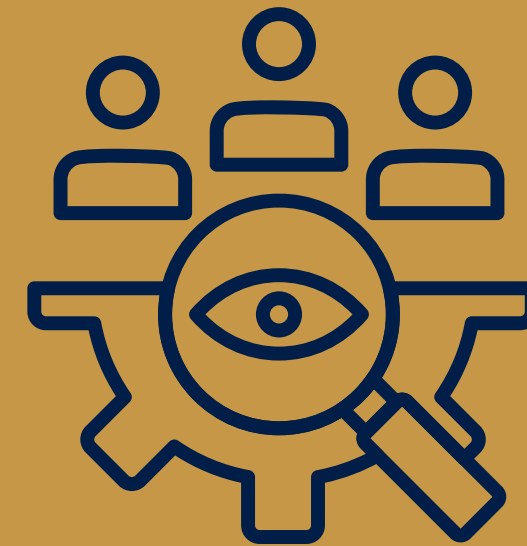


Committees provide a platform for detailed examination and public input.

QUESTION TIME :



Regular sessions where MPs can pose questions to the President, Cabinet members, and other government officials.



Allows for accountability and transparency.

OVERSIGHT AND ACCOUNTABILITY



Parliament exercises oversight over the executive through mechanisms such as debates, questions, and committee inquiries.



Various parliamentary committees scrutinize government activities.

STATE OF THE NATION ADDRESS (SONA)

Annually, the President delivers the State of the Nation Address, outlining the government's priorities and plans.



BUDGET APPROVAL



The National Assembly
plays a central role in
approving the national
budget.



The budget is
presented by the
Minister of Finance and
debated by MPs.

JOINT SITTINGS:

Both houses may meet in joint session for significant events, such as the election of the President or the adoption of constitutional amendments.



CONSTITUTIONAL FUNCTIONS:

Parliament has the responsibility of amending the constitution, subject to specific procedural requirements.



PRESIDENT'S ASSENT:

Once both houses approve a bill, it is sent to the President for assent before becoming law.



PROVINCIAL REPRESENTATION:

Provincial legislatures select members for the NCOP, ensuring provincial interests are considered in national legislation.



PUBLIC PARTICIPATION:

Parliament encourages participation from the public through public hearings, submissions on legislation, and engagement with parliamentary committees.



NAVIGATING THE REGULATORY LANDSCAPE: UNDERSTANDING THE SOUTH AFRICAN GOVERNMENT'S REGULATORY PROCESS

In South Africa, the parliamentary process for the creation and approval of regulations involves several stages. The process is generally guided by constitutional principles, legislative frameworks, and parliamentary procedures and the enabling act.

Keep in mind that specific details can vary as Minister's/Departments often skip the public participation/hearings process, especially when they want to push through regulations which they deem to be "urgent"

Section 101 of the Constitution and the enabling Act will set out the procedure if specific procedures must be followed

Section 101(3) Proclamations, regulations and other instruments of subordinate legislation must be accessible to the public.

101(4) stipulates that "National legislation may specify the manner in which, and the extent to which, instruments in subsection (3) must be (a) tabled in Parliament; and (b) approved by Parliament"

WHAT IS THE DIFFERENCE BETWEEN LEGISLATION AND REGULATION IN SOUTH AFRICA?

In order to become official, legislation must go through a rigorous bill process and review before being signed into law. On the other hand, regulations are created and approved through a shorter public hearing and decision process.



WHAT THE ROLE OF REGULATIONS:

