

Thursday, 19 March 2020]

No 35—2020] SECOND SESSION, SIXTH PARLIAMENT

PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

THURSDAY, 19 MARCH 2020

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ANNOUNCEMENTS

National Assembly

The Speaker

1. Withdrawal of Bill

- (1) A letter, dated 6 March 2020, has been received from the Minister of Defence and Military Veterans, withdrawing the **Military Discipline Bill** [B21-2019] (National Assembly – sec 75) in accordance with Assembly Rule 334.

Referred to the **Portfolio Committee on Defence and Military Veterans**.

2. Referral to Committees of papers tabled

- (1) The following paper is referred to the **Portfolio Committee on Police** for consideration:
- (a) Report of the South African Police Service for the period April 2019 – September 2019, tabled in terms of section 18(5)(d) of the Domestic Violence Act, 1998 (Act No 116 of 1998).
- (2) The following papers are referred to the **Portfolio Committee on Justice and Correctional Services** for consideration and report:
- (a) Strategic Plan of Public Protector South Africa for 2020 – 25.
- (b) Annual Performance Plan of Public Protector South Africa for 2020 – 21.
- (3) The following papers are referred to the **Portfolio Committee on Basic Education** for consideration and report:

- (a) Strategic Plan of the South African Council for Educators for 2020-25.
 - (b) Annual Performance of the South African Council for Educators for 2020-21.
- (4) The following papers are referred to the **Portfolio Committee on Cooperative Governance and Traditional Affairs** for consideration and report:
- (a) Strategic Plan of the Municipal Infrastructure Support Agent for 2020 – 25.
 - (b) Annual Performance Plan of the Municipal Infrastructure Support Agent for 2020-21.
- (5) The following papers are referred to the **Portfolio Committee on Employment and Labour** for consideration and report:
- (a) Strategic Plan of the National Economic Development and Labour Council (NEDLAC) for 2020-21 to 2024-25.
 - (b) Annual Performance Plan of the National Economic Development and Labour Council (NEDLAC) for 2020-21.
- (6) The following papers are referred to the **Portfolio Committee on Public Service and Administration** for consideration and report:
- (a) Strategic Plan of Statistics South Africa for 2020-21 – 2024-25.
 - (b) Annual Performance Plan (Work Programme) of Statistics South Africa for 2020-21.
 - (c) Strategic Plan of the Public Service Commission (PSC) for 2020-21 to 2024-25.
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 - (d) Annual Performance Plan of the Public Service Commission (PSC) for 2020-21.
- (7) The following papers are referred to the **Portfolio Committee on Tourism** for consideration and report:
- (a) Strategic Plan of the Department of Tourism for 2020-21 – 2024-25.
 - (b) Annual Performance Plan of the Department of Tourism for 2020-21 – 2022-23.

National Council of Provinces

The Chairperson

1. Secondment and appointment of Acting Judges to Land Claims Court

- (a) Letter received from the Minister of Agriculture, Land Reform and Rural Development informing of the Secondment and Appointment of Acting Judges to the Land Claims Court.

1. Judge Daisv Molefe
Secondment 14 April - 26 July 2020
2. Mr M Canca
Acting Appointment 14 April 2020 — 18 January 2021
(in both Land Claims Court and Gauteng High Court).

(A long period of appointment for Mr Canca is required because of the absence of permanent judges and Mr Canca's availability to act on a long term basis).

3. Judge Z Carelse
Secondment 27 July — 04 October 2020
Land Claims Court and Gauteng High Court).
4. Adv Heidi Barnes
Acting Appointment 27 July — 04 October 2020
(in both Land Claims Court and Gauteng High Court).
5. Adv Susannah Cowen
Acting Appointment 05 October 2020 — 18 January 2021

Referred to the **Select Committee on Land Reform, Environment, Mineral Resources and Energy** and the **Select Committee on Security and Justice**.

