

Parliament passes key Bills

The National Assembly on Tuesday passed several Bills, including the National Prosecuting Authority Amendment Bill, the Prevention and Combating of Hate Crimes and Hate Speech Bill, and the Independent Police Investigative Directorate Amendment Bill.



Image source: Brad Calkins – [123RF.com](https://www.123RF.com)

The Bills were passed during the House's plenary sitting.

National Prosecuting Authority (NPA) Amendment Bill

The NPA Amendment Bill amends the National Prosecuting Authority Act, 1998, by providing, among others, for the establishment of an Investigating Directorate against Corruption (IDAC) as a permanent entity within the NPA.

It also provides for the appointment of IDAC investigators to ensure greater investigative capacity and capability.

Parliament said this will enhance the NPA's independence and ability to prosecute high-level crimes.

“The Investigating Directorate was established by a presidential proclamation in 2019, meaning that it can also be disbanded at any time in a similar way.

“The National Prosecuting Authority Amendment Bill seeks not only to ensure its permanence but makes provision for the appointment of permanent investigators. It also establishes an appeals mechanism through the appointment of a retired judge,” Parliament said.

The appointment of permanent investigators will ensure the probing and prosecuting of high level and often complex crimes of corruption in the country.

Independent Police Investigative Directorate (IPID) Amendment Bill

This Bill amends the Independent Police Investigative Directorate Act, 2011 by, among others, providing that the Directorate must be independent, impartial and must exercise its powers and functions without fear, favour, prejudice, or undue influence.

The Bill also proposes the IPID executive director be appointed by the Minister of Police with the concurrence of Cabinet, for a non-renewable period of at least seven years and not longer than 10.

The Minister would thereafter, in terms of the Bill, report the appointment of the executive director to Parliament within 14 days.

Parliament said both Bills will now be sent to the National Council of Provinces (NCOP) for concurrence.

Prevention and Combating of Hate Crimes and Hate Speech Bill

The National Council of Provinces (NCOP) last month passed the Prevention and Combating of Hate Crimes and Hate Speech Bill with proposed amendments. The Bill was sent back to the National Assembly to consider the Council's proposed amendments.

“The Bill marks a significant step towards the protection of all people in South Africa against hate crimes and hate speech, particularly those based on race, ethnicity, gender, sexual orientation, or any other form of discrimination,” Parliament said.

Section 3 of the Bill defines a hate crime as an offence committed where the offender is motivated by prejudice or intolerance towards the victim of the crime because of specified characteristics or perceived characteristics of the victim or another person associated with the victim.

The Bill lists these characteristics as grounds that could constitute a hate crime. They include age; albinism; birth; colour; culture; disability; ethnic or social origin; gender or gender identity; HIV status; language; nationality, migrant or refugee status; occupation or trade; political affiliation or conviction; race; religion; sex, which includes intersex or sexual orientation.

In Section 4 of the Bill, hate speech is defined as the intentional publishing or communicating of anything that can incite harm or promote hate based on grounds, including age, sexual orientation, and race, among others.

“The Bill also provides for penalties such as fines, imprisonment, or both for those who are convicted of the offences. The Bill will now be sent to the President for assent,” Parliament said.

Other Bills the NA approved include the National Youth Development Agency Amendment Bill and the Preservation and Development of Agricultural Land Amendment (PDAL) Bill.

National Youth Development Agency Amendment Bill

The NYDA Bill seeks to amend the National Youth Development Agency (NYDA) Act of 2008 as it relates to the objects of the NYDA and amends its functions, among others.

The Bill provides for inclusion of additional NYDA Board members and provides that the term of a Board member may not be for more than two consecutive terms. The Bill also requires the submission of financial disclosures by the Board members and seeks to amend matters pertaining to the meetings of the Board and the funding of the Agency. It also authorises the Minister to make regulations.

“Given the inputs received from members of the public, insights from further deliberations as well as advice from the Parliamentary Legal Adviser, the Committee realised that there was a need to amend a provision of the principal Act which was not included in the Bill when it was introduced.

“This proposed amendment sought to align the NYDA Act of 2008 to the Public Finance Management Act of 1999, to reflect that NYDA is listed in Part A of Schedule 3 of the latter Act,” Parliament said.

The committee amended the principal Act guided by the National Assembly Rule 286(4)(c), which provides for the legislative process of bills in the committee as follows:

“The committee – if the Bill amends provision of legislation, must, if it intends to propose amendments to other provisions of that legislation, seek the permission of the Assembly to do so.”

The committee sought permission and was subsequently granted permission by the National Assembly to amend Section 2 of the NYDA Act by inserting a new clause in the Bill which read as follows:

“(2) The Agency is a national public entity as [defined in section 1] listed in Part A of Schedule 3 of the Public Finance Management Act.”

Preservation and Development of Agricultural Land Amendment (PDAL) Bill

The PDAL Bill, in turn, seeks to address the shortcomings of the Subdivision of Agricultural Land Act (SALA) of 1970 by facilitating cooperative governance in the administration of the Act.

It also aims to address other identified weaknesses such as the fact that SALA is only applicable to privately owned land, which inadvertently prevents the protection of high-value agricultural land owned by the state, statutory bodies, communal land, and land administered by traditional authorities.

The Bill also intends to harmonise the need for use of agricultural land for agricultural purposes and non-agricultural uses in line with local authorities’ spatial planning.

“Both the PDAL Bill and the NYDA Amendment Bill will be sent to the NCOP for concurrence,” Parliament said.