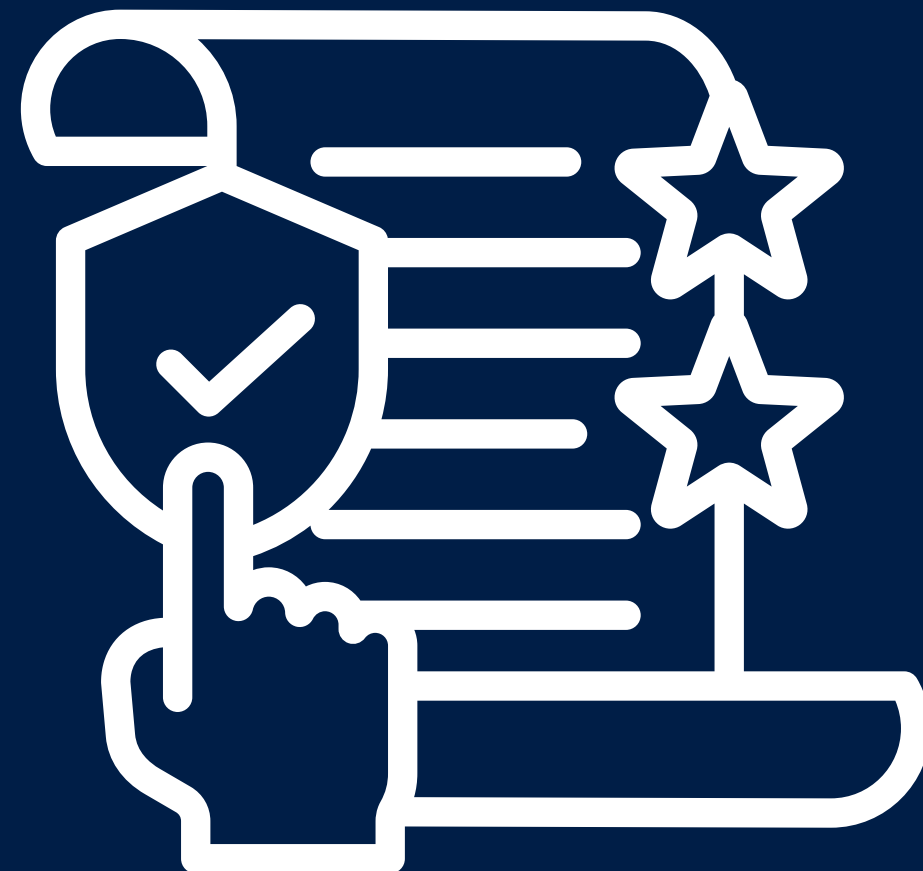
Regulation consists of *requirements the government imposes on private firms and individuals to achieve government's purposes.*

These include better and cheaper services and goods, protection of existing firms from "unfair" (and fair) competition, cleaner water and air, and safer workplaces and products.



EXAMPLE OF KNOWN REGULATION?

Common examples of regulation include limits on environmental pollution, laws against child labor or other employment regulations, minimum wage laws, regulations requiring truthful labeling of ingredients in food and drugs, and drug safety regulations.



IDENTIFICATION OF THE NEED/INITIATION & DRAFTING

The process typically begins with the identification of a need for regulation in a particular area.

The relevant government department or agency drafts the proposed regulations.

In this case: Recognition of the public health concerns related to nutrition and diet-related diseases.

Analysis of the prevalence of non-communicable diseases (NCDs) associated with poor dietary choices.

Research and analysis:

Assessing problems, exploring solutions, and evaluating impacts.

Scientific Assessment and Research:

Commissioning studies and research on the impact of certain nutrients on health.
Evaluation of existing labeling systems and their effectiveness in conveying nutritional information to consumers.

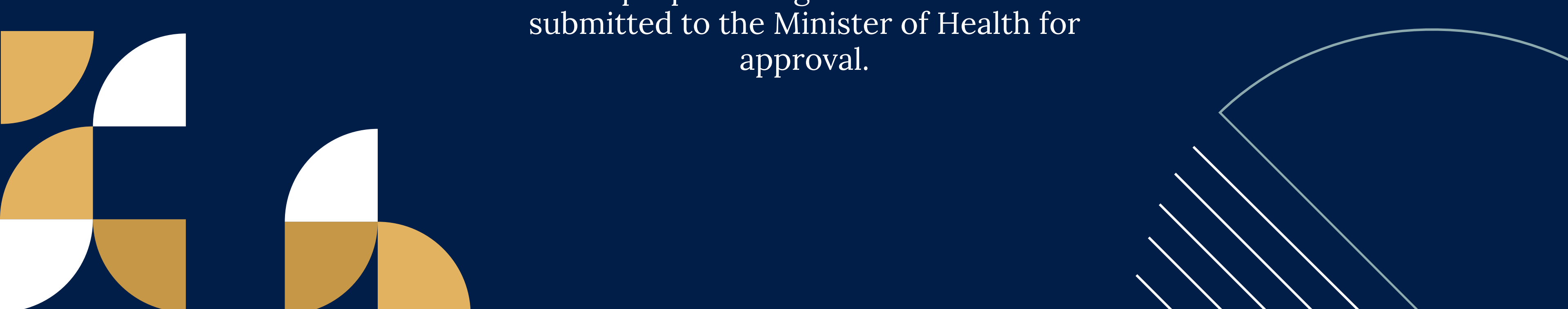
Socio-economic Impact Assessment:

Evaluating potential effects on society and the economy (SEIAs).