2. Referral to Committees of papers tabled

- (1) The following papers are referred to the Select Committee on Security and Justice for consideration:
 - (a) Strategic Plan of the Department of Military Veterans for 2020-2025.
 - (b) Annual Performance Plan of the Department of Military Veterans for 2020/21.
 - (c) Report of the South African Police Service for the period April 2019 – September 2019, tabled in terms of section 18(5)(d) of the Domestic Violence Act, 1998 (Act No 116 of 1998).
 - (d) Strategic Plan of the Department of Defence for 2020-25.
 - (e) Annual Performance Plan of the Department of Defence for 2020.

- (f) Strategic Plan of the Castle Control Board for 2020-25.
 - (g) Annual Performance Plan of the Castle Control Board for 2020-21.
 - (h) Strategic Plan (Corporate Plan) of the Armscor (Armaments Corporation) for 2020.
 - (i) Strategic Plan of the Military Ombud for 2020-25.
 - (j) Annual Performance Plan of the Military Ombud for 2020.
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TABLINGS

National Assembly and National Council of Provinces

1. The Speaker and the Chairperson

- (a) Monthly Financial Statements of Parliament – February 2020, tabled in terms of section 54(1) of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No 10 of 2009).
- (b) Report of the Independent Electoral Commission (IEC) on the National and Provincial Elections for May 2019 [RP 210 – 2019].

2. The Minister of Cooperative Governance and Traditional Affairs

- (a) Annual Performance Plan of the South African Local Government Association for 2020/21.

3. The Minister of Employment and Labour

- (a) Strategic Plan of Productivity SA for 2020/21 – 2024/25.
- (b) Annual Performance Plan of Productivity SA for 2020/21.

4. The Minister of Higher Education, Science and Innovation

- (a) Strategic Plan of the Department of Higher Education and Training for 2020 – 2025.
- (b) Annual Performance Plan of the Department of Higher Education and Training for 2020/21.
- (c) Strategic Plan of Agricultural Sector Education and Training Authority (AGRI-SETA) for 2020/21 – 2024/25.

- (d) Annual Performance Plan of Agricultural Sector Education and Training Authority (AGRI-SETA) for 2020-21.
- (e) Strategic Plan of the Banking Sector Education and Training Authority (BANKSETA) for 2020/21 and Annual Performance Plan for 2020/21.
- (f) Strategic Plan of the Culture, Arts, Tourism, Hospitality and Sport Sector Education and Training Authority (CATHSSETA) for 2020/21 - 2024/25.
- (g) Annual Performance Plan of the Culture, Arts, Tourism, Hospitality and Sport Sector Education and Training Authority (CATHSSETA) for 2020/21.
- (h) Strategic Plan of the Construction Sector Education and Training Authority (CETA) for 2020/21 – 2024/25.
- (i) Annual Performance Plan of the Construction Sector Education and Training Authority (CETA) for 2020/21.
- (j) Strategic Plan of the Chemical Industries Education and Training Authority (CHIETA) for 2020 - 2025.
- (k) Annual Performance Plan of the Chemical Industries Education and Training Authority (CHIETA) for 2020/21.
- (l) Strategic Plan of the Education Training and Development Practices Sector Education and Training Authority (ETDP) for 2020/21 – 2024/25.
- (m) Annual Performance Plan of the Education Training and Development Practices Sector Education and Training Authority (ETDP) for 2020/21.
- (n) Strategic Plan of the Energy and Water Sector Education and Training Authority (EW-SETA) for 2020/21 – 2024/25 and Annual Performance Plan for 2020/21.
- (o) Strategic Plan of the Financial and Accounting Services Sector Education and Training Authority (FASSET) for 2020 – 2025.
- (p) Annual Performance Plan of the Financial and Accounting Services Sector Education and Training Authority (FASSET) for 2020/21.
- (q) Strategic Plan of the Fibre Processing and Manufacturing Sector Education and Training Authority (FP&M SETA) for 2020/21 - 2024/25 and Annual Performance Plan for 2020/21.
- (r) Strategic Plan of the Food and Beverages Manufacturing Sector Education and Training Authority (FOODBEV-SETA) for 2020/21 - 2024/25.
- (s) Annual Performance Plan of the Food and Beverages Manufacturing Sector Education and Training Authority (FOODBEV-SETA) for 2020/21.
- (t) Strategic Plan of the Health and Welfare Sector Education and Training Authority (HW-SETA) for 2020 - 2025 and Annual Performance Plan for 2020 – 2023.

