

RABS Bill; National Land Transport Amendment Bill: Committee Report; adoption of minutes, with Deputy Minister

26 February 2020

Chairperson: Mr M Zwane (ANC)

Meeting Summary

The Committee was briefed on the National Land Transport Amendment Bill [B7D-2016]. The Bill was adopted with DA concerns about constitutionality raised by the South African Local Government Association (SALGA) noted.

The briefing by the Department of Transport on the Road Accident Benefit Scheme Bill (RABS) stated that the current compensation system was established by the Road Accident Fund Act of 1996, to be managed by the Road Accident Fund (RAF). The compensation system was subjected to various commissions of inquiry, but flaws inherent in a fault-based system of compensation persisted, and the financial state of the compensation system had deteriorated progressively. Members heard that the RABS had to have clearly defined benefits, in contrast to the current RAF system, where claims were open-ended. The RABS had to classify injuries as it related to benefits. The proposed system had to be within the means of road users, society as a whole, and the State. The RABS Bill would give effect to a policy for a road accident benefit scheme developed by Cabinet in 2011, which was published for general information.

In discussion, Members had reservations about the feasibility of the RABS as well as the Bill process. The DA argued that the establishment of the RABS would create a system that would run parallel to the RAF, which would create duality, and South Africa could not afford a dual scheme. Real costs pertaining to the establishment of the RABS had not been explained. Other parties found the Bill process flawed, and claimed that there had been a lack of consultation with townships and the rural poor. Members decided to defer the taking of a position for two weeks, and decided to refrain from partisanship, find each other about the RABS and work together to improve it.

The Committee report on the National Land Transport Amendment Bill [B7D-2016] was adopted.

Minutes of 18 February were adopted without amendments.

Meeting report

Briefing by the Department of Transport on the Road Accident Benefit Scheme Bill [B17B-2017]

Mr Alec Moemi, Director-General: Department of Transport, presented the briefing. A compensation system for loss or damage resulting from bodily injury or death caused by wrongful driving of motor vehicles was established by the Road Accident Fund Act of 1996, managed by the Road Accident Fund (RAF). The compensation system had been subjected to various commissions of inquiry, but flaws inherent in a fault-based system of compensation persisted, and the financial state of the system had deteriorated. The RABS had to have clearly defined benefits, in contrast to the current situation with the

RAF, where claims were open-ended. The RABS had to classify injuries as it related to benefits. There had to be proportionality between the funding of the system and demands made thereon. The proposed system of compensation had to be within the means of road users, society as a whole, and the State. The RABS followed the UK model, where the road user had to have insurance. Cabinet adopted a policy for a road accident benefit scheme, published for general information in 2011, and the RABS Bill would give effect to the policy.

Discussion

Mr Hunsinger opined that the implications of introducing a parallel scheme to the RAF had to be considered. The RAF had a vested right and would still be financed, which would create a financially unsustainable situation. It would be better to amend the current Act. It might have been feasible to transfer to social services, but the affordability of a dual scheme was questionable. The Portfolio Committee (PC) had already considered the implications of a dual system. The problem was that people would still be able to claim under the RAF Act.

Mr Moemi replied that duality was not intended. It would have to be gazetted that from a certain date, all new claims had to be under the new scheme. Liabilities related to the old scheme would be coped with by the fiscus. It would not be sufficient to merely amend the RAF. It was essential to introduce insurance for road users, as had been done in the UK, with good effect.

Ms Dikeledi Magadzi, Deputy Minister of Transport, opined that government had to be forward-looking. Procrastination would result in further challenges to the fiscus posed by the RAF. The DG had pointed out that the fiscal challenge was second only to that posed by Eskom. It was currently possible for foreign nationals to claim. Priority had to be given to South Africans.

Mr Hunsinger contested the statement by the DG that the current legislation had its origins under Apartheid. As he saw it, it was formulated as Act 56 of 1996. There were claims such as that made by a Swiss national, who insisted to be paid according to the Swiss currency. The Act was then amended to counteract situations like that, as it imposed a huge fiscal burden. But claims could be calculated and contested in terms of the current legislation, and the open-endedness of claims could be addressed by creating definite categories through amendment of the current Act. The fact was that people would still claim under the old scheme, and SA could not afford a dual scheme. The real costs of the RABS were never explained.