LEGAL REVIEW & APPROVAL WITHIN THE EXECUTIVE :

The drafted regulations undergo a legal review to ensure compatibility with existing laws and constitutional principles. The proposed regulations are then submitted to the Minister of Health for approval.





PUBLICATION OF PROPOSED REGULATIONS :

Once approved by the executive, the proposed regulations are published for public consultation in the Government Gazette.

Stakeholders, interested parties, and the public have an opportunity to provide feedback during a specified comment period.

Public Comment Period :

Typically 30 to 60 days. Requests for extensions on public comment periods are granted most of the time.



PARLIAMENTARY COMMITTEES :

The proposed regulations may be referred to parliamentary committees relevant to the subject matter.

Committees review the regulations, consider public input, and hold hearings to gather additional information.





PARLIAMENTARY APPROVAL :

The final version of the regulations, taking into account public feedback and committee recommendations, is presented to Parliament.

Both houses of Parliament (National Assembly and National Council of Provinces) may debate the regulations.



APPROVAL BY PARLIAMENT :

If approved by a majority vote in both houses, the regulations are considered accepted by Parliament.

Parliament may suggest amendments to the process.

Edit



PRESIDENTIAL ASSENT :

Once approved by Parliament, the regulations are sent to the President for assent.

The President may either assent to the regulations or refer them back to Parliament for reconsideration.



PUBLICATION IN THE GOVERNMENT GAZETTE

If the President assents, the regulations are published in the Government Gazette.

This publication marks the official commencement of the regulations.



IMPLEMENTATION AND ENFORCEMENT :

The regulations come into effect on the specified date mentioned in the Government Gazette.

Relevant authorities oversee the implementation and enforcement of the regulations.





CHALLENGES AND CONSIDERATIONS :

Balancing Competing Interests: Managing conflicting stakeholder concerns

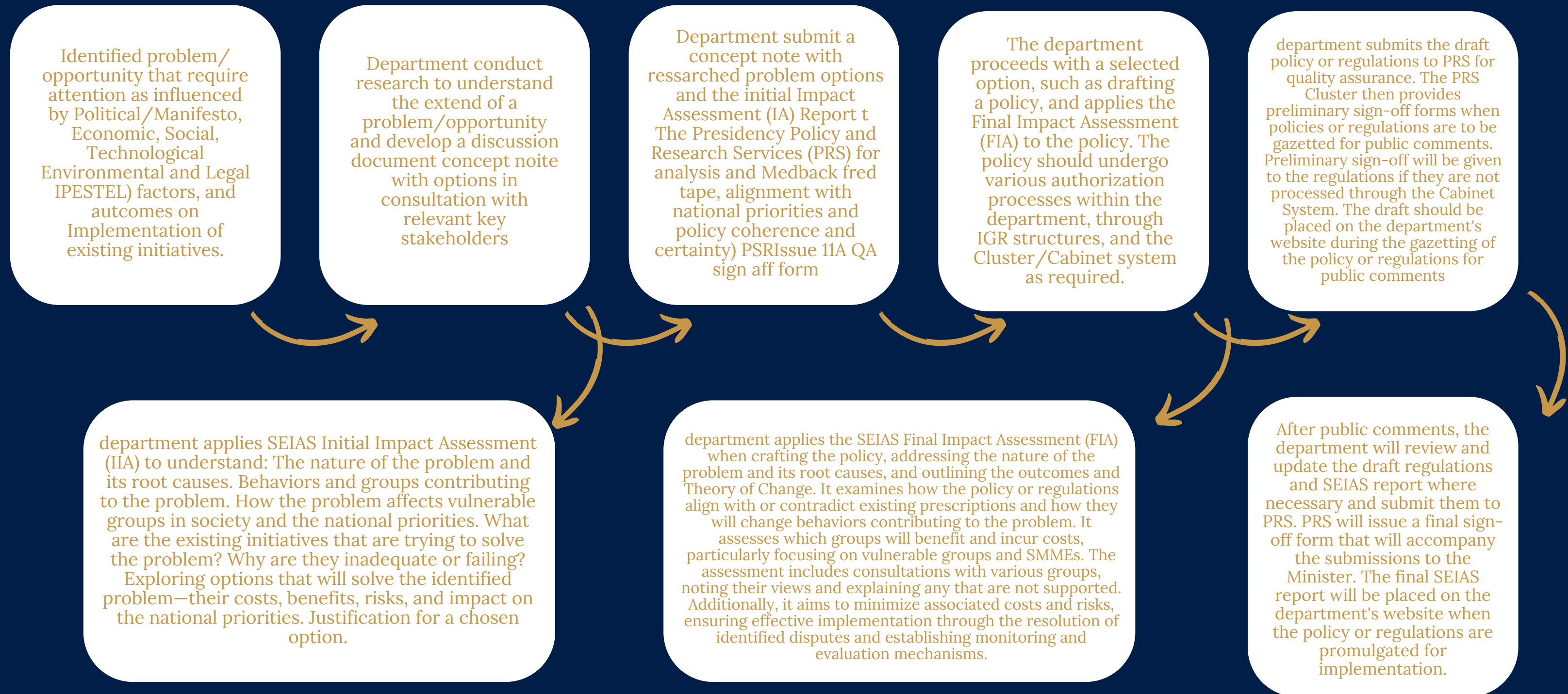
Regulatory Compliance Costs: Striking a balance between protection and economic efficiency