- (u) Strategic Plan for 2020/21 – 2024/25 and Annual Performance Plan of the Insurance Sector Education and Training Authority (INSETA) for 2020/21.
- (v) Sector Skills Plan for the Local Government Sector Education and Training Authority (LG-SETA) for 2020/21 - 2024/25.
- (w) Strategic Plan for the Local Government Sector Education and Training Authority (LG-SETA) for 2020/21 - 2024/25.
- (x) Annual Performance Plan of the Local Government Sector Education and Training Authority (LG-SETA) for 2020/21 – 2022/23.
- (y) Strategic Plan of the Manufacturing, Engineering and Related Services Seta (MER-SETA) for 2020/21 - 2024/25.
- (z) Annual Performance Plan of the Manufacturing, Engineering and Related Services Seta (MER-SETA) for 2020/21.
- (aa) Strategic Plan of the Media, Information and Communication Technologies Sector Education and Training Authority (“MICT SETA”) for 2020 – 2025 and Annual Performance Plan for 2020 – 2021.
- (bb) Strategic Plan of the Mining Qualifications Authority (MQA) for 2020/21 - 2024/25 and Annual Performance Plan for 2020/21 – 2024/25.
- (cc) Strategic Plan of the Public Service Sector Education and Training Authority (PSETA) for 2020 – 2025.
- (dd) Annual Performance Plan of the Public Service Sector Education and Training Authority (PSETA) for 2020 - 2021.
- (ee) Strategic Plan of the Safety and Security Sector Education and Training Authority (SAS SETA) for 2020/21 – 2024/25.
- (ff) Annual Performance Plan of the Safety and Security Sector Education and Training Authority (SAS SETA) for 2020/2021.
- (gg) Strategic Plan of the Services Sector Education and Training Authority for 2020/21 – 2024/25.
- (hh) Annual Performance Plan of the Services Sector Education and Training Authority for for 2020/21.
- (ii) Strategic Plan for 2020 – 2025 of the Transport Education Training Authority (TETA) and Annual Performance Plan for 2020 – 2021.
- (jj) Strategic Plan of the Wholesale and Retail Sector Education and Training Authority (W&R-SETA) for 2020/21 - 2024/25 and Annual Performance Plan for 2020/21 – 2022/23.

- (kk) Strategic Plan for the Council on Higher Education (CHE) for 2020 – 2025.
- (ll) Annual Performance Plan for the Council on Higher Education (CHE) for 2020/21.
- (mm) Strategic Plan of the National Skills Fund (NSF) for 2020 - 2025.
- (nn) Annual Performance Plan of the National Skills Fund (NSF) for 2020/21.
- (oo) Strategic Plan of the National Student Financial Aid Scheme (NSFAS) for 2020/21 - 2024/25.
- (pp) Annual Performance Plan of the National Student Financial Aid Scheme (NSFAS) for 2020/21.
- (qq) Strategic Plan of the Quality Council for Trades & Occupations for 2015/16 - 2020/21 – 2024/25.
- (rr) Annual Performance Plan of the Quality Council for Trades & Occupations for 2020/21.
- (ss) Strategic Plan of the South African Qualifications Authority (SAQA) for 2020/21 - 2024/25 and Annual Performance Plan for 2020/21.
- (tt) Strategic Plan of the Academy of Science of South Africa (ASSAF) for 2020/21 - 2024/25.
- (uu) Annual Performance Plan of the Academy of Science of South Africa (ASSAF) for 2020/21.
- (vv) Strategic Plan for 2020 – 2025 and Annual Performance Plan of the Council for Scientific and Industrial Research (CSIR) for 2020/21.
- (ww) Strategic Plan of the Human Sciences Research Council (HSRC) for 2020 - 2025.
- (xx) Annual Performance of the Human Sciences Research Council (HSRC) for 2020/21.
- (yy) Strategic Plan for 2020 – 2025 and Annual Performance Plan of the National Advisory Council on Innovation for 2020/21.
- (zz) Strategic Plan of the Technology Innovation Agency (TIA) for 2020 – 2025.
- (aaa) Annual Performance Plan of the Technology Innovation Agency (TIA) for 2020/21.

