

February was quite eventful...

As expected, the ANC came back in 2019 to proceed with the RABS Bill. Aprav was ready, and as we did last year we have been to Parliament already a number of times. In this edition, we provide detail on the current status of the RABS Bill and the various likely outcomes.

TWO SPECIAL THANK YOUS

To **Prof. Hennie Klopper**, for his unwavering dedication and hard work behind the scenes!

To **Michael de Broglio**, for his relentless focus on assisting with raising funds for the cause!

INSIDE the Action

- What happened in Parliament
- Status of the RABS Bill
- What if RABS passes through the NA. And what if not?
- **Want to stay up to date?** Follow us on Facebook and Twitter for news as it happens and enjoy our **NEW www.Aprav.co.za**

www.Aprav.co.za

**A significant
source of
valuable
content**

Update on the STT Meetings

- Notices will shortly be sent to all Provincial Task Team Leads / Coordinators to schedule workshops in all provinces.
- These were planned for February, but we had to adjust the dates to first gauge how the events in Parliament played out during the month.
- Our cumulative energies must now focus on solutions.

RABS - What happened on 19 February?



ANC Chief Whip, Jackson Mthembu, raised the issue of the lapsed RABS Bill in the National Assembly meeting. It is a standard practice that items that 'lapsed' on the last day of the previous year's parliamentary session, be 'revived' on the 1st day of the next year's sitting. Many items were proposed for 'revival' and this was not specific to Rabs though Rabs was the only item that evoked opposition party reaction and resistance!

The ANC Chief Whip was forced to propose an amendment relating to the 'revival' of Rabs – the only item from a long list that required amendment! This was a mere technicality and no vote on the request to revise items took place. It was simply a notice by the ANC that they plan to 'bring Rabs back to the General Assembly'. Prior to this amendment, the ANC would have been able to bring it back for a vote. Following the amendment and should they want to pursue it they will have to introduce it for a 'second reading' (NA Rule 290). There will then be a second debate where the Minister of Transport will have to reintroduce the bill. This will allow for 90 mins of debate and only then voting can take place and only if there is a quorum (ruling party attendance was dismal and way short of a quorum). Should this debate take place, opposition parties can submit new input according to Rule 291. This has to be referred back to the PoCT for consideration over 30 days.

Road Accident Benefit Scheme Bill (B17-2017)

Section 75: Ordinary Bills not affecting the provinces

Bill versions:

 B17B-2017

 B17A-2017

 B17-2017

Our current effort



Under consideration by the National Assembly.

RABS – Now what? What if? What next?



Likely activities in Parliament until 20 March:

1. Minority parties are coordinating to ensure that there will be another walk-out should the Rabs Bill be brought to the National Assembly for a vote. There will then most likely again not be a quorum to approve the RABS Bill.
2. All minority parties prepared National Assembly Rule 291 submissions (if and when needed).
3. The Speaker should then refer the bill back to the Portfolio Committee on Transport for 30 days' consideration. We expect that the Chairperson will again reject/ignore the additional submissions.
4. Should the Speaker reject the input, it adds ground for future legal remedy.
5. Should the ANC secure 201 votes during a possible 'second reading', the bill will be referred to the NCOP. This step is a mere formality, given the Section 75 tagging of the RABS Bill.
6. After that, the RABS Bill will be on the desk of The President.

"Should the RABS Bill be passed, there is still a long way to go and lots have to happen before RABS becomes law. There are still many opportunities to block it."



If nothing develops prior to 20 March:

The current Parliament will cease to exist on 20 March 2019. If nothing develops before then, the work on a draft bill has to start all over. APRAV is currently seeking legal opinion on the well established practice since 1994, that one parliament cannot bind another parliament. All outstanding work from the 5th Parliament cannot simply be carried forward to the 6th Parliament. We fully expect that this well-established practice will be ignored. We will not allow that!

RABS – still has to get over many hurdles



- **Should the NA approve RABS**, Aprav anticipates that 'bones will be broken' to get the NCOP rubberstamping it before 20 March when this Parliament dissolves.
- **NCOP adoption** (National Council of Provinces), where the agenda is packed and there three more work days more than the NA is waiting. Approval of RABS (Section 75 Bill) will simply be a formality. The NCOP only has to take note. There is 'apparently' no impact on the provinces...
- **Wrongful tagging** – worth reminding everyone that this bill was wrongfully tagged from the beginning (there are four types of bills <http://bit.ly/2Eks5MR>). The RABS Bill was tagged as a Section 75 Bill '**an ordinary Bill that does not affect the provinces**'.. uhm??
- After NCOP 'approval', RABS will be **referred to the President** for final consideration and possibly signing it into a law. **BUT.. Mr President,**



-Department of Transport
-Portfolio Committee on Transport
-Minister of Transport



"None of the above did their work and took responsibility. They will simply be passing the ball to the President.

- He must personally express that he is agreeing with the tagging of the RABS Bill as a Section 75 Bill – this is **clearly unlawful**.
- He must be convinced that RABS is constitutional – it is **clearly unconstitutional**.
- He must be convinced that RABS is affordable - it is **clearly not affordable**.

Submissions:

- From the time the NCOP endorses RABS and it is referred to the President, submissions can be made to the office of the president.
- APRAV will coordinate a barrage of information from the industry, the public, etc.