Public Awareness and Education: Ensuring understanding and compliance with regulations



Recap of the South African Regulatory Process: Procedure vs. Reality
Q&A Session/Discussions

PROCESS MAP FOR APPLICATION OF SEIAS IN THE DEVELOPMENT OF PUBLIC POLICIES AND SUBORDINATE LEGISLATION



PROCESS MAP FOR APPLICATION OF SEIAS IN THE DEVELOPMENT OF PUBLIC POLICIES AND SUBORDINATE LEGISLATION

2. Cabinet Lekgotla

- Govt. receives the electoral mandate which informs government policy;
- Cabinet Lekgotla deliberates on strategic government policy

3. The Presidency

- Cabinet Secretary requests Departments to submit legislative programme to Cabinet Office
- Departments submit their legislation programme informed by Govt. policy and priorities.
- Research and outcomes of the SEIAS Initial Impact Assessment form the basis of whether to regulate or not as guided a policy.
- PRS issue an Initial QA Sign Off form for the policy
- Preparation of the Draft Legislation Programme by Leader of Govt. Business (LOGB)
- Consultation with Political Management Structure on the draft list of bills.

4. Alignment of Legislation with Govt. Policy

Depts. Provide policy documents on the intended for review by:

- Departments;
- Policy and Research Services (PRS) for Policy Advisory and Socio-Economic Impact Assessment System (SEIAS)
- Office of the Chief State Law Advisors;
- DG Clusters;
- Other Departments with interest

1. Development of Draft Bill by the Department

- The Bill is drafted by the Departments 'Legal Units (using a policy document that informs the drafting of the Bill)
- The Bill is submitted to the Office of the Chief State Law Advisors (OCSLA) for quality assurance and constitutionality
- The OCSLA returns pre certified bill to relevant departments and to the LOGB
 - Drafters of the Bill and relevant Policy Units conduct Final Impact Assessment SEIAS against the Bill which is submitted to PRS for analysis improvements.
- PRS issue a SEIAS Cluster QA sign off form
- DGs Cluster deliberate on the Bill

PROCESS MAP FOR APPLICATION OF SEIAS IN THE DEVELOPMENT OF PUBLIC POLICIES AND SUBORDINATE LEGISLATION

5. Preliminary Certification by OCSLA and PRS

- Bill must come before OCSLA for preliminary certification as an early warning system which will enhance quality control before they go to Cabinet for approval
- After incorporation of DGs Cluster comments into the Bill, PRS issues a QA Preliminary Sign Off form if the Bill is going to Cabinet to request approval for Gazetting for public comments.
- PRS will issue a Final QA Sign Off form if the Bill and SEIAS have been updated after gazetting for public

6. Cabinet and Committee Stage

- The responsible Minister presents the draft Bill to the appropriate Cabinet Committee
- Recommendation for the Bill to be considered by Cabinet
- Cabinet deliberates on the Bill
- Cabinet approves the Bill to be introduced to Parliament