5. The Minister of Police

- (a) Strategic Plan of the South African Police Service for 2020 to 2025.
- (b) Annual Performance Plan of the South African Police Service for 2020/21.

6. The Minister of Public Works and Infrastructure

- (a) Strategic Plan of the Council for the Build Environment for 2020/21 – 2024/25.
 - (b) Annual Performance Plan of the Council for the Build Environment for 2020/21.
 - (c) Strategic Plan of the Construction Industry Development Board for 2020 – 2025.
 - (d) Annual Performance Plan of the Construction Industry Development Board for 2020/21.
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COMMITTEE REPORTS

National Assembly

[The following report, replaces the Report of the Portfolio Committee on Social Development, which was published in the Announcements, Tablings and Committee Reports dated 18 March 2020]

1. Report of the Portfolio Committee on Social Development on the Social Assistance Amendment Bill [B 8 – 2018] (National Assembly – sec 76), dated 17 March 2020

The Portfolio Committee on Social Development, having considered the subject of the Social Assistance Amendment Bill [B 8 – 2018] (National Assembly – sec 76), referred to it and classified by the Joint Tagging Mechanism as a section 76 Bill, reports the Bill with amendments. The Committee wishes to report as follows:

On 29 October 2019, the Social Assistance Amendment Bill, [B8 – 2018] was revived by House resolution and referred to the Committee for consideration and report. On 13 November 2019, the Committee was briefed by the Department of Social Development on the contents of the Bill. The Committee resolved to place an advertisement requesting the public to submit written submissions and also to indicate their interest to make oral submissions on the Bill. An advertisement was placed from 15 November to 13 December 2019. This was in adherence to the Constitutional mandate to involve public in Parliament's legislative processes.

In response to a call for public comments the Committee received a total of six (6) submissions from various stakeholders who expressed their interest in making oral submissions. The stakeholders were as follows:

- Black Sash Trust,
- Children's Institute,
- Centre for Child Law,
- Catholic Parliamentary Liaison Office,
- Children in Distress Network,

- and Ms Nomhle Nkwanyana.

The Committee conducted public hearings on 26 February 2020, and all the above mentioned interested stakeholders made their oral submissions before the committee. The Committee after public hearings invited the Department of Social Development to respond to issues raised on submissions by the public. The Committee proceeded to the formal stage of the Bill (clause by clause).

The Committee proposed the following amendment:

Clause 7

1. On page 4, in line 4, after “must”, to insert “, after consultation with Parliament,”.

Clause 11

2. On page 5, in line 31, to omit 2018 and to substitute 2020 Act.

Clause 12

3. On page 5, in line 48, to omit “2018” and substitute “2020”.

The Committee unanimously agreed to the Bill with amendments.

Report to be considered.

National Council of Provinces

1. REPORT OF THE SELECT COMMITTEE ON TRADE AND INDUSTRY, ECONOMIC DEVELOPMENT, SMALL BUSINESS DEVELOPMENT, TOURISM, EMPLOYMENT AND LABOUR ON OVERSIGHT VISIT TO SUPPORTED EMPLOYMENT ENTERPRISES (SEE), NDABENI, WESTERN CAPE, DATED 11 MARCH 2020

The Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour, having conducted an oversight visit to Supported Employment Enterprises at Ndabeni, Western Cape, on the 10 September 2019, reports as follows:

1. Background and Introduction

In terms of section 42(4) of the Constitution, the National Council of Provinces (NCOP) is mandated to ensure effective cooperative governance and intergovernmental relations between the three spheres of government. This unique mandate of the NCOP further seeks to ensure that the provincial interests are taken into account in the national sphere of government. It is within this context that the Select Committees on Trade and Industry, Economic Development, Tourism, Small Business Development and Employment and Labour visited the Supported Employment Enterprises factory (SEE) in Ndabeni, Western Cape.

