

# NAVIGATING THE LEGISLATIVE LANDSCAPE

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**Sabinet**

Facilitating *access* to information

# HOW IS LAW MADE IN **SOUTH AFRICA?**

Use this handy guide  
to understand the

**Legal Lingo**

involved and the steps  
from BILL to ACT.

## **Need the right answer that will stand up in court?**

Don't hit 'I'm feeling lucky'. Ask your Law Librarian for free access to SA National Legislation (NetLaw) from Sabinet. Easy access to all the legislative information, when and where you need it.



Scan this code to access  
the CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA



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## **GREEN PAPER**



Originally named because it was printed on Green Paper. It is the first step towards proposed legislation and gives several alternatives to policy solutions. The public and stakeholders are invited to comment.

## **WHITE PAPER**



More authoritative than the Green Paper. Signifies government's clear intention to make policy. Sets out changes to current laws and is more defined than the Green Paper.

Sabinet's Bill Tracker and Parliamentary Documents Service tracks Bills every step of the way from their first discussion in Parliament as they develop from Draft Bills into Bills and are signed into law by the President and are finally consolidated and updated as Acts.



## DRAFT BILL



Combination of the Green and White Paper. Drafted by a government department. Private Bills are drafted by opposition parties.

## BILL



First introduced in the National Assembly by either a Cabinet Minister, Deputy Minister or committee member. The process that needs to be followed depends on the tagging of the Bill.

# A BILL CAN BE TAGGED IN ANY ONE OF THESE 4 CATEGORIES

### SECTION 74 BILLS

Amendments to the Constitution

### SECTION 75 BILLS

Ordinary Bills not affecting the provinces

### SECTION 76 BILLS

Ordinary Bills affecting the provinces

### SECTION 77 BILLS

Money Bills that deal with taxes, duties & levies

Refer to diagrams on pages 10-13

## Did you know?

The very first Private Bill to be passed by Parliament was the Labour Relations Amendment Bill, which will give fathers 10 days parental leave.



## PARLIAMENT



Laws are made by Parliament – the national legislature of South Africa. The function of passing new laws, amending existing laws and repealing or abolishing old laws is guided by the Constitution of South Africa.

## NATIONAL ASSEMBLY (NA)



The National Assembly is elected to represent the people and to ensure democratic governance as required by the Constitution. The National Assembly consists of no fewer than 350 and no more than 400 members elected through a system of proportional representation.

The National Assembly, which is elected for a term of five years, is presided over by the speaker and assisted by the deputy speaker.

## NATIONAL COUNCIL OF PROVINCES (NCOP)



The NCOP consists of 54 permanent members and 36 special delegates, and represents provincial interests in the national sphere of government. Delegations consist of 10 representatives from each province.

# Did you know?

**Both Houses of Parliament – the National Assembly and the National Council of Provinces – play a role in the process of making laws.**



## Sabinet's South African National Legislation Service, NetLaw, includes all updated and consolidated South African Principal Acts, Rules and Regulations since 1910.

### NATIONAL LEGISLATION (ACTS)

Written laws enacted by a person or a body empowered by the Constitution or other legislation to do so to enforce the law on a national level.  
*(Powers listed in Schedule 4 and 5 of the Constitution.)*



### PROVINCIAL LEGISLATION (ACTS IN PROVINCES)

The legislature has the power to pass legislation in various fields enumerated in the National Constitution dealing with laws applicable to that specific province. A provincial legislature may also enact a constitution for that province, if two-thirds of the members vote in favour.



### LOCAL GOVERNMENT LEGISLATION (BY-LAWS)

A by-law is legislation that is passed and enacted by a Municipal Council and is a rule or law established by an organisation or community to regulate itself, as allowed or provided for by some higher authority.  
*(Powers listed in Part B of Schedule 4 and 5 of the Constitution.)*



Sabinet's Provincial Legislation Service allows you to see all Provincial Legislation together with Regulations in terms of Acts and Ordinances applicable today, and as they appeared at a specific point in South African history since 1910.

## VARIOUS MUNICIPALITIES



### Metropolitan Municipalities (*Category A*)

They have executive authority in the whole area – Cape Town, Johannesburg and Tshwane.

### Local Municipalities (*Category B*)

They share municipal executive and legislative authority in an area with a category C Municipality – areas such as Midvaal and Lesedi.

### District Municipality (*Category C*)

They have municipal, executive and legislative authority in an area that includes more than one municipality – areas such as West Rand and Sedibeng.

## PROMULGATION



To put a law/piece of legislation into effect by way of publication in a Gazette.

## ASSENT/ED



The act of the President agreeing to and signing the Bill.

Sabinet's Municipal By-Laws offers complete full text access to all By-Laws in force and applicable in Municipalities in all nine provinces, from 1995 to the present day.

## THE EXECUTIVE



The President is the head of the state and of the national executive. He exercises executive authority together with other members of the Cabinet, namely the Deputy President and Ministers. The executive develops policy and must account for its actions and policies to Parliament.