7. Certification of the Bill by OCSLA

- Departments refer their approved Bills to OCSLA for certification
- The OCSLA reports on the status of bills to LOGB
- The OCSLA informs LOGB and the relevant departments on the bills they did not certify
- The OCSLA returns certified bills to

8. Bills that are not certified by OCSLA

- The OCSLA proof reads the bill against the Executive decisions and if such a bill is uncertified it is returned to LOGB
- The office of the LOGB refers uncertified bills to Cabinet for further considerations and deliberations

9. Discussion of the Bill at NEDLAC

Departments present Cabinet approved bills to National Economic Development and Labour Council (NEDLAC) if the bills have socio-economic implications before introducing them to Parliament

10. Introduction of the bill to Parliament

- Legislation and Proceeding Unit in Parliament receives the bill from OCSLA and do proof reading and editing
- Departments are requested to submit a translated version of the bill • The Legislation and Proceeding Unit print the bill and introduce the bill on behalf of the Ministers to relevant Portfolio Committees

PROCESS MAP FOR APPLICATION OF SEIAS IN THE DEVELOPMENT OF PUBLIC POLICIES AND SUBORDINATE LEGISLATION

11. LOGB Parliamentary Support Office

- Liaise with the Parliamentary Liaison Officers (PLO) on submissions of Bills, Translations and Amendments
- Ensure Ministers accountability to respond Parliamentary Questions in respect of their Bills
- Tracking on amendments from Portfolio Committees
- Drafting the Planning cycles in line with the Constituency period

12. Deliberations on the Bill by Parliament

- The two houses of Parliament – The National Assembly and the National Council of Provinces deliberates on the Bill
- Public hearings and consultations with relevant stakeholders take place

13. Passing of the Bill by Parliament

- Adoption of the Bill by the National Assembly and the National Council of Provinces

14. Assessment to and Signing of the Bill by the President

- After the Bill has been adopted by the two Houses of Parliament, the President will then assent to and signs that Bill into an Act of Parliament.

15. The Presidency Office

- Legal Services Unit in The Presidency facilitates the promulgation of proclamation from Departments
- The Legal Services to provide LOGB with report on all Acts that have been passed with a view to a register Legislation
- The Policy and Research Services works with relevant Department on the implementation of the Act, putting M&E systems, unblocking bottlenecks and tracking its impact