2. Purpose of the visit

2.1 Briefing by the SEE on Annual Performance Plan and Budget for the 2019/20 financial year;

2.2 Presentation by Department of Employment and Labour on measures undertaken to deal with challenges in the Road Freight and Logistic Sector;

2.3 Walk about in the factory.

3. Multiparty delegation

The delegation comprised of the following members:

Hon MI Rayi, Mr (ANC) Chairperson

Hon, MK Mmoiemang, Mr (ANC)

Hon ML Moshodi, Ms (ANC)

Hon HS Boshoff, Ms (DA)

Hon TJ Brauteseth, Mr (DA)

Hon B Mathevula, Ms (EFF).

The delegation was accompanied by the following parliamentary officials: Ms NG Dinizulu (Committee Secretary), Mr L Sithuba (Content Advisor), Mr Z Ngxisha (Committee Researcher), Mr S Mokoena (Communication Officer), Mr E Bazier (Committee Assistant) and Ms P Kakaza (Executive Secretary).

3.1 In attendance

The meeting was attended by the officials from the Department of Employment and Labour, and Supported Employment Enterprises (SEE).

Ministry, departmental, public entity representatives and other stakeholders

Name of delegate	Organisation	Designation
Mr T Lamati	Department of Employment and Labour	Director-General
Mr S Morotoba	Department of Employment and Labour	Deputy Director-General
Mr M Buthelezi	Department of Employment and Labour	Acting Chief Communication Officer

Adv M Ntleki	Depart Department of Employment and Labour	Director: Office of the Director-General
Mr K Moletsane	Department of Employment and Labour	Administrator
Mr T Wababa	Department of Employment and Labour	Parliamentary Liaison Officer
Mr CC Fourie	Department of Employment and Labour	Deputy Director: SEE factory
Mr A Booysen	Supported Employment Enterprises	Acting Director: factory production
Ms N Ogle	Supported Employment Enterprises	Human Resources Generalist
Ms P Rustin	Supported Employment Enterprises	Human Resource Generalist
Ms C Van Reenen	Supported Employment Enterprises	Acting Director Communications

4. Outline of the Supported Employment Enterprises (SEE)

Ms Rustin, the Human Resources Generalist Officer, welcomed the entire delegation. She further tendered an apology for the factory manager, Mr D Sass. Ms Rustin informed Members that SEE in N'dabeni is the largest factory in the development scheme and consists of 161 employees. Nine officials have been seconded from the Department of Employment and Labour to form part of the management team.

She indicated that the presence of Members of Parliament gave them hope for continuous reciprocal, good financial and prosperous relationship with all government departments. The factory is divided into two main sections: *Textile, Wood and Metal*, recently it opened the *Powder Coating Plant* which is a subsidiary plant to the metal department. Ms Rustin emphasised the need of the SEE in the South African economy. The SEE is one of the paramount institutions that have created job opportunities for people with disabilities. As a result employees working in the SEE no longer received social grants administered by the South African Social Security Agency (SASSA).

4.1 SEE Annual Performance Plans for 2019/20

The Director-General, Mr Lamati, presented the budget and expenditure plan, and focused on the following areas:

- Mandate for the Supported Employment Enterprises
- 2018/19 Overall performance
- 2018/19 Audit Outcomes, and implementation plan.

4.1.1 Mandate for Supported Employment Enterprises

The Department submitted that the mandate of SEEs is to create employment for people with disabilities who are unable to find employment in the open labour market due to the nature of their afflictions. The *Supported Employment Enterprises* develops and implement programmes that promote the employability of persons with disabilities, including persons with permanent disablement as defined in the compensation for occupational injuries and diseases act, no 130 of 1993), in the light of their evolving needs in a changing economy. There are about 4.7 million people with disabilities in South Africa of which, 10 per cent to 15 per cent probably require a working environment offered by the *Supported Employment Enterprises*.