Mr C Chabangu (EFF) remarked that the RABS Bill was first published in 2011, but it was never passed due to problems. There had not been enough consultation especially with the rural poor. Discussion was not extended to the general public. The current legislation had failed to exercise control over exorbitant claims made by lawyers.

Mr P Mey (FF+) asked what proof there was to support the claim that RAF liabilities amounted to R415 billion. There was the challenge of attorneys receiving 25 percent of claims. It had to be discussed with the Law Society. Third party insurance had to be compulsory to fund the RAF.

Mr K Sithole (IFP) referred to what was stated under Chapter 6 of the RABS, on page 24, namely that a list of benefits were provided for, irrespective of negligence or other wrongful conduct of the owner of a vehicle involved in a road accident. He found that problematic. He himself had been involved in consultation about the RABS, but it only happened in the provinces, and not in Soweto. Townships and rural areas were neither consulted nor traditional leaders. The affordability of the new scheme was cause for concern.

Mr A Seithlolo (DA) pointed out that RAF claims would still have to be settled for another 20 years, even if a date was proclaimed after which new claims would have to be made under the RABS. Government still owed people money. The question was what would happen to the dead? He agreed that it would be better to amend the RAF Act.

Mr Hunsinger reiterated that burdens on the fiscus could be decreased by amending the current Act. There had already been an amendment to the Act to prevent foreign nationals from demanding payment according to their own currencies. Further amendments could be made to reduce expenses under the RAF.

Mr L McDonald (ANC) remarked that it would be problematic to discuss the payment of dead people, as 40 percent of deaths on the road involved pedestrians. Auto manufacturers like Nissan were producing substandard vehicles for use in Africa. Road users could enter SA without having to take out third party insurance. Illegal foreigners were causing accidents. A legal expert had to brief the Committee about such matters. As lawyers were benefitting from the RAF, legal fees had to be capped. The impact of previous claims had to be considered.

Mr L Mangcu (ANC) commented that it could not be assumed that all Members were familiar with what had happened since 2011. The DG had assumed familiarity, but the Committee had to be granted time. More time was needed to scrutinise the proposed legislation, in terms of merit or demerit. He proposed that the Committee only take a decision two weeks later.

Mr Moemi responded that he welcomed the comments and proposals. A Parliamentary legal adviser could advise the Committee about legal aspects. He apologised for the briefing being conducted at a high level. The Bill had been back and forth for three years, and more could have been said about responses emanating from the hearings. Records could be provided from hearings held in Soweto. Concerns about duality were previously raised and were properly considered. A road accident scheme had been introduced in 1942. It was then succeeded by the Motor Industry Insurance Act.

The Chairperson commented that the Committee was not divided. It had to take a position that would be in the best interests of the people and government. He agreed with Mr Mangcu that a conclusion by the Committee had best be deferred for another two weeks. The Bill had gone back and forth for three years, and claims had continued during that period, hence the Department wanted the matter to be concluded.

Mr T Mabhena (DA) opined that the DG had not done enough to convince the Committee to support him. The matter of RAF claims that would still have to be paid out for another 30 years was not adequately dealt with.

The Chairperson felt that the DG had indeed covered all concerns. He proposed that the matter be considered closed for the time being.

Mr Seithlolo noted that over the preceding five years, the Department of Transport (DoT) had spent R41 billion towards building integrated public transport systems in the metros. Some metros were failing to provide such systems. The Committee had to look at challenged metros to ascertain how grants were utilised. Metros could be summoned to account to the Committee, or could be visited. He submitted that the Committee inform itself about what the DoT was paying for within the current or the next year.

The Chairperson replied to him that oversight in terms of following the money was already a priority in terms of the programme for the following four years, and that his submission was covered by that.

Closing remarks by the Chairperson

The Chairperson concluded that the Committee would do well to not deal with the RABS on a partisan basis. There had to be agreement about serving the SA people, black or white, and it was not desirable for weight of numbers to decide matters. Members had to find each other about the RABS and work together to improve it.

The meeting was adjourned.