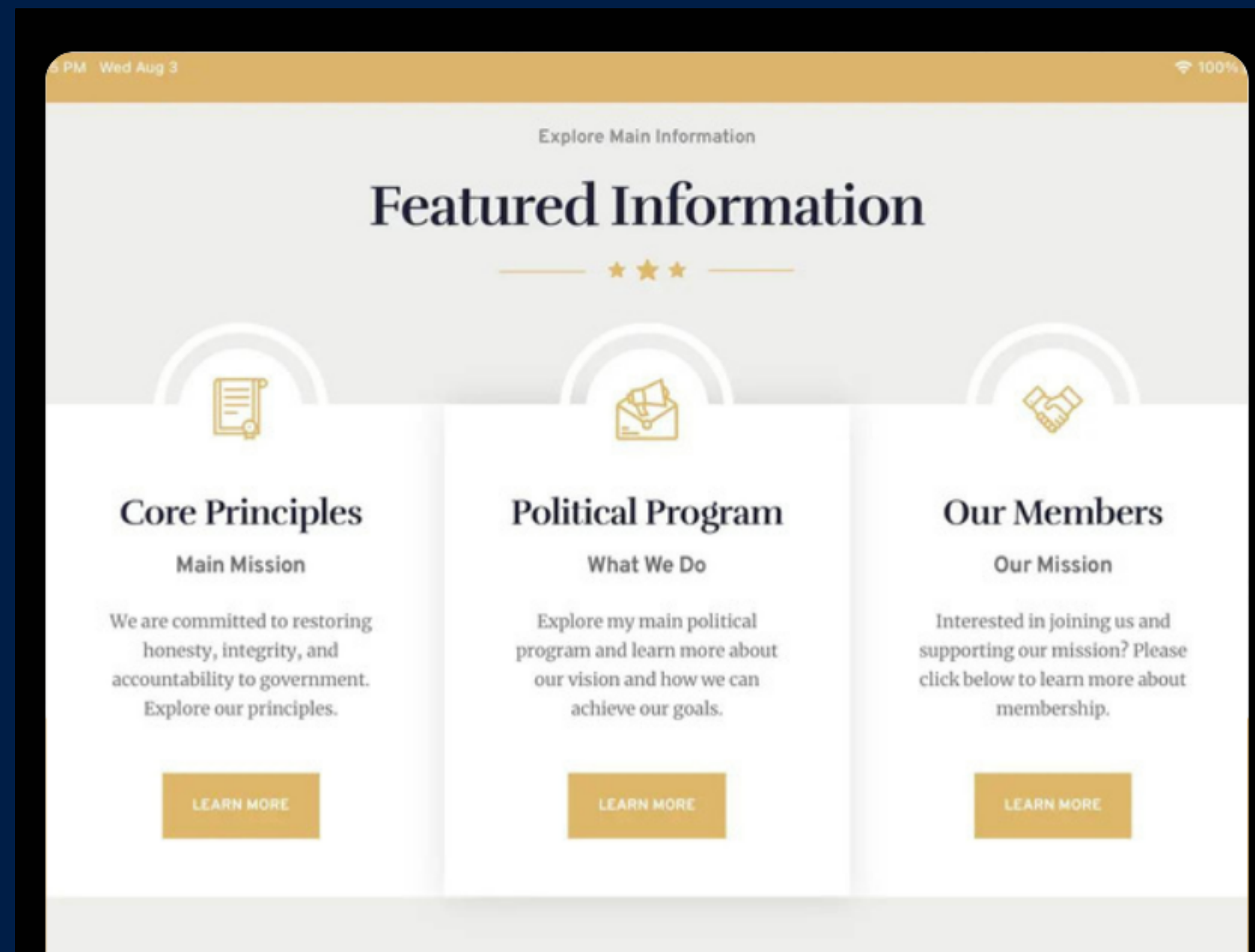
LEGISLATION: PROCESS MAP				
BILL:				
NO	STEPS	RESPONSIBILITY	COMPLETED Yes/No	COMMENTS
1.	Identify need for new or amendment legislation (Bill or Amendment Bill)	Identified by Cabinet (incl. Cabinet Lekgotla), Parliament, Minister, Department, Court, Public Clusters		
2.	Draft and finalise policy and Bill	Division, in consultation with Legal Services (LS)		
2A.	Conduct SEIAS / prepare Bill and Memorandum on the Objects of same for submission to SLAs for purposes of pre-certification	Division, in consultation with DPME, State Law Advisor and LS		
3.	Obtain in-principle approval from Cabinet for consultation	Division, in consultation with ExBo and relevant Clusters		
4.	Finalise Bill to be used for consultation purposes	Division, in consultation with LS		
5.	Engage in consultations: - Electronic distribution to interested parties, including NEDLAC, Parliament and entities - Arrange workshop if necessary	- Division, in consultation with ERPC and entities - Division		
6.	Amend Bill (based on outcomes of consultations) until Dept is satisfied with product	Division		
7.	- Submit Bill and accompanying documentation to DG Clusters - Inform Division of outcome of Cluster deliberations	- Division, in consultation with ERPC - ERPC		
8.	Issue letter of pre-certification to Dept.	SLA		
9.	Submit Bill and accompanying documentation to Minister for consideration and submission to Cabinet: - Internal submission (memorandum, route form, etc) - Cabinet Memorandum (must request approval for introduction) - Include State Law Advisers' pre-certification - Include SEIAS and NEDLAC reports	- Division - Division (to be checked by LS) - Division		
10.	- Submission of Cabinet Memorandum and Bill to Cabinet Secretariat for placement on agenda of Cabinet Committee - Distribute Cabinet Memorandum and Bill to Members of Cabinet	- Ministry [PLO] - Ministry		
11.	Consideration of Bill by Cabinet Committee: to be presented to Cabinet Committee by Minister or Deputy Minister (officials to attend if requested by Minister)	Minister and Cabinet Committee		
12.	Consideration of Bill by Cabinet: to be presented to Cabinet by Minister (officials to attend if requested by Minister)	Minister and Cabinet		
13.	Inform Dept of Cabinet Committee(s)' recommendation(s) and Cabinet's decision(s)	Ministry [PLO]		
14.	Upon receipt of Cabinet's approval: Rule 159 of Joint Rules of Parliament: Submit Bill and Explanatory Memorandum to Speaker of NA and	- Division - LS, Ministry - LS		