Further it was reported that the *Supported Employment Enterprises* works closely with *Productivity SA* in conducting work study reviews of SEE manufacturing processes in line with South African Bureau of Standards (SABS) certified norms and standards. The Department further informed the *Delegation* that the implementation of approved SEE norms and standards are maintained throughout the factories countrywide. Also, the focus is on upskilling key personnel involved in production, planning and execution.

4.1.2 Overall performance for 2018/19

The Department submitted that the SEE has achieved all the performance targets for the 2018/19 financial year. The SEE has simply set two major performance targets that receive contribution from several functional policy programmes. The Department further indicated that it has put in place monitoring measures to ensure that performance targets are achieved, and the quarterly reviews have assisted in ensuring that the Department meet the annually targets.

For the period under review, the SEE has employed 150 additional persons with disabilities. Further, the SEE intends to increase the sales revenue from goods and services by 10 per cent by end of March 2020. The SEE has ambitions to expand and penetrate new markets. To reach the new markets it has realised it would need both non-financial and financial support.

4.1.3 Audit Outcomes for 2018/19

For the 2018/19 financial year, the SEE received a qualified audit outcome for both non-financial information and annual financial statements. In the main the audit outcomes highlighted that the SEE should adhere to the acceptable general standards of accounting. To this end, the SEE is in the process of establishing and strengthening the finance structure with management accounting and financial reporting capacity and capability including financial risk capacity. In the main is to boost capacity in the finance department, and thus to appoint personnel with requisite skills to execute financial management and governance requirements in line with legislation and policy.

The Committee recognised that *discrimination against people with disabilities persists in various social and economic spheres*. Further, capacity and capability of the SEE should be prioritised. Partnership with development agencies, and private sector should be established. The Committee resolved within the six months after the adoption of this report to convene a meeting with relevant state departments to explore possible policy options to reposition the SEE to fulfil the legislative obligations, and to further meet government policy outcomes.

5. Report on the challenges facing *Road Freight and Logistics Sector*

The Director-General, Mr Lamati, briefed the Committee on the measures undertaken to deal with the challenges in the Road Freight and Logistic Sector, with specific focus on recent violence on trucks. The presentation covered the challenges raised by the *Truck Drivers Association*, work of the established *Joint Inspection Task Team*, *Jurisdictional issues over Labour issues in the RFL Sector*, and *overview of the joint inspections conducted*.

5.1 Brief Background

In the recent past South Africa witnessed a series road blockage, and burning of trucks on the N3 National Route, in KwaZulu-Natal. Complaints were lodged by the South African Truck Drivers Association who believed that employers in *trucking industry* preferred in hiring foreign nationals as truck drivers, as a result many South African truck drivers lost they jobs. The complaint which was submitted listed 47 South African companies that were alleged to have breached legislation.

The Truck Drivers Association listed raised the following challenges as matters that need to be investigated:

- High rate and level of foreign nationals employed in the sector;
- Employers giving unfair preference to foreign drivers displacing South African drivers;
- Ill-treatment of local drivers by employers;
- Driver taking responsibility of overloaded cargos instead of employers;
- Lack of compliance with labour laws including collective agreement;
- Long hours worked without overtime;
- Illicit driver's licenses by foreign national drivers;
- License disks/permits for one truck being shared by many trucks which are not roadworthy;
- Fake or lapsed work permits.

The complaint caused government to launch a joint inspection task team to investigate the matter. The Department of Employment and Labour became the lead department on matter that affected labour laws. The joint inspection team was comprised of the following government departments and agencies:

- Department of Home Affairs;
- National Bargaining Council for Road Freight Industry;
- Department of Employment and Labour;
- Department of Transport;
- South African Police Service, including the Road Traffic Infringement Agency (RTIA).