Should the President – low and behold - sign RABS into law, a **myriad of legal challenges** will likely follow. His signature will constitute the completion of the legislative branches' work. This is the only reason why the bill is not tied up in court at present. But this 'cosmetic protection' then terminates and the courts can have their say.

The recent DA Review Application focuses on NA rule 288 (3)(f) that was ignored by the Chairlady of the PoCT (Portfolio Committee of Transport), ANC Chief Whip as well as the Speaker of Parliament. It relates to the protection of minority rights in Parliament.

This is **fundamentally different** from the recent **Doctors Without Borders** case. Detail will be published on our new website if you want to read the Founding Affidavit.

APRAV is confident that sense and facts will prevail in the Office of The President.

Hot off the press



Business Day 28 Feb 2019



Kirstie Haslam, DSC Attorneys

“I would strongly urge Minister Mboweni to closely scrutinise the proposed financing model for RABS and consider the impact on the man-in-the-street,” she adds. “There is every danger the introduction of **RABS will make the horror stories of Eskom and other SOE’s pale into insignificance.**”

<http://bit.ly/2T6NSBH>

Road accident victims going ‘Direct’ fall victim again – by claiming direct from the RAF on the Road drive.
An interesting article from Gert Nel Inc Attorneys was published in a Northern Cape newspaper, ‘Gemsbok’

1 MARCH 2019

GEMSBOK

DIREKTE EISE TEEN DIE PADONGELUKFONDS

GEMSBOK-UPINGTON: Die Padongeluksfonds (POF) voer 'n veldtog aan in terme waarvan die publiek aangemoedig word om direk van die POF te eis.

'n "Direkte eis" verwys na 'n eis wat direk by die POF ingedien word, sonder die hulp van 'n prokureur.

Deur so te wil optree, vul die POF die skoeve van die regsverteenvoerder, en neem die rol van professionele sorg oor.

Die POF as 'n staatsorgaan, is onderdanig deur die Handves van Menseregte en die Grondwet van Suid-Afrika, wat inhou dat die POF hom moet weerhou om in te meng met die slagoffers van motorvoertuig ongelukke se fundamentele reg tot toegang tot die hof en liggaamlike integriteit.

Dit word dan verwag van Staatsorgane, soos die POF, om redelik op te tree en slagoffers van padongelukke met waardigheid, eerlikheid, openlikheid en integriteit te behandel.

hy/sy nie sonder die hulp van 'n onafhanklike deskundige in staat sal wees om te weet of die POF 'n redelike aanbod maak met inagneming van die aard en omvang van sy/of haar beserings nie.

Die slagoffer van 'n "direkte eis" word gekonfronteer met 'n situasie waar die POF die opperhand het en arbitrêr, en in baie gevalle sonder enige mediese getuenis konserwatief besluit wat 'n eis werd is.

Ons ondervinding is dat die POF die minste moontlik aanbod in die hoop dat die andersins oningeligte slagoffer die aanbod sal aanvaar en weg stap sonder om 'n tweede opinie in te win.

Gert Nel Prokureurs ondervind uit ons ondersoek en ervaring dat "direkte eisers" oor die

<http://northwestnewspapers.co.za/gemsbok/2019/februarie-2019>

Onder die omstandighede word daar verder ook 'n hoë verwagting van sorg, eerlikheid en betroubaarheid van die POF vereis, dieselfde as wat van die staatsorgane, in verskeie klousure

* nooit die geleentheid het om hof toe te gaan indien hulle nie terebre is met die aanbod nie; * se eise in die hande van die POF verjaar (soms) her

er di
eis" (Gert Nel Inc Attorneys)

Industry events – What's on?

STRATEGIC
BUSINESS
INFORMATION
BRIEF
With our medico-legal experts
PROGRAMME

23 February 2019, Menlyn Maine, Pretoria

- Schutte & Phosa Inc. sponsored a Strategic Business Information Brief to update delegates on the current status of the medico-legal industry and to align everyone on how the industry need to transform.
- Pieter de Bruyn, Aprav chairperson, gave an update on 'APRAV vs RABS'.
- Other prominent guest speakers were Dr Mathews Phosa (former Mpumalanga Premier and former Treasury General of the ANC) and Adv Carel van Jaarsveld (an expert on Constitutional & Parliamentary issues and Counsel for the DA on the recent minority party rights application in the Cape High Court).
- The event was well attended with experts and correspondents from Limpopo, Mpumalanga and Gauteng.

Dr. Mathews Phosa

Opening, welcoming and instant political landscaping. Election 2019 and beyond.

Pieter de Bruyn

APRAV versus RABS. The fight for survival of human dignity.

Adv. Carel van Jaarsveld

Foot notes by our go to guy when the gloves came off in parliament.



Please share events and news that we can share with the industry.

Get linked up



Parliamentary programme

<https://pmg.org.za/page/parliamentary-programme>

Daily schedule of committee meetings

<https://pmg.org.za/daily-schedule/1110/>

All the Bills currently in the Parliamentary process

<https://pmg.org.za/bills/current/>

RABS Bill history and status

<https://pmg.org.za/bill/712/>



Phase One of our NEW-look website is complete! Planning for Phase 2 commences next week – more about this exciting development in the next APRAV in Action.

www.aprav.co.za



<https://web.facebook.com/aprav.live/>



<https://twitter.com/APRAVlive>