## THE JUDICIARY



Made up of the courts, such as the Constitutional Court, the Supreme Court of Appeal, High Courts, Magistrates' Courts and other courts established or recognised through an Act of Parliament.

The head of the Constitutional Court is also the Chief Justice of South Africa.

# SECTION 75 & SECTION 77 BILLS

## Ordinary Bills NOT AFFECTING the provinces and money Bills



A Bill is introduced in the National Assembly by a minister, portfolio committee or Assembly member

Discussed and amended by portfolio committee

Debated in the National Assembly



Rejected



Passed

Tabled in National Council of Provinces



Discussed by select committee

Debated in National Council of Provinces



Amended or rejected

Back to National Assembly

Passed by National Assembly (with or without amendments)



Passed



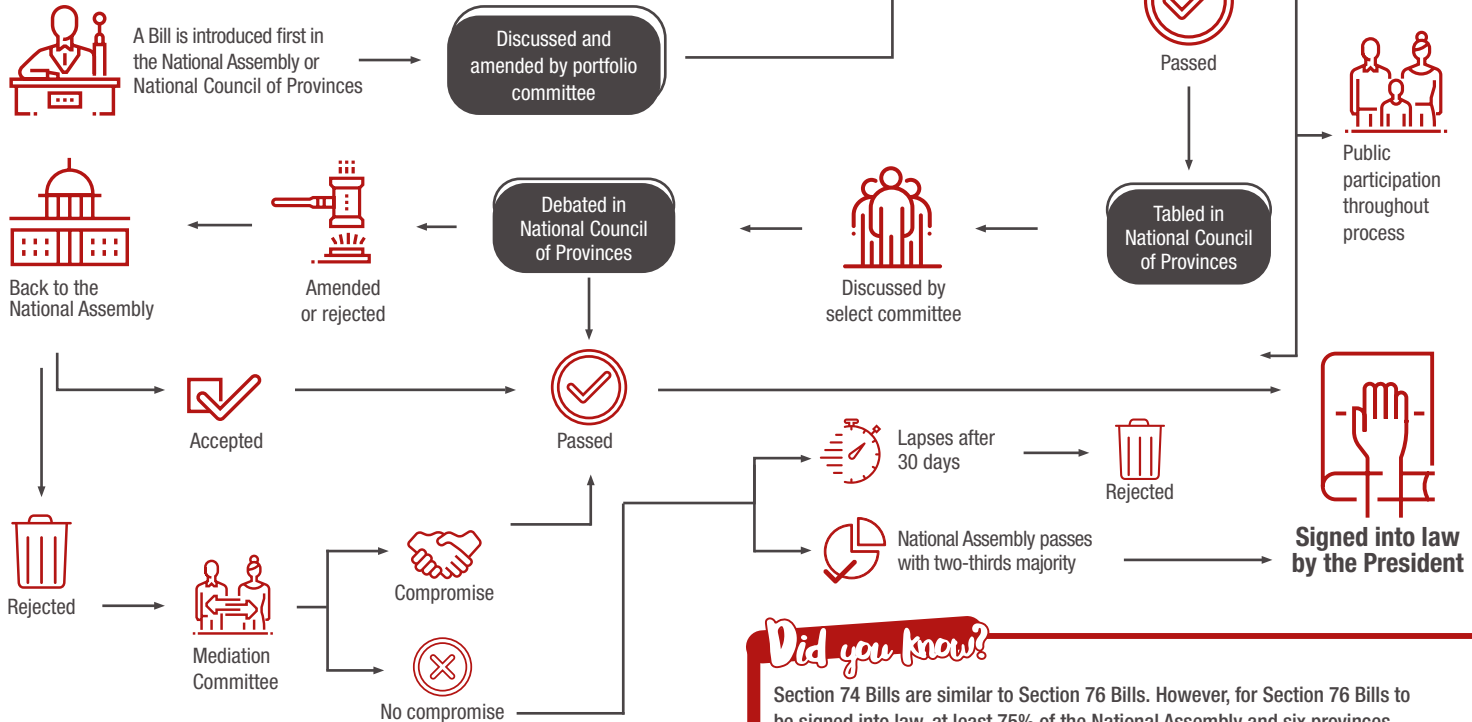
Signed into law by the President



Public participation throughout process

# SECTION 76 BILLS

## Ordinary Bills AFFECTING the provinces



### Did you know?

Section 74 Bills are similar to Section 76 Bills. However, for Section 74 Bills to be signed into law, at least 75% of the National Assembly and six provinces must pass the Bill. There has never been a Section 74 Bill passed in Parliament.





Toll free 0800 11 85 95  
Telephone +27 12 643 9500  
Email [info@sabinet.co.za](mailto:info@sabinet.co.za)  
**[www.sabinet.co.za](http://www.sabinet.co.za)**



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