5.2 Overview of the Joint Inspection Activities

Inspection team compiled an inspection plan covering a period of six months up to the end of October 2019. The Department submitted that the following activities were undertaken by the Joint Inspections Team:

- Joint inspections were conducted by visiting various workplaces targeting the companies that were on the list of the initial complaint;
- The Inspectors also participated in the joint roadblocks at Mkhondeni Weighbridge, including Mooi River and Midway Estcourt.
- The total number of companies inspected were 56.
- The total number of employees from inspected companies was 2745 categorized as follows: 1947 employees from the Republic of South Africa and 798 foreign nationals.
- Seven companies could not be inspected as their offices fell outside of KZN, four were based in the Western Cape, two in Gauteng and one in the Free State. Two companies could not be traced.
- The companies that are based in KZN were selected and included in the list of those that had to be visited to complete the inspection process on the premises of the employer;
- The employers who were found non-compliant with the labour laws were issued with the appropriate enforcement notices ordering them to comply within the prescribed period. Upon follow up, the majority had since complied whilst those that failed to comply at the expiry of the notice, were referred for prosecution;
- Further, the inspectors identified that some of the employers were not complying with UIF registration requirements, including failure to pay the overtime, Sunday work; public holiday rate; and implementation of incentive scheme.

The common findings confirmed the prevalence of foreign nationals employed as truck drivers as reflected in the report indicating specific findings per employer. Issues relating to documentation of foreign nationals were referred to the Department of Home Affairs for validation.

5.3 Jurisdictional issues over labour issues in relation to the sector

The Department submitted that the basic conditions of employment in the sector are regulated by a collective agreement administered by the Bargaining Council for Road Freight and Logistics Sector (NBCRFI). Further the Bargaining Council does not enforce Sections 29 and 33 of the Basic Conditions of Employment Act [Act 75 of 1997]. The Bargaining Council has Agents who monitor and enforce compliance with the clauses of the Collective Agreement. The disputes of unfair dismissals also fall under the *Bargaining Council* which may conciliate or arbitrate over such cases.

The *Employment Services Act, 2014* prescribes that an employer may not employ a foreign national prior to such a foreign national producing an applicable and valid work permit in terms of the *Immigration Act. Section 50(4) of the Employment Services Act* provides that any employer who contravenes *Section 8(1) shall be guilty of an offence and liable on conviction to a fine or imprisonment contemplated in Section 49(3) of the Immigration Act.* The Department further noted that although the *Employment Services Act*, which is administered by the Department of Employment and Labour makes reference to the regulation of the employment of the foreign nationals, where there are contraventions of such provisions such contraventions are referred to the Department of Home Affairs for enforcement under the *Immigration Act and Regulations.*

In terms of the law, *Immigration Officers* from the Department of Home Affairs are responsible for the enforcement of the *Immigration Act and Regulations* (work permits for employment of foreign nationals). Including enforcing compliance in relations to the ratio of 60 per cent of South Africans vs 40 per cent of foreign nationals in companies owned by foreign investors.

6. Key observations

- The road freight and logistics labour conflict between local and foreign national truck drivers is a very complex problem, which require a multidisciplinary approach;
- The Department of Employment and Labour has an establishment of 1400 labour inspectors at a national level and this far below the required capacity for effectively enforcing compliance as required by the South African labour legislation regime;
- The *National Road Freight Bargaining Council* makes use of its own private agencies to enforce compliance of affiliated companies that it regulations;

- Further, the Department is in the process of developing a labour migration policy to boost legislation and policy regime to effectively administer issues in the labour market;
- South African Development Community (SADC) and African Union (AU) have migration protocols in place that regulate labour migration and movement of goods and services which also find expression under the newly adopted Africa Free Trade Agreement;
- Key among the challenges in road freight and logistics industry is the preference of foreign national drivers over local truck drivers. Companies not affiliated to *National Road Freight Bargaining Council* prefer to employ foreign nationals, and in the process avoid compliance with the existing labour laws.

The Committee recognised the complexity of the matter, and thus it needs a cross-sector approach to have a sustainable solution. It has resolved within six months after adoption of this report to convene a meeting in partnership with other relevant Parliamentary Committees to address labour immigration policy and legislation considerations.