LEGISLATION: PROCESS MAP				
BILL:				
NO	STEPS	RESPONSIBILITY	COMPLETED Yes/No	COMMENTS
	Chairperson of NCOP by means of letters for Minister's signature ¹ . - Publish Bill or Explanatory Summary of the Bill (notice of intention to introduce Bill into Parliament) in Gazette: Rule 241 of the Rules of the National Assembly / Rule 186 of the Rules of the National Council of Provinces. - Refer Bill (including Memorandum on the Objects of the Bill) to State Law Advisers for final review and certification together with confirmation of Cabinet Committee recommendation(s) and Cabinet approval.	LS		
15.	Legal editing subsequent to certification	SLA and LS		
16.	Linguistic editing	Parliament's Legislation and Proceeding Unit and SLA		
17.	- Proofreading of edited Bill - Commence with translation(s) of Bill	- Division and LS - Division in consultation with LS		
18.	Introduction of Bill into Parliament by Minister	Parliament's Legislation and Proceeding Unit, SLA and LS		
19.	Printing of Bill and allocation of Bill number	Parliament		
20.	Provide Parliament with translation(s) of Bill	Division and LS		
21.	List Bill on Order Paper of Parliament (NA or NCOP)	Parliament's Legislation and Proceeding Unit		
22.	- Speaker of Parliament or Chairperson of NCOP announces introduction of Bill (known as First Reading of Bill) - Minister may address the relevant House of Parliament (optional) - Refer Bill to Portfolio Committee or Select Committee	- Speaker of Parliament or Chairperson of NCOP - Minister in liaison with LOGB and Whips - Speaker of Parliament or Chairperson of NCOP		
23.	- Introduction and referral of Bill to relevant Parliamentary Committee to be published in the ATC - Inform dept and LS of relevant ATC	- Parliament - Ministry		
24.	Brief Study Group upon request	Minister (DG and Division if requested by Minister)		
25.	Deliberations by Portfolio Committee or Select Committee: - Brief committee - Publish Bill to invite public comments (Rule 249 of the Rules of the National Assembly) - Hearings - Agree to amendments (if any) - Amend Bill	- DG, Division and LS - Committee secretary - Committee (to be attended by Dept) - Committee - SLA and LS (to be advised by Committee secretary)		
26.	Adoption of Bill by Portfolio Committee or Select Committee:	Committee		

LEGISLATION: PROCESS MAP				
BILL:				
NO	STEPS	RESPONSIBILITY	COMPLETED Yes/No	COMMENTS
	• Motion of desirability • Clause by clause voting (incl. Committee amendments)	• Committee		
27.	Debate Bill in Parliament (Second Reading) • If at this stage a Member introduces further amendments, the House can either refer the Bill back to the Committee for consideration or immediately vote on the proposed amendments)	Minister and Members of Parliament (to be attended by DG, Division and LS)		
28.	Voting on Bill	NA or NCOP		
29.	After both Houses have adopted a Bill, it is referred to the President for assent and signature. • Presidential assent and signing of Bill • Refer to Government Printer and allocate Act Number • Publish in Gazette • If an Act is to come into operation on a date to be determined by Presidential Proclamation, the applicable Presidential Minute, Proclamation and Explanatory Memorandum must be drafted and submitted to the Presidential desk (in prescribed format)	• Parliament • President • Presidency and Government Printers • Government Printers • Division and LS (draft Proclamation) • Ministry (refer to President)		
GENERAL				
1.	Legislative programme: this programme must annually be prepared and submitted to Minister for consideration and upon approval, be submitted to the LOGB and Presidency • Request inputs from Divisions • Provide inputs • Prepare programme and submission • Forward submission to Minister for approval	• Ministry, LS • Divisions • Ministry and LS		

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The Pavilion Cnr of Dock & Ports-wood,
V&A Waterfront, Cape Town, 8001

The background is a solid dark blue. In the corners, there are abstract geometric patterns. The top-left corner features a series of white diagonal lines and a thin white arc. The top-right corner has a pattern of white and gold semi-circles and quarter-circles. The bottom-left corner also features a pattern of white and gold semi-circles and quarter-circles. The bottom-right corner has a thin white arc and several white diagonal lines.

THANK YOU !